

Handwritten notes and signatures:
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J. Harris
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E-filing

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

EDL

16 ELLA DEATRICK, individually and
17 on behalf of all others similarly
18 situated,

18 **Plaintiff,**

19 **v.**

20 **SCIENCE APPLICATIONS**
21 **INTERNATIONAL CORPORATION,**
22 a Delaware corporation,

22 **Defendants.**

Case No.

CV 12 1055
COMPLAINT

[Class Action Complaint]

- 1. Violation of the California Confidentiality of Medical Information Act, Cal. Civ. Code § 56 *et seq.*
- 2. Violation of Cal. Civ. Code § 1798.82

DEMAND FOR JURY TRIAL

1 Plaintiff ELLA DEATRICK (“Plaintiff”), individually and on behalf of all other
2 similarly situated individuals, hereby demands a jury trial and alleges as follows against
3 the above-named Defendant:

4 **SUMMARY OF COMPLAINT**

5 1. ***Summary Introduction.*** On or about December 2, 2011, members of
6 Congress sent a letter to the Director of TRICARE Management Authority (“TMA”), Dr.
7 Jonathan Woodson, requesting a written explanation as to why TMA’s contractor,
8 Science Applications International Corporation (“SAIC”), had allowed an SAIC
9 employee (1) to transport personally identifiable and protected health information in the
10 employee’s personal vehicle and (2) to leave the vehicle unattended, where the
11 information was stolen. As of the date of the letter, SAIC had had six prior security
12 breaches concerning sensitive private information—one being a similar security breach
13 where computer backup tapes were stolen. SAIC’s acts and omissions violate
14 California’s Confidentiality of Medical Information Act (“CMIA”), section 56 *et seq.* of
15 the California Civil Code, which Act grants California residents a statutory cause of
16 action for the unauthorized disclosure of medical information whether or not an injury
17 can be identified.

18 2. ***Summary Statement of Facts.*** The release of information took place on or
19 about Monday, September 12, 2011 (“the Breach”). Thereafter, on or about Wednesday,
20 September 14, 2011, SAIC reported the Breach to TMA. The Breach involved an
21 estimated 4.9 million military clinic and hospital patients. The medical information was
22 stored on backup tapes that were being transported by an SAIC employee. The backup
23 tapes, which—in violation of industry practice—were not encrypted, were left in the
24 employee’s personal vehicle in an unattended parking garage, where they were stolen.

25 3. The backup tapes contained electronic health-care records used in the
26 military health system (“MHS”) to capture patient data from 1992 through September 7,
27 2011, in certain military treatment facilities (“MTFs”). The backup tapes contained
28 personal health information consisting of patient information for filling pharmacy

1 prescriptions, laboratory workups, Social Security numbers, addresses, phone numbers,
2 and some personal health data, such as clinical notes, laboratory tests, prescriptions, and
3 other health information. Although the Breach occurred on or about September 12, 2011,
4 because of SAIC's and TMA's negligence, Defendant did not notify Plaintiff until on or
5 about November 11, 2011. Indeed, many Class Members did not receive notice until
6 weeks thereafter.

7 4. **Summary Statement of Law.** The California Legislature has enacted the
8 CMIA, granting California residents a statutory cause of action for the unauthorized
9 disclosure of medical information whether or not an injury can be identified. The CMIA
10 provides:

11 In addition to any other remedies available at law, any individual may
12 bring an action against any person or entity who has negligently released
13 confidential information or records concerning him or her in violation of this
14 part, for either or both of the following: (1) Nominal damages of one
15 thousand dollars (\$1,000). In order to recover under this paragraph, it shall
16 not be necessary that the plaintiff suffered or was threatened with actual
17 damages. (2) The amount of actual damages, if any, sustained by the
18 patient.

19 Cal. Civ. Code § 56.36(b). As nominal damages are available, "it shall not be necessary
20 that the plaintiff suffered or was threatened with actual damages." *Id.* Indeed, the Ninth
21 Circuit has held that "[t]he injury required by Article III can exist solely by virtue of
22 'statutes creating legal rights, the invasion of which creates standing,'" and that,
23 "[e]ssentially, the standing question in such cases is whether the constitutional or
24 statutory provision on which the claim rests properly can be understood as granting
25 persons in the plaintiff's position a right to judicial relief." *Edwards v. First Am.*, 610
26 F.3d 514, 517 (9th Cir. 2010).

27 5. **Summary Conclusion.** SAIC and TMA negligently released personal
28 medical information when they allowed an unauthorized third party to gain possession of

1 Plaintiff's personal health information. A negligent release of private medical
2 information was committed through SAIC's failure to protect that information in any of
3 the following five ways: First, by allowing an SAIC employee to transport private
4 medical files in an unsecured passenger vehicle where the patient files were not
5 adequately secure. Second, by not having an adequate process or adequate controls to
6 prevent unsecured patient files from being left in a passenger vehicle, once transported,
7 and left unattended in a public parking lot. Third, in violation of standard industry
8 practice, by storing the private medical patient files without proper encryption. Fourth,
9 by taking at least a month to notify patients regarding the theft of their medical
10 information. Finally, by allowing undetected and unauthorized access where private
11 medical patient files were kept.

12 6. Plaintiff did not authorize SAIC or TMA to disclose her medical
13 information. Consequently, the theft of the unsecured back-up files that contained patient
14 medical information is a violation of the CMIA.

15 **JURISDICTION AND VENUE**

16 7. ***Jurisdiction.*** As alleged more particularly below, the Court has jurisdiction
17 of this action under the Class Action Fairness Act of 2005, codified in relevant part in 28
18 U.S.C. § 1332(d)(2). The amount in controversy exceeds \$5,000,000, exclusive of
19 interest and costs; at least one putative Class Member is a citizen of a State different than
20 that of SAIC; and the Class that Plaintiff seeks to represent consists of more than one-
21 hundred persons.

22 8. ***Venue.*** Venue is proper in the Northern District of California pursuant to 28
23 U.S.C §§ 1391(b)-(c) and 1441(a) because Defendant resides in this District and a
24 substantial part of the events or occurrences upon which this action is based, and which
25 give rise to the claims asserted herein, occurred in this District. Plaintiff and numerous
26 Class Members obtained medical attention and/or medical-related services from medical
27 providers in this District, and, in so doing, their confidential medical information was
28 collected in this District. In addition, SAIC is subject to personal jurisdiction in this

1 District because it received substantial compensation and profits from the sale of its
2 respective products and services in this District.

3 9. For example, TMA has a service center in Alameda, California. TMA is
4 the uniformed-services health-care program for active-duty service members and their
5 dependents, as well as for retired members and their dependents. TMA contracts with
6 civilian-managed care-support contractors, including SAIC.

7 10. *Intradistrict Assignment.* Plaintiff is informed and believes and thereon
8 alleges that the confidential medical information that is at issue in this case includes
9 information for individuals residing in the counties of Alameda, Contra Costa, Humboldt,
10 Lake Marin, Mendocino, Napa, San Francisco, San Mateo, and/or Sonoma. Accordingly,
11 assignment to the San Francisco Division is appropriate.

12 PARTIES

13 11. Plaintiff Ella Deatrack is, and at all times mentioned in this Complaint was,
14 an individual over the age of eighteen years. On November 11, 2011, Plaintiff received a
15 letter from SAIC informing her that her private medical information had been released
16 without her authorization.

17 12. Plaintiff is informed and believes and thereon alleges that Defendant SAIC
18 is, and at all times relevant to this Complaint was, a corporation organized under the laws
19 of the State of Delaware, having its principal place of business located in McLean,
20 Virginia.

21 13. SAIC is a government contractor supporting the MHS. SAIC's
22 responsibilities include managing and protecting health-care information for the MHS.
23 Unless otherwise designated hereinafter, all references to Defendant shall mean SAIC.
24 All references made in this Complaint to Defendant shall include all of Defendant's
25 predecessors, successors, or representatives while actively engaged in the management of
26 each of the Defendant's affairs.

27 CLASS-ACTION ALLEGATIONS

28 14. Plaintiff brings this action on behalf of herself and all other persons similarly

1 situated pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure
2 (“FRCP”). The Class that Plaintiff seeks to represent is defined as:

3 All California residents whose confidential medical information was
4 contained on the tapes that were stolen on or about September 12, 2011.

5 15. ***Numerosity (FRCP 23(a)(1))***. The proposed Class is so numerous that
6 joinder of all individual Members in one action would be impracticable, and the
7 disposition of their claims through this class action will benefit both the parties and the
8 Court.

9 16. Plaintiff is informed and believes and thereon alleges that there are more
10 than 5,000 Members that comprise the Class. Nevertheless, the size of the Class is not so
11 great as to make this action unmanageable.

12 17. The exact size of the Class and the identities of individual Members thereof
13 are ascertainable through SAIC’s or TMA’s records.

14 18. Members of the Class may be notified of the pendency of this action by
15 techniques and forms commonly used in class actions, such as published notice, e-mail
16 notice, website notice, first-class mail, or combinations thereof, or by other methods
17 suitable to this Class and deemed necessary and/or appropriate by the Court.

18 19. ***Typicality (FRCP 23(a)(3))***. Plaintiff’s claims are typical of the claims of
19 the entire Class. The claims of Plaintiff and Members of the Class are based on the same
20 legal theories and arise from the same unlawful conduct. Plaintiff and Class Members’
21 confidential medical information was contained on the tapes that were stolen on or about
22 September 12, 2011.

23 20. ***Common Questions of Fact and Law (FRCP 23(a)(2) and 23(b)(3))***. There
24 is a well-defined community of interest, as well as common questions of law and fact,
25 affecting the Members of the Class.

26 21. The questions of law and fact common to the Class predominate over
27 questions that may affect individual Members. These questions includes, for example,
28 whether SAIC—an entity whose very business is the safeguarding of confidential

1 information—negligently released or disclosed Plaintiff and the Class’ confidential
2 medical information without authorization; whether SAIC improperly delayed in
3 providing notice to Plaintiff and Class Members of the Breach; and whether Plaintiff and
4 the Class are entitled to damages, costs, and/or attorney’s fees for SAIC’s acts and
5 omissions.

6 22. *Adequacy of Representation (FRCP 23(a)(4))*. Plaintiff is an adequate
7 representative of the Class because her interests do not conflict with those of the Class.
8 Plaintiff will fairly, adequately, and vigorously represent and protect the interests of the
9 Class, and Plaintiff has no interests antagonistic to the Class. Plaintiff has retained
10 counsel who are competent and experienced in the prosecution of class-action litigation.

11 23. *Superiority (FRCP 23(b)(1) and 23(b)(3))*. A class action is superior to
12 other available means for the fair and efficient adjudication of the claims of the Class.
13 While the aggregate damages that may be awarded to the Class are likely to be
14 substantial, the nominal damages recovered by individual Members of the Class are
15 relatively small. As a result, the expense and burden of individual litigation make it
16 economically infeasible and procedurally impracticable for each Member of the Class to
17 seek individual redress for the wrongs done to them. While the likelihood of Class
18 Members’ prosecuting individualized claims is remote, individualized litigation would
19 present the potential for varying, inconsistent, or contradictory judgments, and it would
20 increase the delay and expense to all parties and the court system resulting from multiple
21 trials of the same factual issues. In contrast, the conduct of this matter as a class action
22 presents fewer management difficulties, conserves the resources of the parties and the
23 court system and would protect the rights of each Member of the Class. Finally, equity
24 dictates that all persons who stand to benefit from the relief sought herein should be
25 subject to the lawsuit and, hence, subject to an order spreading the costs of litigation
26 among the Class Members in relationship to the benefits received.

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FIRST CLAIM FOR RELIEF

Violation of the CMIA, Cal. Civ. Code § 56 et seq.

24. Plaintiff incorporates by reference each and every allegation set forth above as if set forth in full herein.

25. California Civil Code sections 56 through 56.37 inclusive, known as the CMIA, makes the unauthorized use and/or disclosure by a health-care provider of a patient’s medical information unlawful, except as permitted or required by law.

26. “Medical information,” “patient,” and “provider of health care” are defined under the CMIA as follows:

(g) “**Medical information**” means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient’s medical history, mental or physical condition, or treatment. “Individually identifiable” means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual’s identity.

(h) “**Patient**” means any natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

....

(j) “**Provider of health care**” means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person

1 certified pursuant to Division 2.5 (commencing with Section 1797) of the
2 Health and Safety Code; any clinic, health dispensary, or health facility
3 licensed pursuant to Division 2 (commencing with Section 1200) of the
4 Health and Safety Code. "Provider of health care" does not include
5 insurance institutions as defined in subdivision (k) of Section 791.02 of the
6 Insurance Code.

7 Cal. Civ. Code § 56.05 (emphasis supplied).

8 27. Pursuant to California Civil Code section 56.05(h), Plaintiff and the Class
9 are, and at all times relevant herein were, "patients" who received health-care services
10 from providers of health-care and/or pharmacists in the form of prescription drugs and/or
11 prescription-drug-related services, medical diagnosis, and/or physician-prescribed
12 laboratory tests.

13 28. By its acts, SAIC is a "provider of health care" for purposes of the CMIA.
14 In this regard, California Civil Code section 56.06 provides:

15 (a) Any business organized for the purpose of maintaining medical
16 information in order to make the information available to an individual or to
17 a provider of health care at the request of the individual or a provider of
18 health care, for purposes of allowing the individual to manage his or her
19 information, or for the diagnosis and treatment of the individual, shall be
20 deemed to be a provider of health care subject to the requirements of this
21 part. However, nothing in this section shall be construed to make a business
22 specified in this subdivision a provider of health care for purposes of any
23 law other than this part, including laws that specifically incorporate by
24 reference the definitions of this part.

25 (b) Any business described in subdivision (a) shall maintain the
26 same standards of confidentiality required of a provider of health care with
27 respect to medical information disclosed to the business.

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1 (c) Any business described in subdivision (a) shall be subject to the
2 penalties for improper use and disclosure of medical information prescribed
3 in this part.

4 *Id.* § 56.06. Plaintiff is informed and believes and thereon alleges that SAIC is deemed to
5 be a provider of health care subject to the requirements of the CMIA pursuant to
6 California Civil Code section 56.06.

7 29. As noted above, SAIC is a government contractor supporting the MHS.
8 SAIC's services include transporting backup tapes containing medical information.

9 30. SAIC is organized for the purpose of maintaining medical information in
10 order to make the information available to an individual or to a provider of health care at
11 the request of TMA, the individual, or a provider of health care for purposes of allowing
12 the individual to manage his or her information, or for diagnosis and treatment.

13 31. SAIC processes medical information for more than 4 million patients.

14 32. Plaintiff is informed and believes and thereon alleges that SAIC not only
15 captures but also maintains patients' medical information for the purpose of diagnosis and
16 treatment.

17 33. Plaintiff is informed and believes and thereon alleges that, once captured,
18 SAIC maintains each patient's medical information in its database during the term of its
19 contract with the pharmacy, health-care provider, or other third party, and for years
20 thereafter. Plaintiff is informed and believes and thereon alleges that SAIC maintains
21 each patient's medical information in its database in order to allow each patient the
22 opportunity to manage his or her medical information by requesting an amendment
23 thereto or by requesting an accounting of all disclosures of that patient's medical
24 information, pursuant to state and federal laws.

25 34. During all times relevant herein, Plaintiff and Members of the Class were
26 patients of medical providers and/or pharmacies, and Plaintiff and Class Members'
27 medical information was captured and maintained by SAIC as described above.

28 35. The CMIA makes it unlawful to disclose a patient's medical information

1 without authorization:

2 (a) No provider of health care, health care service plan, or
3 contractor shall disclose medical information regarding a patient of the
4 provider of health care or an enrollee or subscriber of a health care service
5 plan without first obtaining an authorization, except as provided in
6 subdivision (b) or (c).

7 *Id.* § 56.10. Similarly, the CMIA states:

8 A recipient of medical information pursuant to an authorization as
9 provided by this chapter or pursuant to the provisions of subdivision (c) of
10 Section 56.10 may not further disclose that medical information except in
11 accordance with a new authorization that meets the requirements of Section
12 56.11, or as specifically required or permitted by other provisions of this
13 chapter or by law.

14 *Id.* § 56.13.

15 36. Plaintiff is informed and believes and thereon alleges that, as a result of its
16 aforementioned agreement with TMA, SAIC transported medical information that was
17 stolen due to SAIC's negligence.

18 37. Again, on or about September 12, 2011, SAIC reported the Breach,
19 involving an estimated 4.9 million military clinic and hospital patients.

20 38. The medical information was stored on backup tapes that were being
21 transported by an SAIC employee. The backup tapes, which were not encrypted, were
22 left in the employee's personal vehicle in an unattended parking garage, where they were
23 stolen.

24 39. The backup tapes contained personal health information consisting of
25 patient information for filling pharmacy prescriptions, laboratory workups, Social
26 Security numbers, addresses and phone numbers, and some personal health data, such as
27 clinical notes, laboratory tests, prescriptions, and other health information.

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1 regarding the security breach.

2 46. Detailed information about the type of health information or financial
3 information that has been compromised is essential to a meaningful disclosure. The
4 underlying purpose of section 1798.82 is to allow California residents whose personal
5 information has been compromised to make intelligent and prompt decisions about what
6 actions to take, which may possibly include placing a fraud alert or security freeze on
7 their credit files; or checking their credit reports and health-benefit statements on regular
8 intervals for irregular activity. The notice SAIC provided to Plaintiff and Members of the
9 Class was inadequate and did not allow them to make the prompt and intelligent
10 decisions contemplated by section 1798.2.

11 47. Pursuant to California Civil Code section 1798.84(e), Plaintiff seeks an
12 order (1) requiring SAIC to make a detailed disclosure to Plaintiff and Members of the
13 Class of the type of health and personal information included on the missing backup files
14 and (2) requiring SAIC to notify Plaintiff and Members of the Class of any future
15 security breaches promptly and with sufficient detail.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff, on behalf of herself and the Class, prays for judgment
18 against Defendant as follows:

- 19 (1) An order certifying the Class and appointing Plaintiff and her counsel
20 to represent the Class;
- 21 (2) Statutory damages pursuant to California Civil Code section
22 56.36(b)(1);
- 23 (3) Pre- and post-judgment interest;
- 24 (4) Attorney's fees and for costs of suit incurred herein pursuant to, *inter*
25 *alia*, the common fund and Private Attorney General doctrines, as
26 may be appropriate;
- 27 (5) Appropriate injunctive and/or declaratory relief, including an order
28 requiring SAIC (a) to stop negligently handling patient medical and

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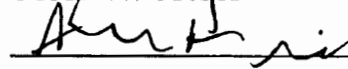
financial information and (b) to comply with California Civil Code section 1798.82 by promptly notifying its patients of any future security breaches, including a detailed description of the type of health or financial information implicated; and

(6) Such other and further relief as this Court may deem just and proper.

DATED: March 1, 2012

HARRIS & RUBLE

THE LAW OFFICE OF DARRYL A. STALLWORTH



Alan Harris

Attorneys for Plaintiff

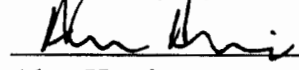
DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all claims for relief.

DATED: March 1, 2012

HARRIS & RUBLE

THE LAW OFFICE OF DARRYL A. STALLWORTH



Alan Harris

Attorneys for Plaintiff

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44 CAND (Rev. 12/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 ELLA DEATRICK, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Sacramento
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Alan Harris, HARRIS & RUBLE, 6424 Santa Monica Boulevard, Los Angeles, California 90038, telephone (323) 962-3777

DEFENDANTS
 SCIENCE APPLICATIONS INTERNATIONAL CORPORATION, a Delaware corporation

County of Residence of First Listed Defendant San Francisco
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

EDL **ADR** **E-filing**

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF DEF	<input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF DEF	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5		
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6		

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 410 Annuity
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	LABOR	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 861 HIA (1395M)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIW C/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
	PERSONAL INJURY			<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 365 Personal Injury - Product Liability	IMMIGRATION	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)	<input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	PERSONAL PROPERTY	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 370 Other Fraud			
	<input type="checkbox"/> 371 Truth in Lending			
	<input type="checkbox"/> 380 Other Personal Property Damage			
	<input type="checkbox"/> 385 Property Damage Product Liability			
	PRISONER PETITIONS			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	Habeas Corpus:			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

012-10000

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. § 1332(d)(2)

Brief description of cause:
 CAFA action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2) (Place an "X" in One Box Only)

SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE 03/01/2012 SIGNATURE OF ATTORNEY OF RECORD Alan Harris

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity.

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

IX. **Divisional Assignment.** In accordance with Civil L.R. 3-2(c) - (f), select the appropriate venue based upon the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.

Date and Attorney Signature. Date and sign the civil cover sheet.