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6 Attorneys for Defendant
7 MEDMARK SERVICES, INC.

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12
13 JIMMY WALSH, on behalf of himself
and all others similarly situated,

14 Plaintiff,

15 v.

16 MEDMARK SERVICES, INC.,

17 Defendant.
18

Case No.

California Superior Court
County of Contra Costa
Case No. C20-01535

**DEFENDANT MEDMARK SERVICES, INC.’S
NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. §§ 1332, 1441, &
1453**

1 **TO PLAINTIFFS, THE COURT, AND ALL ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332(d), 1441, and 1453(b),
3 Defendant MedMark Services, Inc. (“MedMark” or “Defendant”) hereby removes the above-
4 captioned action from the Superior Court of the State of California for the County of Contra Costa
5 (the “Superior Court”), where the action is now pending, to the United States District Court for the
6 Northern District of California, Oakland Division. The grounds for removal are as follows:

7 **I. REMOVAL IS TIMELY**

8 1. On August 10, 2020, Plaintiff Jimmy Walsh (“Plaintiff”), on behalf of himself and
9 all others similarly situated, filed a class action complaint in the Superior Court, styled and
10 captioned as above, and assigned Case No. C20-01535 (“State Court Action”).

11 2. On August 25, 2020, MedMark was served with the Complaint and Summons.

12 3. In accordance with the requirements of 28 U.S.C. § 1446(b), this Notice of Removal
13 is filed within thirty (30) days after the date on which MedMark was served with a copy of the
14 Summons and Complaint setting forth the claims for relief upon which Plaintiff’s action is based.
15 *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (“[T]he
16 defendant’s period for removal will be no less than 30 days from service.”).

17 **II. PLAINTIFF’S COMPLAINT**

18 4. MedMark is a Delaware corporation that is headquartered in Lewisville, Texas.
19 Compl. ¶ 6. MedMark provides addiction-treatment services to patients throughout the United
20 States. *Id.* ¶ 8.

21 5. Plaintiff is an individual residing in Contra Costa County, California. Compl. ¶ 5.
22 Plaintiff alleges he is a patient at one of MedMark’s treatment centers. *Id.* ¶ 9.

23 6. Plaintiff alleges that in November 2019, “computer hackers [broke] into
24 Defendant’s network that contained its patients’ personal medical information and were attempting
25 to blackmail Defendant.” Compl. ¶ 10 (capitalization omitted).

26 7. Plaintiff seeks to maintain this action on behalf of “[a]ll persons within the United
27 States who were patients at any one of Defendant’s nationwide treatment facilities prior to
28 November 2019, and whose personal medical information was compromised as a result of

1 Defendant's November 2019 data breach." Compl. ¶ 21 (capitalization omitted). While MedMark
2 denies any liability as to the allegations in the Complaint and reserves all of its rights and defenses,
3 Plaintiff asserts claims for: (1) violation of the California Data Breach Act, Cal. Civ. Code
4 § 1798.80, *et seq.*; (2) violation of the California Confidentiality of Medical Information Act, Cal.
5 Civ. Code § 56, *et seq.*; (3) violation of California's Unfair Competition Law, Cal. Bus. & Prof.
6 Code § 17200, *et seq.*; (4) negligence; (5) negligence per se; and (6) invasion of privacy.

7 8. Plaintiff seeks, on behalf of himself and the putative class, injunctive relief; actual,
8 statutory and/or punitive damages; restitution; pre- and post-judgment interest; reasonable
9 attorneys' fees and costs; and such other relief as deemed appropriate. Compl., Prayer for Relief.

10 **III. REMOVAL TO FEDERAL COURT IS PROPER BECAUSE FEDERAL JURISDICTION EXISTS**
11 **UNDER THE CLASS ACTION FAIRNESS ACT.**

12 9. Removal is proper pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28
13 U.S.C. § 1332(d), which provides for federal jurisdiction over this action. CAFA provides original
14 diversity jurisdiction for any putative class action: (a) involving 100 or more class members; (b)
15 with an amount in controversy exceeding \$5 million dollars; and (c) in which any member of the
16 plaintiff class is a citizen of a different country or state than any defendant. *See* 28 U.S.C. § 1332(d).
17 Each jurisdictional requirement of CAFA is satisfied here.

18 10. **Plaintiff seeks to present more than 100 class members.** Plaintiff's allegation
19 that the class "number[s] in the hundreds, if not thousands," Compl. ¶ 22, satisfies CAFA's
20 requirement that the class consist of 100 or more members, 28 U.S.C. § 1332(d)(5)(B). Indeed, the
21 putative class includes at least 36,000 individuals throughout the United States. *See* Declaration of
22 Frank Baumann ("Baumann Decl.") ¶ 2.

23 11. **The relief requested exceeds the amount-in-controversy requirement of \$5**
24 **million.** For jurisdictional purposes, multiplying the number of represented parties by the amount
25 of damages sought is sufficient to satisfy the amount-in-controversy requirement. 28 U.S.C.
26 § 1332(d)(6) (to determine amount in controversy, "the claims of the individual class members
27 shall be aggregated"). Here, Plaintiff purports to represent hundreds if not thousands of class
28 members throughout the United States who were patients at MedMark's facilities prior to

1 November 2019. Compl. ¶ 21. In reality, the size of the putative nationwide class is much larger
2 than that. As of November 1, 2019, MedMark had over 36,000 active patients throughout the
3 country, over 12,000 of whom reside in California. *See* Baumann Decl. ¶¶ 2-3. Plaintiff also seeks
4 actual, statutory, and damages on behalf of that putative class. *See* Compl., Prayer for Relief. For
5 example, Plaintiff has asserted a claim under the California Confidentiality of Medical Information
6 Act (“CCMIA”), Compl. ¶¶ 41-49, which authorizes \$1,000 in statutory damages, Cal. Civ. Code
7 § 56.36(b). Plaintiff also seeks statutory damages on behalf of the class, *see* Compl., Prayer for
8 Relief. The statutory damages for the CCMIA claim alone, when considered in light of the size of
9 the putative class Plaintiff purports to represent, is sufficient to show that CAFA’s \$5 million
10 amount-of-controversy requirement is satisfied here.

11 12. Courts routinely consider statutory damages where determining whether CAFA’s
12 amount-in-controversy requirement is met. *See, e.g., Grant v. Cap. Mgm’t Servs., L.P.*, 449 F.
13 App’x 598, 600 (9th Cir. 2011) (multiplying statutory damages under the Telephone Consumer
14 Protection Act by the estimated number of class members to determine that CAFA amount-in-
15 controversy requirement was met); *Lee v. Equifax Info. Servs., LLC*, No. CV 13-4302 SI, 2013 WL
16 6627755, at *4 (N.D. Cal. Dec. 16, 2013) (conducting similar analysis of class claims brought under
17 the California Consumer Credit Reporting Act). Here, Plaintiff purports to represent a nationwide
18 class that he himself alleges consists of “hundreds, if not thousands” of class members, Compl. ¶
19 22, and that in fact consists of over 36,000 putative class members, *see* Baumann Decl. ¶ 2. While
20 MedMark does not concede and reserves the right to contest that non-California Plaintiffs have
21 claims under the CCMIA, Plaintiff purports to represent a nationwide class. Compl. ¶ 22. Based
22 on the size of that class (at least 36,000 putative members) and the CCMIA’s provision of \$1,000
23 in statutory damages, Plaintiff has put at least \$36 million in controversy.¹ As such, Plaintiffs’
24 claims easily surpass CAFA’s \$5 million amount-in-controversy threshold. *See* 28 U.S.C.
25 § 1332(d)(6).

26
27
28 ¹ Further, Plaintiff seeks punitive damages under the CCMIA, Compl. ¶¶ 47-48, which authorizes
punitive damages up-to \$3,000, *see* Cal. Civ. Code § 56.35. Thus, there is no real question that
Plaintiffs’ claims satisfy CAFA’s amount-in-controversy requirement.

1 13. **Minimal Diversity Exists.** Removal pursuant to CAFA requires only that minimal
2 diversity exists, meaning that the plaintiff or “any member of a class of plaintiffs is a citizen of a
3 State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A).

4 14. Plaintiff is a citizen and resident of California. Compl. ¶ 5. MedMark is
5 incorporated in Delaware and has its principal place of business in Texas. *Id.* ¶ 6. MedMark is
6 therefore a citizen of Delaware and Texas. *See* 28 U.S.C. § 1332(c)(1).

7 15. Because Plaintiff is a citizen of California and MedMark is a citizen of Delaware
8 and Texas, the minimal diversity jurisdiction requirement set forth in 28 U.S.C. § 1332(d)(2)(A) is
9 met.

10 **IV. MEDMARK HAS MET ALL ADDITIONAL PROCEDURAL REQUIREMENTS FOR REMOVAL.**

11 16. The State Court Action was originally pending in Contra Costa County, which is
12 within this Court’s judicial district. Therefore, the matter is properly removable to this court. 28
13 U.S.C. § 1441(a).

14 17. In accordance with 28 U.S.C. § 1446(a), true and correct copies of the summons,
15 Complaint, and orders received by MedMark are attached hereto as Exhibit A.

16 18. In accordance with 28 U.S.C. § 1446(d), MedMark will promptly provide notice to
17 Plaintiff regarding removal. A copy of this Notice of Removal that MedMark will serve on Plaintiff
18 is attached hereto as Exhibit B.

19 19. Also in accordance with 28 U.S.C. § 1446(d), MedMark will promptly file a copy
20 of this Notice of Removal with the Clerk of the Superior Court of Contra Costa County. A copy of
21 that filing is attached hereto as Exhibit C. The docket of the Superior Court in this matter is also
22 attached hereto as Exhibit D.

23 20. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11 as required by 28
24 U.S.C. § 1446(a).

25 21. If any question arises as to the propriety of the removal of this action, MedMark
26 requests the opportunity to brief any disputed issues and to present oral argument in support of its
27 position that this action is properly removable. *See Dart Cherokee Basin Operating Co.*, 574 U.S.
28 81, 83 (2014) (holding that “a short and plain statement of the grounds of removal” is all that is

1 necessary to remove under 28 U.S.C. § 1446 and evidentiary submissions should be addressed
2 during remand briefing).

3 22. Accordingly, MedMark hereby removes this action from the Superior Court of the
4 State of California for the County of Contra Costa to the United States District Court for the
5 Northern District of California, Oakland Division.

6 Dated: September 23, 2020

COOLEY LLP

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8

By: /s/ Benjamin Kleine

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Benjamin Kleine

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Attorneys for Defendant
MEDMARK SERVICES, INC.

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EXHIBIT A

COPY

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

MEDMARK SERVICES, INC.,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JIMMY WALSH, on behalf of himself and all others similarly situated,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

2020 AUG 10 P 1:53

KATE BIEKER
CLERK OF THE SUPERIOR COURT
COUNTY OF SANTA COSTA, CA

BY: **B. POOL** DEPUTY CLERK

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

BY-FAX

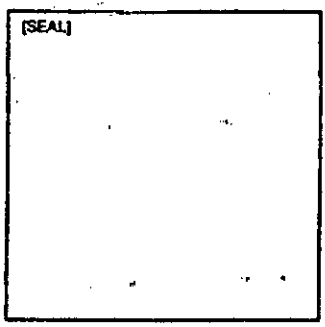
The name and address of the court is:
(El nombre y dirección de la corte es): **Wakefield Taylor Courthouse
725 Court Street
Martinez, CA 94553**

Case Number (Número del caso): **01535**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Todd M. Friedman, 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367, 323-306-4234

DATE: **AUG 10 2020** Clerk, by **B. POOL**, Deputy (Adjunto) (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED: You are served**
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): **MedMark Services, Inc.**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date): **8-25-20**

COPY

1 Todd M. Friedman (SBN 216752)
 2 Adrian R. Bacon (SBN 280332)
 3 Meghan E. George (SBN 274525)
 4 LAW OFFICES OF TODD M. FRIEDMAN, P.C.
 5 21550 Oxnard St., Suite 780
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 11 mgeorge@ toddflaw.com
 12 *Attorneys for Plaintiff*

FILED
 2020 AUG 10 P 1:53
 CLERK OF THE SUPERIOR COURT
 COUNTY OF CONTRA COSTA, CA
 BY: B. P. ... CLERK
 PER LOCAL RULE, THIS
 CASE IS ASSIGNED TO
 DEPT. 57 FOR ALL
 PURPOSES

SUMMONS ISSUED

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF CONTRA COSTA
 UNLIMITED JURISDICTION**

12 JIMMY WALSH, on behalf of himself)
 13 and all others similarly situated,)
 14 Plaintiffs,)
 15 v.)
 16 MEDMARK SERVICES, INC.,)
 17 Defendant.)

Case No. **G20-01535**
CLASS ACTION COMPLAINT
 1. VIOLATION OF CALIFORNIA
 DATA BREACH ACT
 2. VIOLATION OF CALIFORNIA
 CONFIDENTIALITY OF
 MEDICAL INFORMATION
 ACT
 3. VIOLATION OF CALIFORNIA
 UNFAIR COMPETITION LAW
 4. NEGLIGENCE
 5. NEGLIGENCE PER SE
 6. INVASION OF PRIVACY
 7. VIOLATION OF CALIFORNIA
 DATA BREACH ACT

BY FAX

DEMAND FOR JURY TRIAL

INTRODUCTION

26 1. JIMMY WALSH ("PLAINTIFF") brings this class action for damages,
 27 injunctive relief, and any other available legal or equitable remedies, resulting from
 28 the illegal actions of MEDMARK SERVICES, INC. ("DEFENDANT") and its

1 related entities, subsidiaries and agents, in failing to secure and protect its patients'
2 personal medical information ("INFORMATION") provided to DEFENDANT.
3 PLAINTIFF alleges as follows upon personal knowledge as to himself and his own
4 acts and experiences, and, as to all other matters, upon information and belief,
5 including investigation conducted by his attorneys.

6 2. In or around November of 2018, PLAINTIFF was made aware that
7 DEFENDANT'S computer systems had suffered a security breach and hackers had
8 succeeded in gaining access to personal medical information of many of
9 DEFENDANT'S patients. Said breach, which was caused by DEFENDANT'S failure
10 to employ adequate security standards with respect to the handling of its customers'
11 INFORMATION, has resulted in PLAINTIFF and members of the Class (as defined
12 below) having their INFORMATION compromised and the privacy of their medical
13 records placed in jeopardy.

14 JURISDICTION AND VENUE

15 3. This class action is brought pursuant to California Code of Civil
16 Procedure § 382. All claims in this matter arise exclusively under California law.
17 This Court has personal jurisdiction over Defendant because Defendant does business
18 to such an extent within and throughout California as to demonstrate its purposeful
19 availment of the protection and obligations of the laws of the State of California.

20 4. This matter is properly venued in the Superior Court of California for the
21 County of Contra Costa because that PLAINTIFF resides in the County of Contra
22 Costa and the events giving rise to PLAINTIFF'S causes of action against
23 DEFENDANT occurred within the County of Contra Costa.

24 PARTIES

25 5. PLAINTIFF is, and at all times mentioned herein was, an individual
26 citizen and resident of the County of Contra Costa, State of California.

27 6. PLAINTIFF is informed and believes, and thereon alleges, that
28 DEFENDANT is, and at all times mentioned herein was, a corporation incorporated

1 in the State of Delaware, with its principal place of business in the City of Lewisville,
2 State of Texas, that is engaged in the treatment of substance abuse.

3 7. PLAINTIFF is informed and believes, and thereon alleges, that at all
4 times relevant DEFENDANT conducted business in the State of California.

5 **FACTUAL ALLEGATIONS**

6 8. DEFENDANT provides addiction treatment and primary healthcare
7 services nationwide.

8 9. PLAINTIFF is a patient at one of Defendant's treatment facilities.

9 10. In or around November 2019, a counselor at one of DEFENDANT'S
10 treatment facilities informed a patient at the facility, who informed PLAINTIFF, that
11 computer hackers had broken into DEFENDANT'S network that contained its
12 patients' personal medical information and were attempting to blackmail
13 DEFENDANT.

14 11. The data breach affected hundreds, if not thousands, of patients who have
15 received treatment at any one of DEFENDANT'S nationwide addiction treatment
16 centers prior to November 2019.

17 12. DEFENDANT did not, and as of the time of bringing this action, has not
18 notified PLAINTIFF of the security breach, nor has DEFENDANT'S publicly
19 acknowledged the security breach.

20 13. Hackers could not have accessed this information on DEFENDANT'S
21 database but for DEFENDANT'S negligence.

22 14. DEFENDANT failed to implement and maintain reasonable security
23 procedures and practices appropriate to the nature and scope of the information
24 compromised in the data breach.

25 15. DEFENDANT knew or should have known that its systems for
26 processing and/or storing patients' personal medical information were not secure and
27 left the INFORMATION of PLAINTIFF and other members of the Class vulnerable
28 to the release of private information.

1 16. DEFENDANT recklessly, or as a matter of gross negligence, failed to
2 provide reasonable and adequate security measures to ensure that the personal medical
3 information of its patients would not be compromised.

4 17. The compromised INFORMATION, including PLAINTIFF'S, is
5 extremely sensitive, as the reasonable patient of an addiction rehabilitation facility
6 would wish to keep their addiction and treatment history from being publicly
7 disclosed, and would find the public disclosure of their medical information offensive.

8 18. Additionally, DEFENDANT failed to notify PLAINTIFF and the other
9 members of the Class in a timely manner of the security breach, as required by law.

10 19. PLAINTIFF and the members of the Class have all suffered irreparable
11 harm, including, but not limited to, anxiety, emotional distress, loss of privacy, and
12 other economic and non-economic losses, as a result of DEFENDANT'S unlawful
13 and wrongful conduct heretofore described.

14

15

CLASS ACTION ALLEGATIONS

16

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20. PLAINTIFF brings this action on behalf of himself and on behalf of all
others similarly situated ("the Class").

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21. PLAINTIFF represents, and is a member of, the Class, consisting of:

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All persons within the United States who were patients at
any one of DEFENDANT'S nationwide treatment facilities
prior to November 2019, and whose personal medical
information was compromised as a result of
DEFENDANT'S November 2019 data breach.

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22. DEFENDANT and its employees or agents are excluded from the Class.
PLAINTIFF does not know the number of members in the Class, but believes the
Class members number in the hundreds, if not thousands. Thus, this matter should be
certified as a Class action to assist in the expeditious litigation of this matter.

1 23. PLAINTIFF and members of the Class were harmed by the acts and
2 omissions of DEFENDANT in at least the following ways: PLAINTIFF and
3 members of the Class have lost privacy, money, or property as a result of
4 DEFENDANT’S negligence and concealments.

5 24. PLAINTIFF reserves the right to amend or modify the class description
6 with greater particularity or further division into subclasses or limitation to particular
7 issues.

8 25. The joinder of the Class members is impractical and the disposition of
9 their claims in the Class action will provide substantial benefits both to the parties and
10 to the court. The Class can be identified through DEFENDANT’S records or
11 DEFENDANT’S agents’ records.

12 26. There is a well-defined community of interest in the questions of law and
13 fact involved affecting the parties to be represented. The questions of law and fact
14 pertaining to the Class predominate over questions which may affect individual Class
15 members, including *inter alia*:

- 16
- 17 a. Whether DEFENDANT unlawfully used, maintained, lost or
18 disclosed Class members’ personal medical information;
 - 19 b. Whether DEFENDANT unreasonably delayed in notifying affected
20 patients of the data breach;
 - 21 c. Whether DEFENDANT failed to implement and maintain reasonable
22 security procedures and practices appropriate to the nature and scope
23 of the information compromised in the data breach;
 - 24 d. Whether DEFENDANT violated the requirements of California
25 Civil Code Section 1798.80 *et seq.*;
 - 26 e. Whether DEFENDANT violated the requirements of California Civil
27 Code Section 56 *et seq.*;
 - 28 f. Whether DEFENDANT’S conduct violated the California Business
 & Professions Code § 17200, *et seq.*;

- 1 g. Whether DEFENDANT’S conduct was negligent;
- 2
- 3 h. Whether DEFENDANT acted willfully and/or with oppression,
- 4 fraud, or malice;
- 5 i. Whether DEFENDANT’S conduct constituted Intrusion;
- 6 j. Whether DEFENDANT’S conduct constituted Public Disclosure of
- 7 Private Facts;
- 8 k. Whether DEFENDANT’S conduct violated Class members’
- 9 California Constitutional Right to Privacy;
- 10 l. Whether PLAINTIFF and the Class are entitled to damages, civil
- 11 penalties, punitive damages, and/or injunctive relief.
- 12

13 27. As a person whose personal information was compromised as a result of
14 DEFENDANT’S wrongful conduct as herein alleged, PLAINTIFF is asserting claims
15 that are typical of the Class. PLAINTIFF will fairly and adequately represent and
16 protect the interests of the Class in that PLAINTIFF has no interests antagonistic to
17 any member of the Class.

18 28. PLAINTIFF and the members of the Class have all suffered irreparable
19 harm as a result of the DEFENDANT’S unlawful and wrongful conduct. Absent a
20 class action, the Class will continue to face the potential for irreparable harm.
21 Because of the size of the individual Class member’s claims, few, if any, Class
22 members could afford to seek legal redress for the wrongs complained of herein.

23 29. PLAINTIFF has retained counsel experienced in handling class action
24 lawsuits.

25 30. A class action is a superior method for the fair and efficient adjudication
26 of this controversy. The interest of Class members in individually controlling the
27 prosecution of separate claims against DEFENDANT is small. Management of these
28 claims is likely to present significantly fewer difficulties than those presented in many

1 class claims. Litigating this case as a class action will reduce the possibility of
2 repetitious litigation relating to DEFENDANT’S conduct.

3 31. DEFENDANT has acted on grounds generally applicable to the Class,
4 thereby making appropriate final injunctive relief and corresponding declaratory
5 relief with respect to the Class as a whole.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF THE CALIFORNIA DATA BREACH ACT, CAL**

8 **CIV. CODE § 1798.80, *et seq.***

9 32. PLAINTIFF incorporates by reference all of the above paragraphs of this
10 Complaint as though fully stated herein.

11 33. The data breach constituted a “breach of the security system” of
12 DEFENDANT pursuant to California Civil Code § 1798.82(g).

13 34. DEFENDANT recklessly, or as a matter of gross negligence, failed to
14 provide reasonable and adequate security measures.

15 35. DEFENDANT unreasonably delayed informing PLAINTIFF and
16 members of the Class about the security breach of the Class members’
17 INFORMATION after DEFENDANT knew of the breach.

18 36. DEFENDANT failed to disclose to PLAINTIFF and members of the
19 Class, in the most expedient time possible, the breach of security of their
20 INFORMATION after DEFENDANT knew of the breach.

21 37. As a result of DEFENDANT’S violation of California Civil Code §
22 1798.82, PLAINTIFF and members of the Class suffered economic and non-
23 economic damages, as alleged above.

24 38. PLAINTIFF, individually and on behalf of the members of the Class,
25 seeks all remedies available under California Civil Code § 1798.84.

26 39. PLAINTIFF, individually and on behalf of the members of the Class,
27 also seeks reasonable attorneys’ fees and costs under California Civil Code §
28

1 1798.84(g).

2 40. By violating California Civil Code § 1798.80 *et seq.* as alleged above,
3 DEFENDANT was guilty of oppression, fraud, or malice, in that DEFENDANT acted
4 or failed to act with a willful and conscious disregard of PLAINTIFF’S and Class
5 members’ rights. PLAINTIFF therefore seeks an award of damages, including
6 punitive damages, in an amount to be proven at trial, on behalf of himself and the
7 Class.

8 **SECOND CAUSE OF ACTION**
9 **VIOLATION OF THE CALIFORNIA CONFIDENTIALITY OF**
10 **MEDICAL INFORMATION ACT, CAL CIV. CODE § 56, *et seq.***

11 41. PLAINTIFF incorporates by reference all of the above paragraphs of this
12 Complaint as though fully stated herein.

13 42. The personal medical information compromised as a result of
14 DEFENDANT’S data breach constituted “medical information” of PLAINTIFF and
15 class members pursuant to California Civil Code § 56.05(j).

16 43. DEFENDANT recklessly, or as a matter of gross negligence, failed to
17 provide reasonable and adequate security measures, which led to a disclosure of the
18 medical information of PLAINTIFF and members of the Class.

19 44. DEFENDANT unreasonably delayed informing PLAINTIFF and
20 members of the Class about the security breach of the Class members’
21 INFORMATION after DEFENDANT knew of the breach.

22 45. DEFENDANT failed to disclose to PLAINTIFF and members of the
23 Class the breach of security of their INFORMATION after DEFENDANT knew of
24 the breach.

25 46. As a result of DEFENDANT’S violation of California Civil Code §
26 56.10, PLAINTIFF and members of the Class suffered economic and non-economic
27 damages, as alleged above.

28 47. PLAINTIFF, individually and on behalf of the members of the Class,
seeks all remedies available under California Civil Code § 56.35.

1 48. PLAINTIFF, individually and on behalf of the members of the Class,
2 also seeks reasonable attorneys' fees and costs under California Civil Code § 56.35.

3 49. By violating California Civil Code § 56 *et seq.* as alleged above,
4 DEFENDANT was guilty of oppression, fraud, or malice, in that DEFENDANT acted
5 or failed to act with a willful and conscious disregard of PLAINTIFF'S and Class
6 members' rights. PLAINTIFF therefore seeks an award of damages, including
7 punitive damages, in an amount to be proven at trial, on behalf of himself and the
8 Class.

9 **THIRD CAUSE OF ACTION**
10 **UNLAWFUL, UNFAIR, AND FRAUDULENT BUSINESS**
11 **PRACTICES UNDER CALIFORNIA BUSINESS AND PROFESSIONS**
12 **CODE § 17200, *et seq.***

13 50. PLAINTIFF incorporates by reference all of the above paragraphs of this
14 Complaint as though fully stated herein.

15 51. DEFENDANT'S failure to disclose information concerning the data
16 breach directly and promptly to affected patients constitutes a fraudulent act or
17 practice in violation of California Business & Professions Code section 17200 *et seq.*

18 52. DEFENDANT'S acts, practices, and omissions detailed above constitute
19 unlawful, unfair and/or fraudulent business practices and acts, within the meaning of
20 California Business & Professions Code § 17200 *et seq.*

21 53. DEFENDANT'S acts, practices, and omissions detailed above constitute
22 fraudulent practices in that they are likely to deceive a reasonable consumer in that
23 PLAINTIFF and Class members were induced to receive treatment from
24 DEFENDANT'S treatment facilities based on the understanding, whether explicit or
25 implied, that DEFENDANT had implemented appropriate security protocols and that,
26 in the event of a loss or breach, DEFENDANT would promptly notify affected
27 patients.

1 54. DEFENDANT'S acts, practices, and omissions detailed above,
2 constitute unlawful practices and/or acts as they constitute violations of numerous
3 provisions of California law, including but not limited to Cal. Civ. Code § 1798.80 *et*
4 *seq.* and the Confidentiality of Medical Information Act, Cal. Civ. Code § 56 *et seq.*

5 55. DEFENDANT has committed all of the aforesaid acts of infringement
6 deliberately, willfully, maliciously and oppressively, without regard to PLAINTIFF
7 and Class members' legal rights. As a direct and proximate result of DEFENDANT'S
8 unlawful, unfair and fraudulent business practices as alleged herein, PLAINTIFF and
9 Class members have suffered injury in fact will continue to suffer injury and/or harm
10 including, but not limited to, anxiety, emotional distress, loss of privacy, and other
11 economic and non-economic losses.

12 56. Pursuant to California Business & Professions Code § 17203,
13 PLAINTIFF seeks an order of this Court prohibiting DEFENDANT from engaging
14 in the unlawful, unfair, or fraudulent business acts or practices set forth in this
15 Complaint and/or ordering DEFENDANT to perform its obligations under the law.

16
17 **FOURTH CAUSE OF ACTION**
18 **NEGLIGENCE**

19 57. PLAINTIFF incorporates by reference all of the above paragraphs of this
20 Complaint as though fully stated herein.

21 58. DEFENDANT came into possession of the INFORMATION of
22 PLAINTIFF and other Class members and thus had a duty to exercise reasonable care
23 in safeguarding and protecting such INFORMATION from being compromised, lost,
24 stolen, misused, and/or disclosed to unauthorized parties.

25 59. Moreover, DEFENDANT had a duty to timely disclose that the
26 INFORMATION of PLAINTIFF and Class members that was within its possession
27 had been compromised.

28

1 60. DEFENDANT had a duty to have procedures in place to detect and
2 prevent the loss or unauthorized dissemination of said INFORMATION.

3 61. DEFENDANT, through its actions and/or omissions, unlawfully
4 breached its duty to PLAINTIFF and Class members by failing to exercise reasonable
5 care in protecting and safeguarding said INFORMATION within its possession.

6 62. DEFENDANT, through its actions and/or omissions, unlawfully
7 breached its duty to PLAINTIFF and Class members to exercise reasonable care by
8 failing to have appropriate procedures in place to detect and prevent dissemination of
9 PLAINTIFF'S and other Class members' INFORMATION.

10 63. DEFENDANT, through its actions and/or omissions, unlawfully
11 breached its duty to timely disclose to PLAINTIFF and the Class members the fact
12 that their INFORMATION had been compromised.

13 64. DEFENDANT'S negligent and wrongful breach of its duties owed to
14 PLAINTIFF and the Class proximately caused PLAINTIFF and Class members'
15 INFORMATION to be compromised.

16 65. As a direct and proximate cause of DEFENDANT'S failure to exercise
17 reasonable care and use commercially reasonable security measures its databases
18 were accessed without authorization and customers' INFORMATION was
19 compromised and exposed to unauthorized access.

20 66. As a further direct and proximate cause of DEFENDANT'S failure to
21 exercise reasonable care as described herein, PLAINTIFF and Class members have
22 suffered economic and non-economic damages as described above and prayed for
23 below in an amount according to proof at trial. PLAINTIFF is informed and believes
24 and based thereupon alleges that DEFENDANT will continue to negligently fail to
25 adequately protect the INFORMATION of PLAINTIFF and other patients. As a
26 result of DEFENDANT'S conduct PLAINTIFF seeks declaratory and injunctive
27 relief, restitution, and compensatory and punitive damages.

28

1 **SIXTH CAUSE OF ACTION**

2 **INVASION OF PRIVACY**

3 73. PLAINTIFF incorporates by reference all of the above paragraphs of this
4 Complaint as though fully stated herein.

5 74. The INFORMATION of PLAINTIFF and other consumers of
6 DEFENDANT was and continues to be private information. PLAINTIFF and each
7 member of the Class had a legally protected informational privacy interest in the
8 confidential and sensitive information that DEFENDANT obtained and unlawfully
9 disseminated.

10 75. PLAINTIFF and other members of the Class had a legally protected
11 autonomy privacy interest regarding their INFORMATION without unwanted
12 observation, intrusion, or interference.

13 76. PLAINTIFF and members of the Class reasonably expected that their
14 confidential and sensitive information would be kept private.

15 77. DEFENDANT'S failure to secure and protect PLAINTIFF'S and other
16 customers' INFORMATION resulted in the public disclosure and publication of such
17 private information to third parties, including but not limited to hackers.

18 78. Dissemination of PLAINTIFF'S and other consumers' INFORMATION
19 is not of a legitimate public concern; publicity of their INFORMATION would be, is,
20 and will continue to be offensive to PLAINTIFF, putative class members, and other
21 reasonable people.

22 79. DEFENDANT'S wrongful actions and/or inaction as described above
23 constituted and continue to constitute a serious invasion of the privacy of PLAINTIFF
24 and other consumers by publicly disclosing private facts (*i.e.*, their INFORMATION).

25 80. PLAINTIFF and other consumers were and continue to be damaged as a
26 direct and/or proximate result of DEFENDANT'S invasion of their privacy by
27 publicly disclosing their private facts (*i.e.*, their INFORMATION) in the form of,
28

1 *inter alia*, anxiety, emotional distress, loss of privacy, and other economic and non-
2 economic harm, for which they are entitled to compensation.

3 81. In violating the privacy of PLAINTIFF and Class members as alleged
4 above, DEFENDANT was guilty of oppression, fraud, or malice, in that
5 DEFENDANT acted or failed to act with a willful and conscious disregard of
6 PLAINTIFF'S and Class members' rights. PLAINTIFF therefore seeks an award of
7 damages, including punitive damages, in an amount to be proven at trial, on behalf of
8 himself and the Class.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF respectfully requests that the Court grant
12 PLAINTIFF and the Class members the following relief against DEFENDANT:

- 13 a. An order certifying the proposed class and appointing PLAINTIFF and
14 PLAINTIFF'S counsel to represent the Class;
- 15 b. Injunctive relief prohibiting DEFENDANT from engaging in such conduct
16 as alleged herein in the future;
- 17 c. Actual, statutory and/or punitive damages;
- 18 d. Restitution, or any other equitable relief the Court may deem just and
19 proper;
- 20 e. Pre-judgment and post-judgment interest;
- 21 f. Reasonable attorneys' fees and costs of the suit, including expert witness
22 fees; and
- 23 g. Any other relief the Court may deem just and proper.

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TRIAL BY JURY

PLAINTIFF hereby demands a jury trial on all issues so triable.

Respectfully Submitted this 7th Day of August, 2020.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Todd M. Friedman, Esq. SBN 216752
 Law Offices of Todd M. Friedman
 21550 Oxnard St., Suite 780
 Woodland Hills, CA 91367
 TELEPHONE NO.: 323-306-4234 FAX NO.: 866-633-0228

FOR COURT USE ONLY

FILED

2020 AUG 10 P 1:53

KATE BIEKER
 CLERK OF THE SUPERIOR COURT
 COUNTY OF CONTRA COSTA, CA

ATTORNEY FOR (Name): **Plaintiff, Jimmy Walsh**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Contra Costa**

STREET ADDRESS: **725 Court Street**
 MAILING ADDRESS: **725 Court Street**
 CITY AND ZIP CODE: **Martinez, 94553**
 BRANCH NAME: **Wakefield Taylor Courthouse**

CASE NAME:
Jimmy Walsh v. MedMark Services, Inc.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **C20-01535**

JUDGE: _____
 DEPT: _____

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p>Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/W (23) <p>Non-PIP/D/W (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (18) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PI/PD/W tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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BY FAX

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses
 b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **7**

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **August 7, 2020**
Todd M. Friedman
 (TYPE OR PRINT NAME)

Todd M. Friedman
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one box** for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT - MARTINEZ
COUNTY OF CONTRA COSTA
MARTINEZ, CA, 94553

WALSH VS MEDMARK SERVICES, INC.

NOTICE OF CASE MANAGEMENT CONFERENCE

CIVMSC20-01535

1. NOTICE: THE CASE MANAGEMENT CONFERENCE HAS BEEN SCHEDULED FOR:

DATE: 01/04/21 DEPT: 21 TIME: 8:30

THIS FORM, A COPY OF THE NOTICE TO PLAINTIFFS, THE ADR INFORMATION SHEET, A BLANK CASE MANAGEMENT CONFERENCE QUESTIONNAIRE, AND A BLANK STIPULATION FORM ARE TO BE SERVED ON OPPOSING PARTIES. ALL PARTIES SERVED WITH SUMMONS AND COMPLAINT/CROSS-COMPLAINT OR THEIR ATTORNEY OF RECORD MUST APPEAR.

2. You may stipulate to an earlier Case Management Conference. If all parties agree to an early Case Management Conference, please contact the Court Clerk's Office at (925)608-1000 for Unlimited Civil and Limited Civil cases for assignment of an earlier date.

3. You must be familiar with the case and be fully prepared to participate effectively in the Case Management Conference and to discuss the suitability of this case for the EASE Program, private mediation, binding or non-binding arbitration, and/or use of a Special Master.

4. At any Case Management Conference the court may make pretrial orders including the following:

- a. an order establishing a discovery schedule
- b. an order referring the case to arbitration
- c. an order transferring the case to limited jurisdiction
- d. an order dismissing fictitious defendants
- e. an order scheduling exchange of expert witness information
- f. an order setting subsequent conference and the trial date
- g. an order consolidating cases
- h. an order severing trial of cross-complaints or bifurcating issues
- i. an order determining when demurrers and motions will be filed

SANCTIONS

If you do not file the Case Management Conference Questionnaire or attend the Case Management Conference or participate effectively in the Conference, the court may impose sanctions (including dismissal of the case and payment of money).

Clerk of the Superior Court of Contra Costa County
I declare under penalty of perjury that I am not a party to this action, and that I delivered or mailed a copy of this notice to the person representing the plaintiff/cross-complainant.

Dated: 08/10/20

BROOKE POOL
Deputy Clerk of the Court

Superior Court of California, County of Contra Costa

UNLIMITED JURISDICTION
Civil Actions
PACKET

What you will find in this packet:

- **Interpreter Request (MC-300e&s)**
- **Notice To Plaintiffs (CV-655a-INFO)**
- **Notice To Defendants (CV-655d-INFO)**
- **ADR Case Management Stipulation and Order (CV-655b)**
- **Case Management Statement (CM-110)**
- **Alternative Dispute Resolution (ADR) Information (CV-655c-INFO)**

You Can Get Court Forms FREE at: www.cc-courts.org/forms

Superior Court of California, County of Contra Costa

Interpreter Request

If you need an interpreter, please complete the form below and submit it to any Filing Window or courtroom.

Case Number: _____

Case Type:

- | | |
|---|---|
| <input type="checkbox"/> Criminal | <input type="checkbox"/> Small Claims – (\$10,000 or less) |
| <input type="checkbox"/> Traffic | <input type="checkbox"/> Civil - <input type="checkbox"/> \$25,000 <input type="checkbox"/> over \$25,000 |
| <input type="checkbox"/> Civil Harassment | <input type="checkbox"/> Civil – Other _____ |
| <input type="checkbox"/> Conservatorship | <input type="checkbox"/> Family Law |
| <input type="checkbox"/> Proceedings to terminate parental rights | <input type="checkbox"/> Unlawful Detainer |
| <input type="checkbox"/> Dependent Adult Abuse | <input type="checkbox"/> Guardianship |
| <input type="checkbox"/> Juvenile | <input type="checkbox"/> Elder Abuse |

Party Requesting Interpreter: _____

Is interpreter for a witness? Yes No

Phone Number(s) where party can be reached: _____

Date of Hearing: _____ Time of Hearing: _____

Department: _____ Location: Martinez Pittsburg Richmond Walnut Creek

Language Needed: Spanish Mandarin Cantonese Vietnamese

Other: _____

To avoid the risk that your hearing will have to be postponed, please submit this form a minimum of one week in advance.

Current information about this program is available at our website:

www.cc-courts.org/interpreter

Superior Court of California, County of Contra Costa

Solicitud Para Intérprete

Si necesita un intérprete, favor completar este formulario y presentarlo en cualquier ventanilla para archivar documentos o con la secretaria del tribunal.

Número de Caso: _____

Tipo de Caso:

- | | |
|--|--|
| <input type="checkbox"/> Criminal | <input type="checkbox"/> Demanda Civil – (\$10,000 o menos) |
| <input type="checkbox"/> Tráfico | <input type="checkbox"/> Demanda Civil -
<input type="checkbox"/> \$25,000 <input type="checkbox"/> más de \$25,000 |
| <input type="checkbox"/> Acoso Civil | <input type="checkbox"/> Civil – otro tipo _____ |
| <input type="checkbox"/> Conservador | <input type="checkbox"/> Casos de Familia |
| <input type="checkbox"/> Casos para Terminar Derechos de Madre o Padre | <input type="checkbox"/> Juicio de Desalojo |
| <input type="checkbox"/> Abuso de Adultos Incapacitados | <input type="checkbox"/> Tutela |
| <input type="checkbox"/> Tribunal de Menores | <input type="checkbox"/> Abuso de Personas Mayores |

Persona que Necesita Intérprete: _____

Marque aquí si esta persona es un testigo

Número Telefónico: _____

Fecha de la Audiencia Judicial: _____ Hora: _____

Departamento: _____ Ciudad: Martinez Pittsburg Richmond Walnut Creek

Idioma Solicitado: Español Mandarín Cantonés Vietnamita

Otro Idioma: _____

Para evitar la posibilidad que su audiencia sea aplazada, favor the presentar este formulario al menos una semana antes de la fecha de su audiencia.

Información actualizada acerca de este servicio se encuentra en nuestra página web:
www.cc-courts.org/interpreter

Superior Court of California, County of Contra Costa

NOTICE TO PLAINTIFFS
In Unlimited Jurisdiction Civil Actions

AFTER YOU FILE YOUR COURT CASE:

1. **Have the forms the clerk gives you served on all defendants in this case:**
 - a. The Complaint
 - b. The Summons
 - c. The Notice of Case Management Conference (shows hearing date and time)
 - d. The Notice to Defendants (Local Court Form CV-655d-INFO)
 - e. Blank: Case Management Statement (Judicial Council Form CM-110)
 - f. Blank: Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days (Local Court Form CV-655b)
 - g. Alternative Dispute Resolution (ADR) Information (Local Court Form CV-655c-INFO)
2. **Within 60 days of the date you filed the complaint you must prove that the forms have been served on (delivered to) the defendants correctly by filing the Proof of Service form (POS-010) (completed by the person who did the service) with the court.**
3. **Go to the case management conference on the date indicated on The Notice of Case Management Conference.**
4. **Consider using mediation, arbitration, or neutral case evaluation (ADR) to resolve the dispute.** All parties must answer questions about ADR on the *Case Management Statement* form. For more information, see the enclosed ADR information, visit www.cc-courts.org/adr, or email adrweb@contracosta.courts.ca.gov
5. **You may delay the first case management conference while you try to resolve the dispute in ADR.** If all parties agree to use ADR, complete and file the Stipulation and Order to Attend ADR and Continue First Case Management Conference 90 Days form to tell the court you want to use this option.

All civil actions (*except juvenile, probate, family, unlawful detainer, extraordinary writ, and asset forfeiture*¹) and personal injury cases where a party is claiming damages² must meet the Civil Trial Delay Reduction time limits for filing documents and moving their cases forward. These time limits are listed in California Rule of Court 3.110 and Local Court Rules; Title Three. If parties miss these deadlines, a judge might issue an order (*Order to Show Cause*) for them to explain in court why they should not have to pay a fine or have their case dismissed.

VIEW LOCAL COURT RULES AT: (WWW.CC-COURTS.ORG/RULES)

¹ *Health and Safety Code §11470 et seq.*

² *Including claims for emotional distress and/or wrongful death.*

Superior Court of California, County of Contra Costa

NOTICE TO DEFENDANTS
In Unlimited Jurisdiction Civil Actions

YOU ARE BEING SUED. The packet you have been served should contain:

- a. The Summons
- b. The Complaint
- c. The Notice of Case Management (shows hearing date and time)
- d. Blank: Case Management Statement (Judicial Council Form CM-110)
- e. Blank: Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days (Local Court Form CV-655b)
- f. Alternative Dispute Resolution (ADR) Information (Local Court Form CV-655c-INFO)



WHAT DO I DO NOW?



You must:

1. **Prepare your response** YOU COULD LOSE YOUR CASE—even before it is heard by a judge or before you can defend yourself, if you do not prepare and file a response on time. See the other side of this page for types of responses you can prepare.
2. **Complete the *Case Management Statement (CM-110)***
3. **File and serve your court papers on time** Once your court forms are complete, you must file 1 original and 2 copies of the forms at court. An adult who is NOT involved in your case must serve one set of forms on the Plaintiff. If you were served in person you must file your response in 30 days. If the server left a copy of the papers with an adult living at your home or an adult in charge at your work or you received a copy by mail you must file your response in 40 days.
4. **Prove you served your court papers on time** by having your server complete a *Proof of Service, (Judicial Council form POS-040)*, that must be filed at the court within 60 days.
5. **Go to court** on the date and time given in the *Notice of Case Management Conference*.
6. **Consider trying to settle your case before trial** If you and the other party to the case can agree to use mediation, arbitration or neutral case evaluation, the *Stipulation and Order to Attend ADR and Delay First Case Management Conference 90 Days* can be filed with your other papers. For more information read the enclosed ADR information, visit www.cc-courts.org/adr, or email adrweb@contracosta.courts.ca.gov.

IMPORTANT! The court recommends consulting an attorney for all or part of your case. While you may represent yourself, lawsuits can be complicated, and the court cannot give you legal advice.

COURT FEES: You must pay court fees the first time you file your papers. If you also file a motion, you must pay another fee. If you cannot afford the fees, you may ask the court to waive (allow you not to pay) fees. Use Judicial Council forms FW-001-INFO [information sheet]; FW-001 [application]; and FW-003 [order].

COURT FORMS: Buy forms at the Law Library (1020 Ward Street, Martinez, CA) or download them for free at: www.courtinfo.ca.gov/forms/

WHAT KIND OF RESPONSES CAN I FILE?

1. If you disagree with some or all of what the plaintiff says in the complaint because you believe, or know it is not true, you can file an ANSWER.
2. If you have a claim in the same case against the plaintiff, you may file a CROSS-COMPLAINT.
3. If you want to ask the court to do something on your behalf, you may file a MOTION (See *TYPES OF MOTIONS* below)

HOW DO I PREPARE AN ANSWER?

There are two kinds of Answers you can use, depending on whether the Complaint was verified. You can tell if a Complaint is verified because it says "Verified Complaint" and/or has a signed oath on the last page.

For complaints that are NOT verified:

Use Judicial Council form PLD-050 – General Denial

For complaints that ARE verified:

- a. For personal injury, property damage, and wrongful death claims, use Judicial Council PLD-PI-003 (do not check number 2).
- b. For contract claims, use Judicial Council PLD-C-010 (do not check number 3a).
- c. Be sure to deny every claim with which you disagree. For example, you might write: "*I believe, or know, that the information in paragraph #__ is untrue/incorrect.*" Continue your list until you have addressed each paragraph in the Complaint.

NOTE: The Judicial Council Answer forms have spaces for your affirmative defenses. Be sure to include them or you may not be able to use them later. To find out what your affirmative defenses might be, go to the law library and ask the librarian to help you find the information you need.

If you want to file a Cross-Complaint, you must do so at the same time you file the Answer.

- a. For a personal injury, property damage, and/or wrongful death Cross-Complaint, use Judicial Council form PLD-PI-002.
- b. For a contract Cross-Complaint, use Judicial Council PLD-C-001.

TYPES OF MOTIONS

Written motions are documents that ask the court to do something. You may have to file an *Answer* at the same time. At this point in the case, you can only make Motions from the following list:

1. Demurrer (*the facts stated in the complaint are wrong, or the deadline to file the lawsuit has passed*);
2. Motion to Strike (*the complaint is unclear, does not follow the law, "doesn't matter", etc.*);
3. Motion to Transfer (*the complaint is in the wrong court or there's a more appropriate court*);
4. Motion to Quash Service of Summons (*you were not legally served*);
5. Motion to Stay (*put the case on hold*); or
6. Motion to Dismiss (*stops the case*).

NOTE: Motions are very complicated and you may want to hire a lawyer to help you.

WHERE CAN I GET MORE HELP?

- **Lawyer Referral Service:** (925) 825-5700
- **Bay Area Legal Aid:** (800) 551-5554
- **Contra Costa County Law Library** Martinez: (925) 646- 2783 Richmond: (510) 374-3019
- **Ask the Law Librarian:** www.247ref.org/portal/access_law3.cfm

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

Plaintiff(s) / Cross Plaintiff(s)

vs.

ADR Case Management Stipulation and Order
(Unlimited Jurisdiction Civil Cases)

Defendant(s) / Cross Defendant(s)

CASE NO: _____

- ▶ ALL PARTIES STIPULATING TO ADR AND DELAYING THEIR CASE MANAGEMENT CONFERENCE 90 DAYS MUST **SUBMIT THE ORDER FOR THE JUDGE'S SIGNATURE AND FILE THIS FORM AT LEAST 15 DAYS BEFORE THEIR CASE MANAGEMENT CONFERENCE.** (NOT AVAILABLE IN COMPLEX LITIGATION CASES.)
- ▶ PARTIES MUST ALSO SEND A COPY OF THIS **FILED** STIPULATION AND ORDER TO THE ADR OFFICE: EMAIL adrweb@contracosta.courts.ca.gov FAX: (925) 608-2109 MAIL: P.O. BOX 911, MARTINEZ, CA 94553

Counsel and all parties agree to delay their case management conference 90 days to attend ADR and complete pre-ADR discovery as follows:

1. Selection and scheduling for Alternative Dispute Resolution (ADR):

- a. The parties have agreed to ADR as follows:
 - i. Mediation (Court-connected Private)
 - ii. Arbitration (Judicial Arbitration (non-binding) Private (non-binding) Private (binding))
 - iii. Neutral case evaluation
- b. The ADR neutral shall be selected by (date): _____ (no more than 14 days after filing this form).
- c. ADR shall be completed by (date): _____ (no more than 90 days after filing this form)

2. The parties will complete the following discovery plan:

- a. Written discovery: (Additional page(s) attached)
 - i. Interrogatories to:
 - ii. Request for Production of Documents to:
 - iii. Request for Admissions to:
 - iv. Independent Medical Evaluation of:
 - v. Other:
- b. Deposition of the following parties or witnesses: (Additional page(s) attached)
 - i. _____
 - ii. _____
 - iii. _____
- c. No Pre-ADR discovery needed

3. The parties also agree: _____

4. Counsel and self-represented parties represent they are familiar with and will fully comply with all local court rules related to ADR as provided in Title Three; Chapter 5; will pay the fees associated with these services, and understand that if they do not, without good cause, comply with this stipulation and all relevant local court rules, they may be subject to sanctions.

_____ Counsel for Plaintiff (print)	_____ Fax
_____ Signature	
_____ Counsel for Plaintiff (print)	_____ Fax
_____ Signature	

_____ Counsel for Defendant (print)	_____ Fax
_____ Signature	
_____ Counsel for Defendant (print)	_____ Fax
_____ Signature	

Pursuant to the Stipulation of the parties, and subject to the *Case Management Order* to be filed, **IT IS SO ORDERED** that the Case Management Conference set for _____ is vacated and rescheduled for _____ at (8:30 a.m. / _____) **Plaintiff / Plaintiff's counsel must notify all parties of the new case management conference.**

Dated: _____

Judge of the Superior Court

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
CASE MANAGEMENT STATEMENT (<i>Check one</i>): <input type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (<i>Amount demanded exceeds \$25,000</i>) (<i>Amount demanded is \$25,000 or less</i>)	CASE NUMBER: _____
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (<i>if different from the address above</i>): _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (<i>name</i>): _____	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (*answer one*):
 - a. This statement is submitted by party (*name*):
 - b. This statement is submitted **jointly** by parties (*names*):

2. **Complaint and cross-complaint** (*to be answered by plaintiffs and cross-complainants only*):
 - a. The complaint was filed on (*date*): _____
 - b. The cross-complaint, if any, was filed on (*date*): _____

3. **Service** (*to be answered by plaintiffs and cross-complainants only*):
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (*specify names and explain why not*): _____
 - (2) have been served but have not appeared and have not been dismissed (*specify names*): _____
 - (3) have had a default entered against them (*specify names*): _____
 - c. The following additional parties may be added (*specify names, nature of involvement in case, and date by which they may be served*): _____

4. **Description of case**
 - a. Type of case in complaint cross-complaint (*Describe, including causes of action*): _____

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date)*:

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. days *(specify number)*:

b. hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.



CONTRA COSTA COUNTY SUPERIOR COURT ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

All judges in the Civil Trial Delay Reduction Program agree that parties should consider using Alternative Dispute Resolution (ADR) to settle their cases. To tell the court you will use ADR:

- Choose ADR on the *Case Management Form* (CM-110);
- File a *Stipulation and Order to Attend ADR and Continue First Case Management Conference 90-Days* (local court form); or
- Agree to ADR at your first court appearance.

Questions? Email adrweb@contracosta.courts.ca.gov or call (925) 608-2075

MEDIATION

Mediation is often faster and less expensive than going to trial. Mediators help people who have a dispute talk about ways they can settle their case. Parties email, fax or visit the ADR Programs office to get a list of mediators. After parties have agreed on a mediator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the mediator at least 5 court days before mediation starts.

ALL parties and attorneys must go to mediation. Mediation can be held whenever and wherever the parties and the mediator want, as long as they finish before the court deadline. In some kinds of court cases, parties have the chance to mediate in the courthouse on their trial day.

Most mediators begin by talking with the parties together, helping them focus on the important issues. The mediator may also meet with each party alone. Mediators often ask parties for their ideas about how to settle the case. Some mediators tell the parties how much money they think a case is worth, or tell them what they think might happen if the case went to trial. Other mediators help the parties decide these things for themselves. No matter what approach a mediator takes, decisions about settling a case can only be made when all the parties agree.

If the parties go through the court ADR program, mediators do not charge fees for the first half hour spent scheduling or preparing for mediation. They also do not charge fees for the first two hours of mediation. If parties need more time, they must pay the mediators regular fees. Some mediators ask for a deposit before mediation starts. Mediators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the mediation. A party whose court fees have been waived (cancelled) may ask if their mediation fees or deposit can be waived.

If parties agree about how they will settle their case, they can choose to keep it private, write it up as a contract, or ask the judge to make it a court order. What parties say and agree to in mediation is confidential (private).

PRIVATE MEDIATION

Private mediation works in the same way as judicial mediation, but the parties do not go through the ADR Programs office. Parties choose a mediator on their own, and pay the mediator's normal fees.

JUDICIAL ARBITRATION (non-binding)

In judicial arbitration, an independent attorney (arbitrator) looks at the evidence, listens to the parties and their witnesses, and decides how the case will be settled. Judicial arbitration is less formal than court. Parties email, fax or visit the ADR Programs office to get a list of arbitrators. If they cannot agree on an arbitrator, the court will assign one. The judge can send cases to arbitration if there is less than \$50,000 in dispute. The person who started the court case can make sure the case goes to arbitration if they agree to limit the amount they are asking for to \$50,000. Parties can also agree they want to use judicial arbitration. The arbitrator must send their decision (award) to the court within 10 days of the last hearing. The award becomes a court judgment unless a party asks the court to review the case within 60 days. Parties must use the ADR-102 form to ask for a new court hearing (called a trial de novo.) Judicial arbitrators charge \$150 per case or per day.

PRIVATE ARBITRATION (non-binding and binding)

Private, non-binding arbitration is the same as judicial arbitration, except that the parties do not go through the ADR Programs office to choose an arbitrator, and the arbitrator's award will not become a judgment of the court unless all parties agree. Parties must pay the arbitrator's normal fees.

Binding arbitration is different from judicial or private non-binding arbitration because the arbitrator's decision is final. Parties give up their right to have a judge review their case later (except for reasons listed in California Code of Civil Procedure, Section 1286.2.) Binding arbitration rules are listed in California Code of Civil Procedure, Sections 1280-1288.8. Parties may also agree any time before the judge has made a decision that ends the case to switch to binding arbitration. Parties choose the arbitrator on their own, and must pay the arbitrator's normal (not \$150) fees.

SETTLEMENT MENTOR CONFERENCE

Settlement mentors are independent, experienced trial attorneys that a judge has assigned to help parties look for ways to settle their case. The conference is free and is held in the courthouse. It is often held on the morning of trial, but it can be scheduled anytime. These conferences usually last two or three hours. Parties do not present evidence and do not call witnesses. Parties can ask the settlement mentor to keep some information confidential (private) from the other party, but not from the judge. The settlement mentor can share any information with the judge, or involve the judge in settlement discussions. All principals, clients, and claims representatives must attend the settlement mentor conference.

NEUTRAL CASE EVALUATION

In neutral case evaluation, an independent attorney (evaluator) reviews documents and listens to each party's side of the case. The evaluator then tells the parties what they think could happen if the case went to trial. Many people use the evaluator's opinion to reach an agreement on their own, or use this information later in mediation or arbitration to settle their case.

Parties email, fax or visit the ADR Programs office to get a list of evaluators. After parties have agreed on an evaluator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the evaluator at least 5 court days before evaluation starts. ALL parties and their attorneys must go to neutral case evaluation. The evaluation can be held whenever and wherever the parties and the evaluator want, as long as they finish before the court deadline. If the parties go through the court's ADR program, evaluators do not charge any fees for the first half hour spent scheduling or preparing for the evaluation conference. They also do not charge fees for the first two hours of the evaluation. If parties need more time, they must pay that evaluators regular fees. Some evaluators ask for a deposit before evaluation starts. Evaluators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the evaluation. A party whose court fees have been waived (cancelled) may ask if their evaluation fees or deposit can be waived.

TEMPORARY JUDGE

Some parties want a trial, but want to choose who will decide the case and when the trial will take place. Parties can agree on an attorney that they want the court to appoint as a temporary judge for their case. (See Article 6, Section 21 of the State Constitution and Rule 2.830 of the California Rules of Court.) Temporary judges have nearly the same authority as a superior court judge to conduct a trial and make decisions. As long as the parties meet the court deadline, they can schedule the trial at their own and the temporary judge's convenience.

Each of the temporary judges on the court's panel has agreed to serve at no charge for up to 5 court days. If the parties need more time, they must pay that person's regular fees. All parties and their lawyers must attend the trial, and provide a copy of all briefs or other court documents to the temporary judge at least two weeks before the trial. These trials are similar to other civil trials, but are usually held outside the court. The temporary judge's decision can be appealed to the superior court. There is no option for a jury trial. The parties must provide their own court reporter.

SPECIAL MASTER

A special master is a private lawyer, retired judge, or other expert appointed by the court to help make day-to-day decisions in a court case. The special master's role can vary, but often includes making decisions that help the discovery (information exchange) process go more smoothly. He or she can make decisions about the facts in the case. Special masters can be especially helpful in complex cases. The trial judge defines what the special master can and cannot do in a court order.

Special masters often issue both interim recommendations and a final report to the parties and the court. If a party objects to what the special master decides or reports to the court, that party can ask the judge to review the matter. In general, the parties choose (by stipulation) whom they want the court to appoint as the special master, but there are times (see California Code of Civil Procedure Section 639), when the court may appoint a special master or referee without the parties' agreement. The parties are responsible to pay the special master's regular fees.

COMMUNITY MEDIATION SERVICES

Mediation Services are available through non-profit community organizations. These low-cost services are provided by trained volunteer mediators. For more information about these programs contact the ADR Program at adrweb@contracosta.courts.ca.gov



**Service of Process
Transmittal**

08/25/2020

CT Log Number 538149071

TO: David K. White, President & CEO
Baymark Health Services Inc.
1720 LAKEPOINTE DR STE 117
LEWISVILLE, TX 75057-6425

RE: Process Served in California

FOR: Medmark Services, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: JIMMY WALSH, etc., Pltf. vs. MEDMARK SERVICES, INC., Dft.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # C2001535

NATURE OF ACTION: Medical Injury - Improper Care and Treatment - -

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Process Server on 08/25/2020 at 12:54

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780111965182
Image SOP
Email Notification, Susan Meyercord smeyercord@medmark.com
Email Notification, Esther Cole-Torres ecole-torres@baymark.com

SIGNED: C T Corporation System
ADDRESS: 208 LaSalle Ave
Suite 814
Chicago, IL 60604

For Questions: 866-539-8692
CorporationTeam@wolterskluwer.com

PROCESS SERVER DELIVERY DETAILS

Date:	Tue, Aug 25, 2020
Server Name:	judith smith
Location:	Los Angeles, CA-LA
Entity Served	MedMark Services, Inc.
Agent Name	
Case Number	C20-01535
Jurisdiction	CA-LA

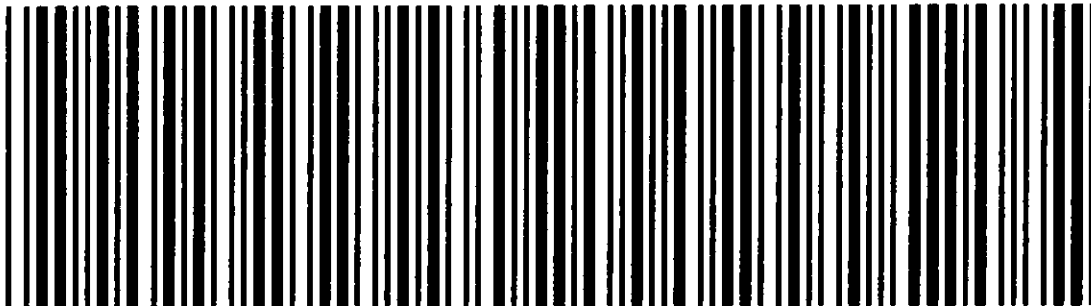


EXHIBIT B

1 COOLEY LLP
2 BENJAMIN H. KLEINE (257225)
3 (bkleine@cooley.com)
4 KELSEY R. SPECTOR (321488)
5 (kspector@cooley.com)
6 101 California Street, 5th Floor
7 San Francisco, California 94111-5800
8 Telephone: +1 415 693 2000
9 Facsimile: +1 415 693 2222

6 Attorneys for Defendant
7 MEDMARK SERVICES, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

11 JIMMY WALSH, on behalf of himself and all
12 others similarly situated,
13 Plaintiff,
14 v.
15 MEDMARK SERVICES, INC.,
16 Defendant.

Case No.

**NOTICE TO PLAINTIFF OF REMOVAL OF
ACTION**

California Superior Court
County of Contra Costa
Case No. C20-01535

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TO: JIMMY WALSH

NOTICE IS HEREBY GIVEN that on September 23, 2020, Defendant MedMark Services, Inc., removed the action docketed in the Superior Court of the State of California, County of Contra Costa as Case No. C20-01535 to the United States District Court for the Northern District of California by filing a Notice of Removal of Civil Action with that Court, a copy of which is attached to this Notice.

Dated: September 23, 2020

COOLEY LLP

By: /s/ Benjamin Kleine

Benjamin Kleine

Attorneys for Defendant
MEDMARK SERVICES, INC.

EXHIBIT C

1 COOLEY LLP
BENJAMIN H. KLEINE (257225)
2 (bkleine@cooley.com)
KELSEY R. SPECTOR (321488)
3 (kspector@cooley.com)
101 California Street, 5th Floor
4 San Francisco, California 94111-5800
Telephone: +1 415 693 2000
5 Facsimile: +1 415 693 2222

6 Attorneys for Defendant
MEDMARK SERVICES, INC.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF CONTRA COSTA

11 JIMMY WALSH, on behalf of himself and all
others similarly situated,
12
Plaintiff,
13
v.
14 MEDMARK SERVICES, INC.,
15
Defendant.
16

Case No. C20-01535

**NOTICE OF FILING OF NOTICE OF
REMOVAL**

Trial Date: None Yet
Date Action Filed: August 10, 2020

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on this date, MedMark Services, Inc., is filing with the United States District Court for the Northern District of California its Notice of Removal of Civil Action, a copy of which is attached to this Notice of Filing.

Pursuant to the provisions of 28 U.S.C. § 1446(d), the filing of the Notice of Removal of Civil Action effects the removal of this action from the Superior Court’s jurisdiction, and the Superior Court “shall proceed no further unless and until the case is remanded” by the federal court.” *Id.*

Dated: September 23, 2020

COOLEY LLP

By: /s/ Benjamin Kleine
Benjamin Kleine

Attorneys for Defendant
MEDMARK SERVICES, INC.

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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800. On September 23, 2020, I served the documents described below in the manner described below:

• **NOTICE OF FILING OF NOTICE OF REMOVAL**

(BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.

(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Todd M. Friedman
Adrian R. Bacon
Meghan E. George
Law Offices of Todd M. Freidman, P.C.
21550 Oxnard Street, Suite 780
Woodland Hills, CA 91367
Tel: 323-306-4234
Email: tfriedman@toddfllaw.com;
abacon@toddfllaw.com, mgeorge@toddfllaw.com

Attorneys for Plaintiffs, Jimmy Walsh, on behalf of himself, and all others similarly situated

Executed on September 23, 2020, at San Francisco, California.



Adriana Vera

234291427

EXHIBIT D

Case Report

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 [Complaints/Parties](#)
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 [Case Report](#)
 [Images](#)

Open Quick Search

Case CIVMSC20-01535 - WALSH VS MEDMARK SERVICES, INC.

Case CIVMSC20-01535 - Complaints/Parties

Complaint Number: 1				
Complaint Type: COMPLAINT				
Filing Date: 08/10/2020				
Complaint Status: ACTIVE				
Party Number	Party Type	Party Name	Attorney	Party Status
1	PLAINTIFF	JIMMY WALSH	FRIEDMAN, TODD M.	First Paper Fee Paid
2	DEFENDANT	MEDMARK SERVICES, INC.	Unrepresented	Serve Required (WaitS)

Case CIVMSC20-01535 - Actions/Minutes

Viewed	Date	Action Text	Disposition	Image
	01/04/2021 8:30 AM DEPT. 21	CASE MANAGEMENT CONFERENCE		
	10/14/2020 7:00 AM DEPT. 21	CHECK FOR PROOF OF SERVICE		
	08/10/2020	CLERK'S TICKLER TO CHECK FOR PROOF OF SERVICE WAS SET FOR 10/14/20 AT 7:00 IN DEPT. 21		
	08/10/2020	CASE MANAGEMENT CONFERENCE WAS SET FOR 1/04/21 AT 8:30 IN DEPT. 21		
	08/10/2020	CASE HAS BEEN ASSIGNED TO DEPT. 21		
	08/10/2020	CASE ENTRY COMPLETE	Not Applicable	
	08/10/2020	ORIGINAL SUMMONS ON COMPLAINT FILED 08/10/2020 OF JIMMY WALSH FILED	Not Applicable	N/A
	08/10/2020	COLOR OF FILE IS RED	Not Applicable	
	08/10/2020	COMPLAINT FILED. SUMMONS IS ISSUED	Not Applicable	N/A

Minutes

You are Not Authorized to View Minutes prior to 12/31/2099

Case CIVMSC20-01535 - Pending Hearings

Date	Action Text	Disposition	Image

01/04/2021 8:30 AM DEPT. 21 | CASE MANAGEMENT CONFERENCE | |

1 COOLEY LLP
BENJAMIN H. KLEINE (257225) (bkleine@cooley.com)
2 KELSEY R. SPECTOR (321488) (kspector@cooley.com)
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5 Attorneys for Defendant
MEDMARK SERVICES, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JIMMY WALSH, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

MEDMARK SERVICES, INC.,

Defendant.

Case No. _____

California Superior Court
County of Contra Costa
Case No. C20-01535

**DECLARATION OF FRANK BAUMANN ISO
MEDMARK SERVICES, INC.'S NOTICE OF
REMOVAL OF ACTION PURSUANT TO 28
U.S.C. §§ 1332, 1441, & 1453**

1 I, Frank Baumann, declare as follows:

2 1. I am the President of MedMark Services, Inc. (“MedMark”). I have direct
3 knowledge of MedMark’s operations, including the size of its patient base. I submit this declaration
4 in support of MedMark’s Notice of Removal of Action Pursuant to 28 U.S.C. §§ 1332, 1441, &
5 1453.

6 2. As of November 1, 2019, MedMark had over 36,000 active patients throughout the
7 United States.

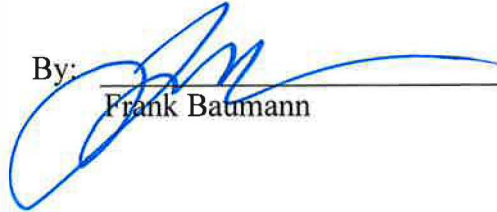
8 3. As of November 1, 2019, MedMark had over 12,000 active patients in California.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on September 23, 2020 in Lenisville, Texas.

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Dated: September 23, 2020

By: 
Frank Baumann

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CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JIMMY WALSH, on behalf of himself and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Todd M Friedman, Adrian R. Bacon, Meghan E. George L/O of Todd M. Friedman, 21550 Oxnard St, #780, Woodland Hills, CA 91367, Tel: 323-306-4234

DEFENDANTS

MEDMARK SERVICES, INC.

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

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

Attorneys (If Known)

Cooley LLP, Benjamin H. Kleine (257225), Kelsey R. Spector (321488) 101 California Street, San Francisco, CA 94111, Tel: 415-693-2000

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

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options like 'Citizen of This State', 'Citizen of Another State', 'Citizen or Subject of a Foreign Country', 'Incorporated or Principal Place of Business In This State', etc.

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

Large table with columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

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-Transfer 8 Multidistrict Litigation-Direct File

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, 1441, & 1453 Brief description of cause: Plaintiff brings a putative class action against Defendant for violation of the California Data Breach Act and related claims.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ JURY DEMAND: X Yes No

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

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 09/23/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Benjamin H. Kleine

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MedMark Services Hit with Former Patient's Class Action Over November 2019 Data Breach](#)
