

1 NEWPORT TRIAL GROUP  
2 A Professional Corporation  
3 Scott J. Ferrell, Bar No. 202091  
4 sferrell@trialnewport.com  
5 David W. Reid, Bar No. 267382  
6 dreid@trialnewport.com  
7 Michael E. Velarde, Bar No. 266272  
8 mvelarde@trialnewport.com  
9 895 Dove Street, Suite 425  
10 Newport Beach, CA 92660  
11 Tel: (949) 706-6464  
12 Fax: (949) 706-6469

13 Attorneys for Plaintiff

14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA, Ex.  
17 Rel., MICHAEL GONZALES,

18 Plaintiff,

19 vs.

20 HEALTH ENTERPRISES, INC.; and  
21 DOES 1 through 10,

22 Defendant.

Case No.: EDCV11-732 VAP(OPx)

COMPLAINT FOR FALSE PATENT  
MARKING

JURY TRIAL DEMANDED

23 I. INTRODUCTION

24 1. This lawsuit is brought to stop a sophisticated Defendant from luring  
25 vulnerable consumers into paying an inflated price for an ordinary product by claiming  
26 that the product has been patented and is "patent pending" when, in reality, it is not.

27 ///

FILED  
2011 MAY -9 PM 2:36  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

COPY

1 **II. JURISDICTION & VENUE**

2 2. This Court has subject matter jurisdiction pursuant to 35 U.S.C. §292(b)  
3 and 28 U.S.C. § 1338(a).

4 3. Defendant is subject to personal jurisdiction in this District because it  
5 conducts business in this district and the exercise of jurisdiction over it would not  
6 offend traditional notions of fair play and substantial justice. Indeed, it is believed that  
7 Defendant has sold more units of the products at issue in this Judicial District than in  
8 any other.

9 4. Venue is proper in this District under 28 U.S.C. §§1391(c) and 1395(a),  
10 because Defendant's products that are the subject of this Complaint are advertised for  
11 sale, offered for sale, and sold within this judicial district.

12 5. Plaintiff possesses the requisite standing required by Article III of the  
13 United States Constitution pursuant to 35 U.S.C. §292(b), which confers upon any  
14 person the right to sue for civil monetary penalties, restitution, and injunctive relief for  
15 false patent marking.

16 **III. THE PARTIES**

17 6. Plaintiff Michael Gonzales ("Plaintiff") is a California citizen who believes  
18 in the importance of a fair and competitive market for the manufacture, marketing, sale,  
19 and distribution of consumer products.

20 7. Defendant HEALTH ENTERPRISES, INC. ("Health Enterprises") is a  
21 business corporation doing business throughout the United States with its principal  
22 place of business in Massachusetts.

23 8. The purpose of this lawsuit is to act in the public interest to enforce the  
24 policy underlying the false marking statute, 35 U.S.C. §292.

25 ///

26 ///

27 ///

28 ///

1 **A. The Policy of the Patent Marking Statutes.**

2 9. The patent marking statute (35 U.S.C. §287(a)) and the false patent  
3 marking statute (35 U.S.C. §292) exist to ensure that the public has accurate  
4 information on the existence of patent rights.

5 10. The purposes of the patent marking statute were explained by the Federal  
6 Circuit in *Nike, Inc. v. Wal-Mart Stores, Inc.*, 138 F.3d 1437, 1443 (Fed. Cir. 1998), as:  
7 (1) helping to avoid innocent infringement, (2) encouraging patentees to give notice to  
8 the public that the article is patented, and (3) aiding the public to identify whether an  
9 article is patented.

10 11. Over half a century ago, the Supreme Court stated in *Precision Instrument*  
11 *Mfg. Co. v. Automotive Maintenance Machinery*, 324 U.S. 806, 816 (1945), that patents  
12 by their very nature are affected with a public interest:

13 *The possession and assertion of patent rights are 'issues of great moment to the*  
14 *public.' A patent by its very nature is affected with a public interest. As*  
15 *recognized by the Constitution, it is a special privilege designed to serve the*  
16 *public purpose of promoting the 'Progress of Science and useful Arts.' At the*  
17 *same time, a patent is an exception to the general rule against monopolies and to*  
18 *the right to access to a free and open market.*

19 12. The Patent Act of 1952 provides a *qui tam* cause of action on behalf of the  
20 public to fine the offender in an amount of up to \$500 for each offense, with half going  
21 to the use of the United States, and the other half going to the person bringing the  
22 action.

23 13. False marking of unpatented articles as “patented” is injurious to the public  
24 interest, as explained by the United States Court of Appeals, in at least the following  
25 ways:

- 26 • Acts of false marking deter innovation and stifle competition in the
- 27 marketplace.

28 ///

- 1 • False marks deter scientific research when an inventor sees a mark and  
2 decides to forgo continued research to avoid possible infringement.
- 3 • False marking can cause unnecessary investment in design around or costs  
4 incurred to analyze the validity or enforceability of a patent whose number  
5 has been marked upon a product with which a competitor would like to  
6 compete.
- 7 • Additionally, consumers who see a product as “patented” are likely to infer  
8 the product possesses design or utilitarian features that are unique to such  
9 article, and not available in substitute articles from other producers, thus  
10 inducing consumer demand for the marked article and causing consumers to  
11 pay an artificial premium for the product.

#### 12 **IV. BACKGROUND FACTS**

13 14. CVS Hot/Cold Therapy Braces (“CVS Braces”) are supplied to CVS by  
14 Defendant Health Enterprises.

15 15. In an effort to distinguish itself from its competitors and to gain an unfair  
16 competitive advantage, Health Enterprises labels their CVS Braces on the product  
17 packaging as having a “patented Treat, Protect, and Support Design.” The products are  
18 also labeled as “Patent Pending.”

19 16. Health Enterprises sells these CVS Braces across the United States. These  
20 false patent claims were observed at a CVS store in Los Angeles, California in early  
21 2011.

22 17. Counsel for Plaintiff has exhaustively researched public and private  
23 records, including the records of the United States Patent & Trademark office (found at  
24 [www.uspto.gov](http://www.uspto.gov)) that are presumed to be conclusively accurate, and have confirmed that  
25 there is no validly issued or pending patent upon which to base Defendant’s patent  
26 marking claims.

27 ///

28 ///

18. Defendant is a large, sophisticated corporation with experienced counsel. It is inconceivable that it could mark a product as patented and “patent pending”, when no such relevant patent exists, without knowledge as to the falsity of those statements.

19. Defendant knew, at the time it labeled and sold its CVS Braces, that the patent claims were false. Despite that knowledge, Defendant nevertheless continuously and repeatedly labeled and sold its products as being patented and “patent pending”.

20. Based on these facts, Defendant has engaged in this false marking scheme to deceive the public and to stifle legitimate competition, and to gain a competitive advantage in the market. Defendant’s continuous promotion of the CVS Braces products as patented and “patent pending” despite its knowledge that they are not demonstrates that Defendant’s false marking was intentional and committed with the specific design to profit from misleading consumers. Under these circumstances, this case is “exceptional” for purposes of 35 U.S.C. § 285.

#### **V. CAUSE OF ACTION**

#### **FALSE PATENT MARKING**

#### **(Against Defendant and Does 1- 10, inclusive)**

21. Plaintiff re-alleges the preceding paragraphs and incorporates them herein by reference.

22. Defendant knows that it can charge a premium for products that the public perceives to be unique and protected by a patent.

23. Defendant has marked and labeled the CVS Braces as being patented and “patent pending” when, in reality, they are not.

24. Defendant has violated 35 U.S.C. § 292(a), which provides in relevant part:

*Whoever without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, offered for sale, or sold by such person within the United States, or imported by the person into the United*

1 *States, the name or any imitation of the name of the patentee, the patent number,*  
 2 *or the words "patent," "patentee," or the like, with the intent of counterfeiting or*  
 3 *imitating the mark of the patentee, or of deceiving the public and inducing them*  
 4 *to believe that the thing was made, offered for sale, sold, or imported into the*  
 5 *United States by or with the consent of the patentee; or Whoever marks upon, or*  
 6 *affixes to, or uses in advertising in connection with any unpatented article the*  
 7 *word "patent" or any word or number importing the same is patented, for the*  
 8 *purpose of deceiving the public; or Whoever marks upon, or affixes to, or uses in*  
 9 *advertising in connection with any article the words "patent applied for," "patent*  
 10 *pending," or any word importing that an application for patent has been made,*  
 11 *when no application for patent has been made, or if made, is not pending, for the*  
 12 *purpose of deceiving the public - Shall be fined not more than \$500 for every*  
 13 *such offense.*

14  
 15 25. Each false marking is likely to discourage or deter persons and companies  
 16 from commercializing competing products.

17 26. Defendant's false marking of the CVS Braces has wrongfully stifled  
 18 competition with respect to similar and potentially competing products, thereby causing  
 19 harm to Plaintiff, the United States, and the public.

20 27. Defendant has wrongfully and illegally advertised a patent monopoly that  
 21 it does not possess and, as a result, have benefitted commercially and financially by  
 22 maintaining false statements of patent rights.

23 28. Defendant is therefore liable to Plaintiff and to the United States under 35  
 24 U.S.C. §292 (b). The public interest requires that Defendant be enjoined from further  
 25 acts of false marking, pay civil penalties, and make restitution for their ill-gotten gains.

### 26 **PRAYER FOR RELIEF**

27 Plaintiff seeks entry of judgment against Defendant as follows:

- 28 1. A judicial determination that Defendant has violated 35 U.S.C. §292;



1           2.     An order fining Defendant for false marking in an amount that is  
2 reasonable in light of the total revenue and gross profits derived from the sale of the  
3 CVS Braces;

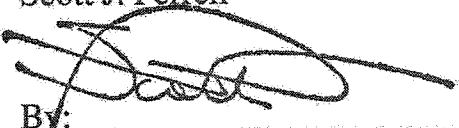
4           3.     An order preliminarily and permanently enjoining Defendant from  
5 committing new acts of false patent marking and to cease all existing acts of false patent  
6 marking;

7           4.     An award of attorneys' fees and costs incurred in bringing and maintaining  
8 this action, in part because it is "exceptional" for purposes of the Patent Act; and

9           5.     Any such other relief to which Plaintiff, the United States, or the general  
10 public may be entitled.

11 Dated: May 9, 2011

NEWPORT TRIAL GROUP  
A Professional Corporation  
Scott J. Ferrell


13   
14 By: \_\_\_\_\_  
15 Scott J. Ferrell  
16 Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure Section 38(b), Plaintiff demands a trial by jury on all issues so triable.

Dated: May 9, 2011

NEWPORT TRIAL GROUP  
A Professional Corporation  
Scott J. Ferrell

By:   
Scott J. Ferrell  
Attorneys for Plaintiff



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Virginia A. Phillips and the assigned discovery Magistrate Judge is Oswald Parada.

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

**EDCV11- 732 VAP (OPx)**

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

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

=====

**NOTICE TO COUNSEL**

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

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☒ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

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

Name & Address: Scott J. Ferrell, SBN 202091  
 NEWPORT TRIAL GROUP  
 895 Dove Street, Suite 425  
 Newport Beach, CA 92660  
 (949) 706-6464

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Ex. Rel.,  
 MICHAEL GONZALES,

PLAINTIFF(S)

v.

HEALTH ENTERPRISES, INC.; and DOES 1-10,  
 Inclusive,

DEFENDANT(S).

CASE NUMBER

**EDCV11-732 VAP(OPx)**

**SUMMONS**

TO: DEFENDANT(S): HEALTH ENTERPRISES, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Scott J. Ferrell, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: MAY 29 2011

By: Nancy Costello  
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

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

**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)  
 UNITED STATES OF AMERICA, Ex. Rel., MICHAEL GONZALES

**DEFENDANTS**  
 HEALTH ENTERPRISES, INC.; and DOES 1-10, Inclusive,

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Newport Trial Group, 895 Dove Street, Suite 425  
 Newport Beach, CA 92660 (949) 706-6464

Attorneys (If Known)

**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 - For Diversity Cases Only**  
 (Place an X in one box for plaintiff and one for defendant.)

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

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No

**MONEY DEMANDED IN COMPLAINT:** \$

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 35 U.S.C. Section 292 and 287(a) regarding false patent marking.

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

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<b>PETITIONS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE/RESENTENCE</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 610 Agriculture	<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	<b>REAL PROPERTY</b>	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<b>IMMIGRATION</b>	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**FOR OFFICE USE ONLY:** Case Number: EDCV11-732 VAP(OPx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**COPY**

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

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

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

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

IX. **VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Unknown	Unknown

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	Unknown

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties  
**Note:** In land condemnation cases, use the location of the tract of land involved

X. **SIGNATURE OF ATTORNEY (OR PRO PER):** \_\_\_\_\_ Date 5/9/11

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

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