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7 *Attorney for Individual and Representative*
8 *Plaintiff Stephen Simoni and the Proposed Class*

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

**CONFORMED
COPY FOR
RETURN
TO
FILER**

FILED
CLERK, U.S. DISTRICT COURT
NOV 18 2013
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

12 STEPHEN SIMONI, Individually and
13 on behalf of all others similarly
14 situated,

15 Plaintiff,

16 vs.

17 COSTCO WHOLESALE CORPORATION, and
18 DOES 1 through 10, inclusive,

19 Defendants.

20 **CV 13-08498**
21 : Civ. Case No. **08498**
22 : **CLASS ACTION COMPLAINT**
23 : **DEMAND FOR JURY TRIAL**

*DMG
(PJW)*

24 Plaintiff Stephen Simoni, individually and on behalf
25 of the Class defined below, brings this action for damages,
26 restitution, and injunctive relief under rights created pursuant
27 to state law pursuant to diversity jurisdiction under 28 U.S.C.
section 1332(d) ("Diversity" Jurisdiction) and related claims
that form part of the same case or controversy under 28 U.S.C.
section 1367(a) ("Supplemental" Jurisdiction) against Defendants

RECEIVED
CLERK, U.S. DISTRICT COURT **CLASS ACTION COMPLAINT; JURY TRIAL DEMAND, Case. No. _____** 1

NOV 15 2013
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

1 Costco Wholesale Corporation ("**Costco**" or "**Company**") and Does 1
2 through 10, inclusive, demanding a trial by jury, and complains
3 and alleges as follows:

4 **INTRODUCTION**

5 1. Defendant Costco Wholesale Corporation ("**Company**") is
6 a corporation with principal offices in the State of Washington
7 that markets and arranges, *inter alia*, installation of heating,
8 ventilation, and air conditioning ("HVAC") products at
9 residential real property of its members. Company markets its
10 HVAC services by, among other strategies, promising that it will
11 (i) deliver the "ultimate in energy-efficient performance,"
12 (ii) get the job done "right the first time," and (iii) secure
13 receipt of available rebates from the respective utility for
14 installation of HVAC systems that satisfy industry-wide energy
15 efficiency standards.

16 2. Plaintiff brings this action to challenge, *inter alia*,
17 the Company's deliberate fraudulent, tortious, misleading, and
18 unfair business practices in its marketing and sales by which it
19 reaps millions of dollars in ill-gotten profits from thousands
20 of members who purchase purportedly energy efficient HVAC
21 systems. Specifically, Plaintiff challenges Company's knowingly
22 false statements that the HVAC systems it installs will entitle
23 the member to the available rebates offered by the respective
24 utility for energy efficient installations. Company's knowingly
25 false statements are a key component of the Company's marketing
26 strategy and contribute substantially to Company's gross
27 revenues and net income at the expense of members who suffer the
damages of Company's knowingly false statements. As detailed
below, Plaintiff and the Class have suffered actual and monetary

1 injury as a result of Company's wrongful practices and Company
2 has been unjustly enriched by these practices.

3 3. All of the claims asserted herein arise out of
4 Company's knowingly false and unfair HVAC marketing strategies
5 and are a common fact pattern as to each member of the Class
6 defined below. Company fraudulently sells larger, less
7 efficient, and more expensive products that fail to satisfy
8 utility efficiency guidelines but that **increase** Company's sales
9 and profits by generating sales that otherwise would not have
10 occurred and generating sales of larger and more expensive HVAC
11 equipment.

12
13 **JURISDICTION AND VENUE**

14 4. This Court has jurisdiction over this action pursuant
15 to 28 U.S.C. section 1332(d). This is a proposed class action
16 involving more than one hundred (100) class members, at least
17 one member of the putative class is a citizen of a state
18 different from Defendants, and the aggregate amount in
19 controversy exceeds \$5,000,000, exclusive of interests and
20 costs.

21 5. This Court has personal jurisdiction over Defendants
22 pursuant to California Code of Civil Procedure § 410.10 because
23 they do business in California, have committed acts or omissions
24 in California, and/or have caused effects in California with
25 respect to one or more causes of action arising from these
26 effects.

27 6. Venue is proper in this judicial district pursuant to
28 U.S.C. section 1391(a) and (c) in that Company conducts

1 business, and substantial part of the events giving rise to
2 Plaintiffs' claims occurred, in this judicial district.

3
4 **THE PARTIES**

5 7. Plaintiff Stephen Simoni ("Plaintiff") is an Executive
6 Member of Costco (No. 111792739781) who responded to Costco's
7 marketing and contracted for installation of an HVAC system at
8 his residence that would entitle him to the available rebate
9 from the local utility for installation of energy efficient
10 equipment.

11 8. Plaintiff, due to Defendants' knowingly false
12 statements, was made to believe that the HVAC system installed
13 at his residence would entitle him to the utility's rebate for
14 energy efficient HVAC systems. Plaintiff thereby sustained
15 actual and monetary damages as more fully set forth below.

16 9. Defendant Costco Wholesale Corporation ("Company") is
17 a corporation incorporated whose headquarters is located at 999
18 Lake Drive in Issaquah, Washington.

19 10. Except as described herein, Plaintiff is ignorant of
20 the true names of defendants sued as Does 1 through 10,
21 inclusive, and the nature of their wrongful conduct, and
22 therefore sues these Defendants by such fictitious names.
23 Plaintiff will seek leave of the Court to amend this complaint
24 to allege their true names and capacities when ascertained.

25 11. At all times herein mentioned, Company and the Doe
26 Defendants (collectively, "Defendants"), and each of them, were
27 an agent or joint venturer of each of the other, and in doing
the acts alleged herein, were acting within the scope of such
agency. Each Defendant had actual and/or constructive knowledge

1 of the acts of each of the other Defendants, and ratified,
2 approved, joined in, acquiesced and/or authorized the wrongful
3 acts of each co-Defendant, and/or retained the benefits of said
4 wrongful acts.

5 12. Defendants, and each of them, aided and abetted,
6 encouraged and rendered substantial assistance to the other
7 Defendants in committing the wrongful acts alleged herein. In
8 taking action, as particularized herein, to aid and abet and
9 substantially assist the commission of these wrongful acts and
10 other wrongdoing complained of, each of the Defendants acted
11 with an awareness of its primary wrongdoing and realized that
12 its conduct would substantially assist the accomplishment of the
13 wrongful conduct, wrongful goals, and wrongdoing.

14 13. At all times herein mentioned, Defendants conspired by
15 means of mutual understanding, either expressly or impliedly,
16 among themselves and others in engaging and/or planning to
17 engage in the activities detailed herein to accomplish the
18 wrongful conduct, wrongful goals, and wrongdoing.

19
20 **FACTUAL ALLEGATIONS**

21 14. Company increases its revenues with its fraudulent
22 marketing by informing members that Company will provide energy
23 efficient HVAC systems such that members will be entitled to the
24 respective utility's rebate for energy efficient installations.

25 15. In response to Defendants' written, oral, and video
26 solicitations, Plaintiff purchased an HVAC systems installation
27 from Defendants in April 2013.

16. The utility advised Plaintiff that the HVAC
installation performed by Defendants was not energy efficient

1 and thus the utility would not provide Plaintiff the rebate
2 promised by Defendants: Defendants installed and charged
3 Plaintiff for the more expensive **five-ton** HVAC system whereas a
4 four-ton was the energy efficient standard. The five-ton system
5 caused Plaintiff to lose the promised utility rebate and causes
6 Plaintiff to incur greater expense each and every day from
7 powering the unnecessarily large and inefficient system.

8 17. When Plaintiff informed Defendants of the rebate
9 denial in August 2013, Defendants knowingly lied to Plaintiff
10 and stated that the specified humidity level mandated by
11 Plaintiff (which was included in the Parties' April 2013
12 contract) precluded Defendants from satisfying the utility
13 energy efficient standards.

14 18. After Plaintiff provided expert documentation of
15 Defendants' knowingly false statements in September 2013,
16 Defendants refused to take ameliorative action despite multiple
17 requests by Plaintiff and the fact that installation began
18 nearly **eight months earlier**.

19
20 **CLASS ACTION ALLEGATIONS**

21 19. Plaintiff brings this action on behalf of himself and
22 all persons similarly situated pursuant to Rule 23 of the
23 Federal Rules of Civil Procedure. This action satisfies the
24 numerosity, commonality, typicality, adequacy, predominance and
25 superiority requirements of each of those provisions. The Class
26 is defined as follows:

27 All purchasers of HVAC systems from
Defendants during the six years prior to
this Complaint's filing who failed to

1 receive utility rebates due to Defendants'
2 failure to provide energy efficient systems
3 as contracted. Excluded from the Class are:
4 (1) employees of the Defendants, including
5 their officers or directors; (2) Defendants'
6 affiliates, subsidiaries, or co-
7 conspirators; and (3) the Court to which
8 this case is assigned.

9 20. The Claims herein have been brought and may properly
10 be maintained as a class action because there is a well-defined
11 community of interest among Class members with respect to the
12 claims asserted herein and the proposed Class is ascertainable:

13 a. Numerosity: On information and belief, **thousands**
14 of individuals have purchased HVAC systems from Defendants in
15 reliance on the statements that Defendants' installation of
16 energy efficient HVAC systems would entitle the purchasers to
17 available utility rebates. Thus, although the number of Class
18 members is currently indeterminate, it is sufficiently large to
19 satisfy the numerosity requirement.

20 b. Existence and predominance of common questions:
21 Common questions of law and/or fact exist as to the members of
22 the Class and, in addition, common questions of law and/or fact
23 predominate over questions affecting only individual members of
24 the Class. The common questions include the following:

- 25 a. What statements were made by Company in
26 its soliciting HVAC system purchases?
27 b. Were Company's statements likely to
deceive?

1 c. Whether the reasonable recipient of
2 Company's statements would have expected that
3 Defendants' HVAC system installation would entitle
4 recipient to available utility energy efficient
5 rebates?

6 d. Was Company unjustly enriched by the
7 challenged practices?

8 e. Did Company's practices violate the
9 California Consumer Legal Remedies Act?

10 f. Did Company's practices violate the
11 California False Advertising Law?

12 g. Did Company's practices violate the
13 California Unfair Competition Law?

14 h. Did plaintiff and the Class members
15 sustain damages, and, if so, what is the proper
16 measure of such damages? and

17 i. Are plaintiff and the Class Members
18 entitled to the injunctive and equitable relief
19 requested herein?

20 c. Typicality: Plaintiff's claims are typical of the
21 claims of the Class. Plaintiff received knowingly false
22 statements from Company upon which Plaintiff relied.
23 Plaintiff's claims are thereby representative of and co-
24 extensive with the claims of the Class.

25 d. Adequacy: Plaintiff is an adequate representative
26 of the Class. His interests do not conflict with the interests
27 of the members of the Class he seeks to represent. Plaintiff
has retained counsel competent and experienced in class action
litigation and Plaintiff intends to prosecute this action

1 vigorously. Plaintiff and his counsel will fairly and
2 adequately protect the interests of Class members.

3 e. Superiority of Class Action: A class action is
4 superior to other available means for the fair and efficient
5 adjudication of this controversy. Individual joinder of all
6 Class members is not practicable. The injury suffered by each
7 Class member, while meaningful on an individual basis, is not of
8 such magnitude as to make the prosecution of individual actions
9 against Defendants economically feasible. Individualized
10 litigation increases the delay and expense to all parties and
11 the court system presented by the legal and factual issues of
12 the case. By contrast, the class action device presents far
13 fewer management difficulties and provides the benefits of
14 single adjudication, economies of scale, and comprehensive
15 supervision by a single court.

16 21. In the alternative, the Class may be certified because:

17 a. The prosecution of separate actions by the
18 individual members of the Class would create a risk of
19 inconsistent or varying adjudication with respect to individual
20 members of the Class that would establish incompatible standards
21 of conduct for Defendant; and

22 b. Defendant has acted and/or refused to act on
23 grounds generally applicable to the Class, thereby making
24 appropriate final and injunctive relief with respect to members
25 of the Class as a whole.

26 22. The claims of the representative plaintiff are
27 typical of the claims of the Class. There are no material
conflicts with any other member of the Class that would make

1 class certification inappropriate. Plaintiff and counsel will
2 fairly and adequately represent the interests of the Class.

3 23. A class action is superior to other available methods
4 for the fair and efficient adjudication of this controversy
5 because individual litigation of the claims of all Class members
6 is impracticable. Even if every Class member could afford
7 individual litigation, the court system could not. It would be
8 unduly burdensome on the courts if individual litigation of
9 numerous cases would proceed. By contrast, the conduct of this
10 action as a class action, with respect to some or all of the
11 issues presented in this Complaint, presents fewer management
12 difficulties, conserves the resources of the parties and of the
13 court system, and protects the rights of each Class member.

14 24. Prosecution of separate actions by individual Class
15 members would create the risk of inconsistent or varying
16 adjudications, establishing incompatible standards of conduct
17 for the Defendants, and would magnify the delay and expense to
18 all parties and to the court system resulting from multiple
19 trials of the same complex factual issues.

20 25. Injunctive relief is appropriate as to the Class as a
21 whole because defendants have acted or refused to act on grounds
22 generally applicable to the Class.

23 26. Whatever difficulties may exist in the management of
24 the class action will be greatly outweighed by the benefits of
25 the class action procedure, including, but not limited to,
26 providing Class members with a method for the redress of claims
27 that may otherwise not warrant individual litigation.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 (Violations of the California Consumers Legal Remedies Act)

4 27. Plaintiff incorporates and realleges, as though fully
5 set forth herein, each of the paragraphs above.

6 28. The Consumer Legal Remedies Act ("CLRA") at Civil Code
7 Section 1750 *et seq.* was designed and enacted to protect
8 consumers from unfair and deceptive business practices.

9 29. The CLRA applies to Defendants' actions and conduct
10 described herein because it extends to the sale of products and
11 services (i.e., HVAC systems at residential real property) for
12 personal, family or household use.

13 30. At all relevant times, Plaintiff and members of the
14 Class were "consumers" as that term is defined in Civil Code
15 Section 1761(d).

16 31. The transactions from which this action arises include
17 transactions involving the sale of services for personal, family
18 or household purposes within the meaning of Civil Code Section
19 1761.

20 32. Defendants' practices in connection with its marketing
21 violate Civil Code Section 1770 (a)(14) in that Defendants
22 knowingly misrepresented the legal rights, obligations, or
23 remedies involved in the sale of Company's HVAC products and
24 services.

25 33. Defendants' violations of Civil Code 1770 present a
26 continuing threat to members of the public in that Defendants
27 continue to engage in the practices alleged herein and will not
cease until an injunction is issued by this Court.

1 34. Plaintiff and Class are entitled to an award of
2 attorneys' fees and costs pursuant to Civil Code Section
3 1780(d).

4 **SECOND CAUSE OF ACTION**

5 (Violations of the California False Advertising Law)

6 35. Plaintiff incorporates and realleges, as though fully
7 set forth herein, each of the paragraphs above.

8 36. Company's use of various forms of advertising media in
9 its marketing of HVAC systems constitutes unfair competition,
10 unfair, deceptive, untrue or misleading advertising, under the
11 California False Advertising Law at Business & Professions Code
12 Section 17500 *et seq.* These advertisements and practices have
13 deceived, and are likely to deceive, the consuming public, in
14 violation of those sections.

15 37. Defendants' business acts and practices, as alleged
16 herein, have caused actual injury to Plaintiff and members of
17 the Class.

18 38. Plaintiff and the Class are entitled to injunctive
19 relief, enjoining defendants to cease and desist from engaging
20 in the practices described herein.

21
22 **THIRD CAUSE OF ACTION**

23 (Violations of the California Unfair Competition Law)

24 39. Plaintiff incorporates and realleges, as though fully
25 set forth herein, each of the paragraphs above.

26 40. Defendants have engaged in unfair competition within
27 the meaning of the California Unfair Competition Law at Business
& Professions Code Section 17200 *et seq.* because defendants'
conduct is misleading, unfair, and illegal as herein alleged.

1 41. Defendants' wrongful business acts constituted, and
2 constitute, a continuing course of conduct of unfair competition
3 because defendants are marketing and selling Company-arranged
4 mortgage refinancings that are likely to deceive the public, and
5 Plaintiff and members of the Class suffered actual harm as a
6 result.

7 42. Defendants' business practices are unlawful because
8 the conduct constitutes false marketing and advertising, as well
9 as the other causes of action herein alleged.

10 43. The practices are unfair because they were likely to
11 deceive consumers into believing that Defendants' HVAC system
12 installation will entitle the purchaser to available rebates
13 from the respective utility for energy efficient HVAC
14 installations and therefore cause consumers to consider and
15 purchase Company's HVAC systems that they otherwise would not
16 consider nor purchase.

17 44. Defendants' practices are injurious to competition
18 because Company is undermining competitors who adhere to honest
19 and full solicitation practices.

20 45. Plaintiff has standing to pursue the claims because he
21 has been injured by virtue of suffering a loss of money as a
22 result of the wrongful conduct alleged herein.

23 46. Plaintiff and the Class are entitled to relief,
24 including full restitution and/or disgorgement of all revenues,
25 earnings, profits, compensation and benefits that may have been
26 obtained by Defendants as a result of such business acts or
27 practices, and enjoining Defendants to cease and desist from
engaging in the practices described herein.

1 **FOURTH CAUSE OF ACTION**

2 (Unjust Enrichment)

3 47. Plaintiff incorporates and realleges, as though fully
4 set forth herein, each of the paragraphs above.

5 48. As a direct and proximate result of Defendants'
6 misleading and unfair business practices, Defendants have been
7 unjustly enriched by the increased revenue and profit derived
8 from selling their HVAC systems that they would not have sold
9 without having first committed its wrongdoing detailed herein.

10
11 **FIFTH CAUSE OF ACTION**

12 (Fraud)

13 49. Plaintiff incorporates and realleges, as though fully
14 set forth herein, each of the paragraphs above.

15 50. As a direct and proximate result of Defendants'
16 knowingly false solicitations, Company causes Plaintiff and the
17 Class to spend money and provides the Company with money that it
18 would not have received without having first committed its
19 wrongdoing detailed herein.

20
21 WHEREFORE, Plaintiff and the Class pray for relief as set
22 forth below.

23 **PRAYER FOR RELIEF**

24 1. Certification of the proposed Class and notice and
25 claims administration to be paid by Defendants;

26 2. Compensatory, general, consequential, and incidental
27 damages according to proof and/or as presumed by statute;

3. Special damages according to proof;

1 4. Punitive damages to punish Company for its willful
2 tortious conduct and to deter others who may otherwise engage in
3 similar willful tortious conduct;

4 5. Restitution and disgorgement of the increased revenue
5 and profit derived from selling larger, less efficient, and more
6 expensive products that fail to satisfy utility efficiency
7 guidelines;

8 6. Injunctive relief against Defendants, and each of
9 them, to prevent future wrongful conduct;

10 7. Prejudgment at the maximum legal rate;

11 8. Costs of the proceedings herein;

12 9. Statutory damages;

13 10. Reasonable attorneys' fees; and

14 11. All such other and further relief as the Court deems
15 just.

16 Dated: November 14, 2013

Respectfully submitted,

17
18 By: ___/s/_____

19 STEPHEN J. SIMONI (Bar No. 284558)
20 StephenSimoni@yahoo.com

21 **SIMONI LAW OFFICES**
22 12131 Turnberry Drive, Suite 100
23 Rancho Mirage, CA 92270-1500
24 Telephone: (917) 621-5795

25 *Attorney for Plaintiff Stephen*
26 *Simoni and the Proposed Class*
27

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DEMAND FOR JURY TRIAL

Plaintiff on behalf of himself and all others similarly situated hereby requests a jury trial on all claims so triable.

Dated: November 14, 2013 Respectfully submitted,

By: ___/s/_____
STEPHEN J. SIMONI (Bar No. 284558)
StephenSimoni@yahoo.com
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12131 Turnberry Drive, Suite 100
Rancho Mirage, CA 92270-1500
Telephone: (917) 621-5795

*Attorney for Plaintiff Stephen
Simoni and the Proposed Class*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Dolly M. Gee and the assigned Magistrate Judge is Patrick J. Walsh.

The case number on all documents filed with the Court should read as follows:

2:13-CV-8498-DMG (PJWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

November 18, 2013

Date

By MDAVIS

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Central District of California

Stephen Simoni, Individually and
on behalf of all others similarly situated,

Plaintiff(s)

v.

Costco Wholesale Corporation, and Does 1 through
10, inclusive,

Defendant(s)

Civil Action No. **CV 13-08498** -DMG
(PSW)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Costco Wholesale Corporation
999 Lake Drive
Issaquah, WA 98027

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Stephen J. Simoni (Calif. Bar No. 284558)
StephenSimoni@yahoo.com
SIMONI LAW OFFICES
12131 Turnberry Drive, Suite 100
Rancho Mirage, CA 92270-1500
(917) 621-5795; Attorney for Plaintiff and Proposed Class

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: NOV 18 2013

CLERK OF COURT

Marilyn D...

Signature of Clerk or Deputy Clerk



CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Stephen Simoni, Individually and on behalf of all others similarly situated,	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) Costco Wholesale Corporation and Does 1 through 10, inclusive,
--	---

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.) Stephen J. Simoni, Esquire (Bar No. 284558) SIMONI LAW OFFICES 12131 Turnberry Drive, Suite 100 Rancho Mirage, CA 92270-1500; StephenSimoni@yahoo.com; (917) 621-5795	(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)
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II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table border="0" style="width:100%;"> <tr> <td>Citizen of This State</td> <td>PTF <input checked="" type="checkbox"/> 1</td> <td>DEF <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td>PTF <input type="checkbox"/> 4</td> <td>DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <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
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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. 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. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ According to proof

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Diversity Jurisdiction, 28 U.S.C. section 1332; fraud.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org. <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property TORTS PERSONAL PROPERTY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions TORTS PERSONAL PROPERTY <input checked="" 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 BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 American with Disabilities-Employment <input type="checkbox"/> 446 American with Disabilities-Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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 FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405 (g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

CV 13 - 08498

FOR OFFICE USE ONLY: Case Number: _____

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims?	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division? Enter the initial division determined by Question A, B, or C above: →	INITIAL DIVISION IN CACD Western
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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
 - B. Call for determination of the same or substantially related or similar questions of law and fact; or
 - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): Stephen J. Simon DATE: November 14, 2013

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))