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Attorneys for Defendant Scott Barben

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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ROBERT G. WING, as Receiver for  
VESCOR CAPITAL CORP., a Nevada  
corporation, VESCOR CAPITAL, INC., a  
Nevada corporation, VESCORP CAPITAL,  
LLC, a Nevada limited liability company,  
VESCORP CAPITAL IV-A, LLC, a Nevada  
limited liability company, and VESCORP  
CAPITAL IV-M, LLC, a Nevada limited  
liability company, and affiliates,

Plaintiffs,

v.

ALBERT CLARK ALVEY, SCOTT  
FRANCIS BARBEN, MICHAEL LEE  
CHILD, GEORGE EDWARD DENNIS,  
CHRISTOFER JOHN GUTER, CRAIG  
HANSEN, JAMES KELLY HANSEN,  
RAUL HEVIA, TRAVIS JOHN HUDAK,  
JOHN SCOTT IRWIN, DAVID WILLIAM  
JAMES, CLIVE PACE, JAMES MICHAEL  
ROMERA, GLEN DAVID STACEY,  
STIPEK SECURITIES, LLC, a California  
limited liability company, STEVEN  
ROBERT SUMMERS, MARTIN JOHANNE  
VAN AMEN, CHRISTOPHER ZOCKOLL,

**DEFENDANT SCOTT BARBEN'S  
MOTION TO DISMISS FOR FAILURE TO  
STATE A CLAIM UPON WHICH RELIEF  
CAN BE GRANTED**

Civil No. 2:08-cv-796

Judge Benson

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and COREY ZIMET,

Defendants.

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COMES NOW, Defendant Scott Barben, by and through his attorneys of record, Atkin Law Offices, P.C., and hereby respectfully moves this Court, pursuant to Federal Rules of Civil Procedure, Rule 12(b)(6) to dismiss Plaintiffs' complaint in the above-captioned case for failure to state a claim upon which relief can be granted.

This Motion is supported by a memorandum of points and authorities filed concurrently herewith.

DATED this 5th day of December, 2008.

**ATKIN LAW OFFICES, P.C.**

/s/ Joseph H. Pugsley  
Blake S. Atkin  
Joseph H. Pugsley  
*Attorneys for Defendant Scott Barben*

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 5th day of December, 2008, I served a true and correct copy of the foregoing **DEFENDANT SCOTT BARBEN’S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED** upon each of the following individuals by causing the same to be delivered by the method and to the addresses indicated below:

Karen L. Martinez (martinezk@sec.gov)	<input type="checkbox"/>	U.S. Mail, postage prepaid
Thomas M. Melton (meltont@sec.gov)	<input type="checkbox"/>	Hand-Delivered
William B. McKean (mckeanw@sec.gov)	<input type="checkbox"/>	Overnight Mail
Attorneys for Securities & Exchange Commission	<input checked="" type="checkbox"/>	ECF
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Max D. Wheeler (intakeclerk@scmlaw.com)	<input type="checkbox"/>	U.S. Mail, postage prepaid
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