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10 Attorneys for Plaintiff and the Class

11  
12 **SUPERIOR COURT OF CALIFORNIA**  
13 **COUNTY OF SAN DIEGO**

14 ALEXANDRA M. ALVAREZ, on behalf of )  
herself and all others similarly situated, )  
15 Plaintiff, )  
16 vs. )  
17 KMART HOLDING CORPORATION, a )  
Delaware corporation; and DOES 1 through 50, )  
18 inclusive, )  
19 Defendants. )

CASE NO. 37-2008-00097745-CU-NP-CTL

**CLASS ACTION**

**COMPLAINT FOR CIVIL PENALTIES,  
DAMAGES AND INJUNCTIVE RELIEF  
[VIOLATIONS OF CALIFORNIA  
CIVIL CODE § 1747.08 AND INVASION  
OF PRIVACY]**

**DEMAND FOR JURY TRIAL**

21 Plaintiff ALEXANDRA M. ALVAREZ, on behalf of herself and all others similarly  
22 situated, complains and alleges upon information and belief based, among other things, upon the  
23 investigation made by Plaintiff by and through her attorneys, as follows:

24 **I. INTRODUCTION**

25 1. California Civil Code section 1747.08 generally states that when a merchant is  
26 engaged in a retail transaction with a customer, the merchant may not request personal  
27 identification information from a customer paying for goods with a credit card, and then record  
28

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BUSINESS OFFICE 13  
CENTRAL DIVISION  
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SAN DIEGO COUNTY, CA

1 that personal identification information upon the credit card transaction form or otherwise.<sup>1</sup>

2           2. Defendant operates retail stores throughout the United States, including numerous  
3 stores in California. Defendant is engaging in a pattern of unlawful and deceptive business  
4 practices by utilizing an "Information Capture Policy" whereby Defendant requests and records  
5 personal identification information, in the form of zip codes, and credit card numbers from  
6 customers using credit cards at the point-of-sale in Defendant's retail establishments.  
7 Defendant's acts and practices as herein alleged were at all times intentional.

8           3. On information and belief, Defendant uses the zip codes and additional  
9 information obtained from its customers' credit cards, including names and credit card numbers  
10 (or portions thereof) to obtain its customers' residential addresses. Defendant obtains these  
11 addresses with the help of third-party vendors such as Acxiom that maintain proprietary software  
12 and databases containing hundreds of millions of individual consumers' contact information.  
13 For example, Acxiom advertises its "Shopper Registration" software on its website claiming:  
14 "All you have to do is capture the shopper's name from a check or a third-party credit card at the  
15 point of sale and ask for the shopper's zip code . . . and Address Append takes the name,  
16 combined with the collected zip code, and matches them to Acxiom's [database]. Acxiom  
17 provides a match rate report that tells you how many addresses were matched and appended."<sup>2</sup>

18           4. Plaintiff does not seek any relief greater than or different from the relief sought  
19 for the Class of which Plaintiff is a member. If successful, this action will enforce an important  
20 right affecting the public interest and will confer a significant benefit, whether pecuniary or non-  
21 pecuniary, on a large class of persons. Private enforcement is necessary and places a  
22

23 <sup>1</sup> California Civil Code section 1747.08 states in relevant part:

24 "(a) Except as provided in subdivision (c), no person, firm, partnership, association, or corporation which accepts  
25 credit cards for the transaction of business shall do either of the following:

26 (2) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services,  
27 the cardholder to provide personal identification information, which the person, firm, partnership, association, or  
28 corporation accepting the credit card writes, causes to be written, or otherwise records upon the credit card  
transaction form or otherwise.

(b) For purposes of this section 'personal identification information,' means information concerning the cardholder,  
other than information set forth on the credit card, and including, but not limited to, the cardholder's address and  
telephone number."

<sup>2</sup> See [www.acxiom.com/119441/fact\\_sheet\\_IB\\_TS\\_Shopper\\_Recognition\\_200707.pdf](http://www.acxiom.com/119441/fact_sheet_IB_TS_Shopper_Recognition_200707.pdf). Acxiom is but one of  
numerous third-party vendors that Defendant might use to obtain its customers' addresses.

1 disproportionate financial burden on Plaintiff in relation to Plaintiff's stake in the matter.

2 **II. JURISDICTION AND VENUE**

3 5. Defendant has accepted credit cards for the transaction of business throughout  
4 California, including the County of San Diego, which has caused both obligations and liability of  
5 Defendant to arise in the County of San Diego.

6 6. The amount in controversy exceeds the jurisdictional minimum of this Court.

7 **III. THE PARTIES**

8 **A. Plaintiff**

9 7. Plaintiff ALEXANDRA M. ALVAREZ (herein referred to as "Plaintiff") is a  
10 resident of San Diego, California, and entered into a retail transaction with Defendant at one of  
11 Defendant's San Diego stores.

12 8. Plaintiff brings this class action against Defendant, pursuant to California Code of  
13 Civil Procedure section 382, on behalf of herself and all similarly situated persons.

14 **B. Defendant**

15 9. Defendant Kmart Holding Corporation (herein referred to as "Defendant"), is a  
16 Delaware corporation. Plaintiff is informed and believes that Defendant's principal place of  
17 business is in California. Defendant operates retail stores throughout California, including stores  
18 in San Diego County, under the name Kmart.

19 **C. Doe Defendants**

20 10. Except as described herein, Plaintiff is ignorant of the true names of Defendants  
21 sued as DOES 1 through 50, inclusive, and the nature of their wrongful conduct, and therefore  
22 sues these DOE Defendants by such fictitious names. Plaintiff will seek leave of the Court to  
23 amend this complaint to allege their true names and capacities when ascertained.

24 **D. Agency/Aiding And Abetting**

25 11. At all times herein mentioned, Defendants, and each of them, were an agent or  
26 joint venturer of each of the other Defendants, and in doing the acts alleged herein, were acting  
27 within the course and scope of such agency. Each Defendant had actual and/or constructive  
28 knowledge of the acts of each of the other Defendants, and ratified, approved, joined in,

1 acquiesced and/or authorized the wrongful acts of each co-Defendant, and/or retained the  
2 benefits of said wrongful acts.

3 12. Defendants, and each of them, aided and abetted, encouraged and rendered  
4 substantial assistance to the other Defendants in breaching their obligations to Plaintiff and the  
5 class, as alleged herein. In taking action, as particularized herein, to aid and abet and  
6 substantially assist the commissions of these wrongful acts and other wrongdoings complained  
7 of, each of the Defendants acted with an awareness of his/its primary wrongdoing and realized  
8 that his/her/its conduct would substantially assist the accomplishment of the wrongful conduct,  
9 wrongful goals, and wrongdoing.

10 **IV. CONDUCT GIVING RISE TO VIOLATIONS OF THE LAW**

11 **A. Plaintiff's Contact with Defendant**

12 13. Within the last 12 months, Plaintiff went to one of Defendant's retail stores  
13 located in San Diego, California.

14 14. Plaintiff entered Defendant's store and proceeded to select products from the store  
15 that Plaintiff intended to purchase.

16 15. After selecting products, Plaintiff proceeded to the cashiers' section of  
17 Defendant's store to pay for the products selected through the use of a credit card.

18 16. Defendant's employee saw that Plaintiff had selected products that Plaintiff  
19 wished to purchase from Defendant, and Defendant's employee then proceeded to inform  
20 Plaintiff of the amounts due to Defendant for said products. Defendant' employee then  
21 instructed Plaintiff to swipe her card at the point-of-sale machine, which also required her to  
22 provide her zip code. Plaintiff swiped her credit card and entered her zip code into Defendant's  
23 point-of-sale machine. Defendant's employee than asked to see Plaintiff's credit card for  
24 verification. Plaintiff handed Defendant's employee Plaintiff's credit card for verification.

25 17. At this point in the transaction, Defendant has Plaintiff's credit card number and  
26 zip code recorded into the same database.

27 18. Defendant's employee and Plaintiff completed the transaction and Plaintiff left  
28 Defendant's store with her purchased products.

1 **V. PLAINTIFF'S CLASS ACTION ALLEGATIONS**

2 19. This lawsuit is brought on behalf of an ascertainable statewide class consisting of  
3 all persons in California from whom Defendant requested and recorded personal identification  
4 information in conjunction with a credit card transaction during the two-year period of time  
5 preceding the date of filing this Complaint and until said practice is terminated (the "Class").  
6 Excluded from the Class are Defendant, its corporate parents, subsidiaries and affiliates, officers  
7 and directors, any entity in which Defendant has a controlling interest, and the legal  
8 representatives, successors or assigns of any such excluded persons or entities.

9 20. The members of the Class are so numerous that joinder of all members is  
10 impracticable. While the exact number of Class members is unknown to Plaintiff at this time,  
11 such information can be ascertained through appropriate discovery, from records maintained by  
12 Defendant and its agents.

13 21. A class action is superior to other available methods for the fair and efficient  
14 adjudication of this controversy because joinder of all members is impracticable, the likelihood  
15 of individual Class members prosecuting separate claims is remote and individual Class  
16 members do not have a significant interest in individually controlling the prosecution of separate  
17 actions. Relief concerning Plaintiff's rights under the laws alleged herein and with respect to the  
18 Class as a whole would be appropriate. Plaintiff knows of no difficulty to be encountered in the  
19 management of this action which would preclude its maintenance as a class action.

20 22. There is a well-defined community of interest among the members of the Class  
21 because common questions of law and fact predominate, Plaintiff's claims are typical of the  
22 members of the Class, and Plaintiff can fairly and adequately represent the interests of the Class.

23 23. Common questions of law and fact exist as to all members of the Class and  
24 predominate over any questions affecting solely individual members of the Class. Among the  
25 questions of law and fact common to the Class are:

- 26 a. whether each Class member engaged in a credit card transaction with Defendant;  
27 b. whether Defendant requested the cardholder to provide personal identification  
28 information and recorded the personal identification of the cardholder, during credit card

1 transactions with Class members;

2 c. whether Defendant's conduct of requesting the cardholder to provide personal  
3 identification information during credit card transactions and recording the personal  
4 identification information of the cardholder constitutes violations of California Civil Code  
5 section 1747.08;

6 d. whether the practice of collecting a cardholder's zip code and then surreptitiously  
7 using the zip code and other information obtained from the cardholder's credit card to obtain the  
8 cardholder's residential address constitutes a violation of Section 1747.08 and/or invasion of  
9 privacy.

10 e. whether Plaintiff and the Class are entitled to injunctive relief; and

11 f. whether Plaintiff and the Class have sustained damages, and the proper measure  
12 of damages.

13 24. Plaintiff's claims are typical of those of the other Class members because  
14 Plaintiff, like every other Class member, was exposed to virtually identical conduct and is  
15 entitled to civil penalties in amounts of up to one thousand dollars (\$1,000) per violation  
16 pursuant to California Civil Code section 1747.08(e).

17 25. Plaintiff can fairly and adequately represent the interests of the Class, she has no  
18 conflicts of interest with other Class members, and has retained counsel competent and  
19 experienced in class action and civil litigation.

20 **FIRST CAUSE OF ACTION FOR VIOLATIONS OF**  
21 **CALIFORNIA CIVIL CODE § 1747.08**  
22 **[SONG-BEVERLY CREDIT CARD ACT OF 1971]**

23 26. Plaintiff refers to and incorporates by reference as though set forth fully herein  
24 paragraphs 1 through 25 of this Complaint.

25 27. California Civil Code section 1747.08 prohibits any corporation, which accepts  
26 credit cards for the transaction of business, from requesting the cardholder to provide personal  
27 identification information which the corporation then records in conjunction with a credit card  
28 transaction.

///

1 28. Defendant is a corporation that accepts credit cards for the transaction of business.

2 29. During credit card transactions entered into at Defendant's stores on each and  
3 every day during the one-year period preceding the filing of the original Class Action Complaint  
4 in this action through the present, Defendant utilized, and continues to utilize, an "Information  
5 Capture Policy" whereby Defendant's cashiers both request and record personal identification  
6 information and credit card numbers from customers using credit cards at the point-of-sale in  
7 Defendant's retail establishments. On information and belief, Defendant uses its customers' zip  
8 codes, names and credit card numbers to obtain its customer's residential addresses with the help  
9 of third-party vendors that use sophisticated software with access to proprietary databases  
10 containing hundreds of millions of consumers' contact information.

11 30. It is and was Defendant's routine business practice to engage in the conduct  
12 described in this cause of action with respect to every person who, while using a credit card,  
13 purchases any product from any of Defendant's stores in the State of California.

14 31. Due to Defendant's violations as set forth herein, Plaintiff and the Class are  
15 entitled to civil penalties in amounts of up to one thousand dollars (\$1,000) per violation  
16 pursuant to California Civil Code section 1747.08(e).

17 WHEREFORE, Plaintiff and the Class pray for relief as set forth below.

18 **SECOND CAUSE OF ACTION**  
19 **FOR INVASION OF PRIVACY**

20 32. Plaintiff refers to and incorporates by reference as though set forth fully herein  
21 paragraphs 1 through 31 of this Complaint.

22 33. The right to privacy is protected by the California Constitution, Article I, Section  
23 1.

24 34. At all times herein mentioned and up to an including the present, Plaintiff has a  
25 legally protected interest in her ability to control the dissemination of her personal and private  
26 information, including the right to privacy in her home address information.

27 35. At all times herein mentioned and up to an including the present, Plaintiff had a  
28 reasonable expectation of privacy in her personal and private information including, but not

1 limited to, her home address information.

2 36. During credit card transactions entered into at Defendant's stores on each and  
3 every day during the two-year period preceding the filing of the original Class Action Complaint  
4 in this action through the present, Defendant invaded Plaintiff's and the Class members'  
5 constitutionally guaranteed right to privacy by wrongfully requesting and recording their  
6 personal identification information, and subsequently engaging in a "reverse search" to covertly  
7 determine Plaintiff's and Class members' home address information.

8 37. The conduct of Defendant, in conducting these "reverse searches" to determine  
9 Plaintiff's and the Class members' home addresses information as described herein, constituted a  
10 serious invasion of Plaintiff's right to privacy and an egregious breach of social norms. Indeed,  
11 most consumers do not even know that it is possible for a retailer to use names and zip codes to  
12 obtain customers' residential addresses. This is accomplished through modern technology and  
13 with the help of third-party vendors such as Acxiom and credit reporting agencies with access to  
14 proprietary non-public databases containing consumers' residential and billing addresses.

15 38. As a proximate result of Defendant's acts, Plaintiff's and Class members'  
16 addresses were viewed, printed, distributed, and used by Defendant for its own profit, in  
17 violation of their constitutionally guaranteed right to privacy causing Plaintiff and the Class to be  
18 generally damaged in an amount according to proof.

19 39. The acts of Defendant, were willful, wanton, malicious and oppressive, and  
20 justify an award of exemplary and punitive damages.

21 40. Unless and until enjoined, and restrained by order of this Court, Defendant's  
22 wrongful conduct will continue to cause Plaintiff, members of the Class, and members of the  
23 public great and irreparable injury in that the personal identification information maintained by  
24 Defendant can be viewed, printed, distributed, and sold by Defendant. Plaintiff and members of  
25 the Class have no adequate remedy at law for the injuries in that a judgment for the monetary  
26 damages will not end the invasion of privacy for Plaintiff, the Class, and the public.

27 WHEREFORE, Plaintiff and the Class pray for relief as set forth below.

28 ///



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402 West Broadway  
29<sup>TH</sup> Floor  
San Diego, CA 92101

**PRAYER FOR RELIEF**

PLAINTIFF AND THE CLASS PRAY for judgment against Defendant as follows:

**As to the First Cause of Action**

1. For an award to Plaintiff and to each member of the Class the civil penalty to which she or he is entitled under California Civil Code section 1747.08(e);

**As to the Second Cause of Action**

2. That the Court preliminarily and permanently enjoin Defendant from utilizing an "Information Capture Policy" whereby Defendant's cashiers both request and record personal identification information and credit card numbers from customers using credit cards at the point-of-sale in Defendant's retail establishments;

3. For general damages according to proof;

4. For special damages according to proof;

5. For exemplary or punitive damages;

**As to All Causes of Action**

6. That the Court certifies this action as a class action;

7. For distribution of any moneys recovered on behalf of the Class of similarly situated consumers via fluid recovery or *cy pres* recovery where necessary to prevent Defendant from retaining the benefits of its wrongful conduct;

8. For an award of attorneys' fees as authorized by statute including, but not limited to, the provisions of California Code of Civil Procedure § 1021.5, and as authorized under the "common fund" doctrine, and as authorized by the "substantial benefit" doctrine;

9. For costs of the suit;

10. For prejudgment interest at the legal rate;

11. And for such other relief as the Court may deem proper.

Dated: December 9, 2008

HARRISON PATTERSON O'CONNOR &  
KINKEAD LLP

By: 

James R. Patterson  
Cary A. Kinkead  
Attorneys for Plaintiff and the Class

**SUMMONS**  
(CITACION JUDICIAL)

SUM-100

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

KMART HOLDING CORPORATION, a Delaware corporation; and DOES 1 through 50, inclusive,

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

ALEXANDRA M. ALVAREZ, on behalf of herself and all others similarly situated

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

FILED  
CIVIL BUSINESS OFFICE 13  
CENTRAL DIVISION

2008 DEC 10 P 3: 25

SUPERIOR COURT  
SAN DIEGO COUNTY, CA

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](http://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](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*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.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), 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](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is  
(El nombre y dirección de la corte es):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

- HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6643
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941
- RAMONA BRANCH 1428 MONTECITO RD., RAMONA CA 92065-5200
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649
- JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792

CASE NUMBER:  
(Número del Caso)  
**37-2008-00097745-CU-NP-CTL**

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):

James R. Patterson/Cary A. Kinkead  
HARRISON PATTERSON O'CONNOR & KINKEAD LLP  
402 West Broadway, 29<sup>th</sup> Floor  
San Diego, CA 92101

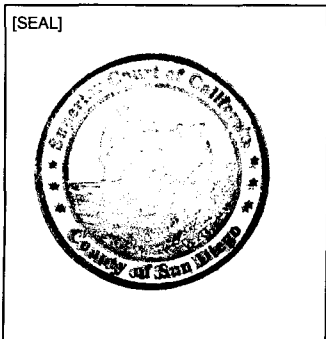
Tel: 619-756-6990

DATE: **DEC 10 2008**  
(Fecha)

CLERK OF THE SUPERIOR COURT

Clerk, by Wynnica S. Abella, Deputy  
(Secretario) **WYNNIE S. ABELLA** (Adjunto)

(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

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):  
  
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 (individual)  
 other (specify):
4.  by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street number, and address):

James R. Patterson (SBN: 211102) Cary A. Kinkead (SBN: 216545)
HARRISON PATTERSON O'CONNOR & KINKEAD LLP
402 West Broadway, 29th Floor
San Diego, CA 92101

TELEPHONE NO.: 619-756-6990

FAX NO.: 619-756-6991

ATTORNEY FOR (Name): Plaintiff and the Class

FOR COURT USE ONLY

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CIVIL BUSINESS OFFICE 13
CENTRAL DIVISION
2008 DEC 10 P 3:25
SUPERIOR COURT
SAN DIEGO COUNTY, CA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

STREET ADDRESS: 330 West Broadway

MAILING ADDRESS:

CITY AND ZIP CODE: San Diego, CA 92101

BRANCH NAME: Central Division

CASE NAME: ALEXANDRA M. ALVAREZ v. KMART HOLDING CORPORATION

CASE NUMBER:

37-2008-00097745-CU-NP-CTL

JUDGE:

DEPT:

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 1811)

Items 1-5 below must be completed (see instructions on page 2).

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

Auto Tort

- Auto (22)
Uninsured motorist (46)

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

- Asbestos (04)
Product liability (24)
Medical malpractice (45)
Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
Civil rights (08)
Defamation (13)
Fraud (16)
Intellectual property (19)
Professional negligence (25)
Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
Other employment (15)

Contract

- Breach of contract/warranty (06)
Collections (09)
Insurance coverage (18)
Other contract (37)

Real Property

- Eminent domain/Inverse condemnation (14)
Wrongful eviction (33)
Other real property (26)

Unlawful Detainer

- Commercial (31)
Residential (32)
Drugs (38)

Judicial Review

- Asset forfeiture (05)
Petition re: arbitration award (11)
Writ of mandate (02)
Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812)

- Antitrust/Trade regulation (03)
Construction defect (10)
Mass tort (40)
Securities litigation (28)
Environmental/Toxic tort (30)
Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
Other petition (not specified above) (43)

2. This case is is not complex under rule 1800 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
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. Substantial amount of documentary evidence
d. Large number of witnesses
e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):

- a. monetary
b. nonmonetary; declaratory or injunctive relief
c. punitive

4. Number of causes of action (specify): 3

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: December 10, 2008

Cary A. Kinkead

(TYPE OR PRINT NAME)

Cary A. Kinkead

(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 201.8.) 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 1800 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 complex case, this cover sheet will be used for statistical purposes only.