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Attorneys for Plaintiff
 Applied Medical Resources Corporation

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

APPLIED MEDICAL RESOURCES
 CORPORATION,

Plaintiff,

v.

THE YELLOW CRANE, INC.,
 APPLIED MED THERAPY, and
 DMITRIY GAEVOY,

Defendants.

Case No: **SACV12-917 DOC(MLGx)**

**COMPLAINT SEEKING DAMAGES AND
 INJUNCTIVE RELIEF FOR:**

- (1) Federal Trademark Infringement, 15 U.S.C. § 1114;
- (2) False Designation of Origin and False Advertising, 15 U.S.C. § 1125(a);
- (3) Cybersquatting, 15 U.S.C. § 1125(d);
- (4) Common Law Trademark Infringement;
- (5) Common Law Unfair Competition;
- (6) Unfair Competition Under Cal. Bus. & Prof. Code §§ 17200 et seq.; and
- (7) Unjust Enrichment.

DEMAND FOR JURY TRIAL

For its complaint, Plaintiff Applied Medical Resources Corporation ("Applied Medical"), by and through counsel, avers as follows:

Nature of the Action

1
2 1. This is an action against The Yellow Crane, Inc., Applied Med Therapy, and Dmitriy
3 Gaevoy for unauthorized use of a trade name, a mark, and a domain name in a manner that violates
4 Applied Medical's trademark rights in the marks APPLIED, APPLIED MEDICAL, and APPLIED
5 MEDICAL RESOURCES (collectively referred to herein as the "APPLIED MEDICAL Marks"). The
6 conduct at issue constitutes trademark infringement, false designation of origin and false advertising,
7 cybersquatting, and unfair competition. This action is brought under federal law for trademark
8 infringement, 15 U.S.C. §§ 1114(1), false designation of origin and false advertising, 15 U.S.C. §
9 1125(a), and cybersquatting, 15 U.S.C. § 1125(d), for common law infringement and unfair
10 competition, for unfair business practices under the California Business and Professions Code §§
11 17200 *et seq.*, and for unjust enrichment.
12

Parties

13
14 2. Plaintiff Applied Medical is a corporation organized and existing under the laws of the
15 State of California, with a principal place of business in Rancho Santa Margarita, California. Applied
16 Medical is widely recognized throughout the world as a developer, manufacturer, marketer and
17 distributor of surgical products. Applied Medical's surgical products are sold worldwide and
18 throughout the United States, including within the Central District of California.
19

20 3. Defendant The Yellow Crane, Inc. ("Yellow Crane") is, upon information and belief, a
21 corporation organized and existing under the laws of the State of Alabama, with a principal place of
22 business in Birmingham, Alabama and business operations in California and other states. Yellow
23 Crane is, upon information and belief, related to and/or affiliated with Defendant Applied Med
24 Therapy, and it has actively participated in the acts complained of herein.
25

26 4. Defendant Applied Med Therapy, upon information and belief, is a sole proprietorship
27 with a principal place of business in Birmingham, Alabama and operations in the San Francisco,
28

1 California area and elsewhere throughout the United States. Applied Med Therapy is, upon
2 information and belief, owned and operated by Defendant Dmitriy Gaevoy and related to and/or
3 affiliated with Defendant Yellow Crane, and it has actively participated in the acts complained of
4 herein.

5 5. Defendant Dmitriy Gaevoy is, upon information and belief, an individual who resides in
6 Birmingham, Alabama and who routinely conducts business in California and other states. As a
7 director of Defendant Yellow Crane and in his individual capacity, Mr. Gaevoy has, upon information
8 and belief, operated a business under the name Applied Med Therapy and actively participated in the
9 acts complained of herein.
10

11 **Jurisdiction and Venue**

12 6. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. §
13 1121 and 28 U.S.C. §§ 1331, 1332 and 1338, and has supplemental jurisdiction of the remaining
14 counts pursuant to 28 U.S.C. § 1367(a).

15 7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c). Applied Medical is
16 headquartered in this district, and a substantial part of the events or omissions giving rise to the claims
17 occurred and are occurring in this district. On information and belief, Defendants, through their
18 website and other commercial activities, distribute, provide, offer for sale, and otherwise sell their
19 infringing goods and services, use infringing marks, trade names, and domain names, and
20 impermissibly use trademarks and trade names owned by Applied Medical in this district.
21

22 **Common Allegations**

23 Applied Medical and Its Marks

24 8. Applied Medical is widely recognized throughout the world as a developer,
25 manufacturer, marketer, and distributor of surgical products. Applied Medical's surgical products are
26 sold worldwide and throughout the United States, including in the Central District of California, under
27
28

1 the APPLIED MEDICAL Marks.

2 9. Beginning almost two decades ago, Applied Medical began continuous use in
3 commerce of its APPLIED MEDICAL Marks in connection with surgical products and related medical
4 education and training services, which can be viewed at its website located at
5 www.appliedmedical.com. Annexed hereto as Exhibit A are true and accurate copies of printouts from
6 Plaintiffs' website showing an overview of its products and services.

7
8 10. In addition to common law rights in the APPLIED MEDICAL Marks for surgical
9 products and related medical education and training services, Applied Medical owns the following
10 federal trademark registrations for various surgical products.

11 Mark	Reg. No.	First Use
12 APPLIED	2,759,214	1999
13 APPLIED MEDICAL	1,945,609	1994
APPLIED MEDICAL RESOURCES	1,863,112	1993

14 11. Annexed hereto as Exhibits B, C, and D are true and accurate copies of printouts from
15 the website of the United States Patent and Trademark Office's Trademark Applications and
16 Registrations Retrieval (TARR) online database for the above registrations.

17 12. These registrations are valid, subsisting and are *prima facie* evidence of the validity
18 thereof and of Applied Medical's ownership and exclusive right to use the APPLIED MEDICAL
19 Marks in commerce, and are constructive notice of its ownership thereof, all as provided by §§ 7(b)
20 and 22 of the Federal Trademark Act of 1946, as amended. These registrations are incontestable under
21 15 U.S.C. § 1065 and are therefore conclusive evidence of Applied Medical's exclusive right to use the
22 APPLIED MEDICAL Marks in commerce.
23

24 13. Applied Medical has prominently and extensively used, promoted, and advertised the
25 APPLIED MEDICAL Marks, including via the Internet from its website, located at
26 www.appliedmedical.com, and via channels of trade for medical and surgical instruments and related
27 education and training services.
28

1 14. As a result of its promotion and use, Applied Medical has acquired common law rights
2 in the APPLIED MEDICAL Marks for a variety of surgical products, including all products identified
3 in its trademark registrations, as well as such items as apparel and promotional and sundry items. In
4 addition, consumers have come to recognize the APPLIED MEDICAL Marks as uniquely associated
5 with Applied Medical and as an indication of origin in Applied Medical, as a consequence of which
6 Applied Medical has established valuable goodwill and exclusive rights in the APPLIED MEDICAL
7 Marks.
8

9 Defendants' Wrongful Activities

10 15. Long after Applied Medical began using its APPLIED MEDICAL Marks, Defendants
11 began operating a business under the name Applied Med Therapy in connection with education
12 services, materials, and training in the medical field under the trade name and mark APPLIED MED
13 THERAPY without the permission of Applied Medical.
14

15 16. Without the permission of Applied Medical, Defendants registered and use the domain
16 name <appliedmedtherapy.com> and operate a website for this domain name in bad faith to advance
17 their commercial interests. Annexed hereto as Exhibit E is a true and accurate copy of the WhoIs
18 report listing Defendant Gaevoy as the registrant of the domain name <appliedmedtherapy.com>.
19 Through their website, Defendants solicit Internet users to register for Defendants' APPLIED MED
20 THERAPY services and to receive additional materials about education and training services and
21 products in the medical field. Annexed hereto as Exhibit F are true and accurate printouts from
22 Defendants' website showing an overview of Defendants' APPLIED MED THERAPY products and
23 services.
24

25 17. Without the permission of Applied Medical, Defendants also use social media sites and
26 groups, such as LinkedIn, Twitter, and Facebook, to solicit consumers and potential consumers for
27 Defendants' APPLIED MED THERAPY services and to receive additional materials about education
28

1 and training services and products in the medical field. Annexed hereto as Exhibit G are true and
2 accurate copies of printouts from Defendant Gaevoy's and Defendant Applied Med Therapy's
3 LinkedIn pages.

4 18. Without the permission of Applied Medical, Defendants applied to register the mark
5 APPLIED MED THERAPY & Design for "education services, namely, providing classes, seminars,
6 and workshops in the field of holistic medicine, integrative medicine, alternative medicine, and
7 conventional medicine and distribution of course and educational materials in connection therewith."
8 Annexed hereto as Exhibit H is a true and accurate copy of a printout from the website of the United
9 States Patent and Trademark Office's Trademark Applications and Registrations Retrieval (TARR)
10 online database for the mark APPLIED MED THERAPY & Design (Application Serial No.
11 85323625). Despite not possessing a federal registration for the mark APPLIED MED THERAPY,
12 Defendants improperly use the trademark registration symbol "®" in connection with this mark. *See*
13 Exhibit G.
14

15 19. On information and belief, Defendants knew of Applied Medical and its use of the
16 APPLIED MEDICAL Marks long before Defendants began using APPLIED MED THERAPY as a
17 trade name, a mark, and a domain name.
18

19 20. Despite Applied Medical's objections, Defendants have not ceased use of APPLIED
20 MED THERAPY. On information and belief, Defendants intend to continue to make unauthorized use
21 of APPLIED MED THERAPY as a trade name, a mark, and a domain name.
22

23 21. Defendants' use in commerce of the APPLIED MED THERAPY mark is without the
24 permission, license, or authority of Applied Medical, and is intended to trade off the goodwill of the
25 APPLIED MEDICAL Marks.

26 22. Defendants' unauthorized use of the APPLIED MED THERAPY mark in the manner
27 described above:
28

- 1 (a) is likely to cause confusion, to cause mistake, and/or to deceive customers and
 2 potential customers of the parties as to the origin, sponsorship, or approval of
 3 Defendants' products and services, or as to some affiliation, connection, or
 4 association of Defendants with Applied Medical;
- 5 (b) enables Defendants to trade off and receive the benefit of the goodwill Applied
 6 Medical has built up at great labor and expense over several years, and to gain
 7 acceptance for Defendants' products and services not solely on their own merits,
 8 but on the reputation and goodwill of Applied Medical's APPLIED MEDICAL
 9 Marks, and its products and services;
- 10 (c) unjustly enriches Defendants; and
- 11 (d) unlawfully removes from Applied Medical the ability to control the nature and
 12 quality of products and services provided under its APPLIED MEDICAL Marks
 13 and places the goodwill and valuable reputation of Applied Medical in the hands
 14 of Defendants, over which Applied Medical has no control.

15 23. Applied Medical has been damaged and continues to be damaged by Defendants'
 16 unauthorized use of the APPLIED MED THERAPY mark in the manner described above.

17 24. Unless these acts of Defendants are restrained by this Court, they will continue to cause
 18 irreparable injury to Applied Medical and to the public for which there is no adequate remedy at law.

19
 20
 21 **COUNT I**
 22 **FEDERAL TRADEMARK INFRINGEMENT**
 23 **Lanham Act § 32, 15 U.S.C. § 1114(1)**

24 25. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1
 25 through 24 herein.

26 26. Defendants either had actual or constructive notice and knowledge, pursuant to 15
 27 U.S.C. § 1072, of Applied Medical's ownership and registrations of the APPLIED MEDICAL Marks
 28

1 prior to adopting and using APPLIED MED THERAPY as a trade name, a mark, and a domain name.

2 27. On information and belief, Defendants were aware of Applied Medical's business and
3 its APPLIED MEDICAL Marks and registrations prior to adopting and using APPLIED MED
4 THERAPY as a trade name, a mark, and a domain name.

5 28. On information and belief, Defendants deliberately adopted and used the APPLIED
6 MED THERAPY mark in connection with education services, materials, and training in the medical
7 field in an attempt to trade off the goodwill, reputation, and selling power established by Applied
8 Medical under the APPLIED MEDICAL Marks.

9 29. Defendants' unauthorized use of the APPLIED MED THERAPY mark falsely indicates
10 to consumers that their products and services are in some manner connected with, sponsored by,
11 affiliated with, or related to Applied Medical and its products and services.

12 30. Defendants' unauthorized use of the APPLIED MED THERAPY mark also is likely to
13 cause consumers to be confused as to the source, nature, and quality of the products and services
14 Applied Medical promotes and sells.

15 31. Defendants' unauthorized use of the APPLIED MED THERAPY mark allows and will
16 continue to allow Defendants to receive the benefit of the goodwill established at great labor and
17 expense by Applied Medical and will cause Defendants' products and services to improperly gain
18 acceptance in the marketplace by free-riding on Applied Medical's goodwill and reputation.

19 32. Defendants' unauthorized use of the APPLIED MED THERAPY mark deprives
20 Applied Medical of the ability to control the consumer perception of the quality of the products and
21 services marketed under the APPLIED MEDICAL Marks, and places Applied Medical's valuable
22 reputation and goodwill in the hands of Defendants, over which Applied Medical has no control.

23 33. The acts of Defendants complained of herein constitute use in commerce of
24 reproductions, copies, or colorable imitations of the federally registered APPLIED MEDICAL Marks
25

1 in connection with the sale, offering for sale, distribution and advertising of goods and services in
2 violation of 15 U.S.C. § 1114(1).

3 34. Defendants' unauthorized use of the APPLIED MED THERAPY mark on or in
4 connection with goods and services in the manner described above is likely to cause confusion,
5 mistake, or deception of consumers or potential consumers in violation of 15 U.S.C. § 1114(1).

6 35. Defendants' acts complained of herein have been deliberate, willful, and intentional,
7 with full knowledge and in conscious disregard of Applied Medical's rights in the APPLIED
8 MEDICAL Marks and with intent to trade off Applied Medical's goodwill in its marks, and constitute
9 a knowing use of Applied Medical's marks and an exceptional case within the meaning of 15 U.S.C. §
10 1117. As such, Applied Medical is entitled to recover its actual damages, enhanced damages, its
11 attorneys' fees and costs incurred in this action, and prejudgment interest.
12

13 36. As a result of the foregoing alleged actions of Defendants, Defendants have been
14 unjustly enriched and Applied Medical has been irreparably injured and damaged. Unless the
15 foregoing alleged actions of Defendants are enjoined, Applied Medical will continue to suffer injury
16 and damage to its name and reputation and the goodwill of its marks. This harm constitutes an injury
17 for which Applied Medical does not have an adequate remedy at law.
18

19 **COUNT II**
20 **FALSE DESIGNATION OF ORIGIN AND FALSE ADVERTISING**
21 **Lanham Act § 43(a), 15 U.S.C. § 1125(a)**

22 37. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1
23 through 36 herein.

24 38. Defendants' unauthorized use of APPLIED MED THERAPY for similar goods and
25 services falsely indicates that Defendants and their products and services are connected with,
26 sponsored by, affiliated with, or related to Applied Medical and constitutes false designation of origin
27 in violation of 15 U.S.C. § 1125(a).
28

39. Defendants' misuse of the trademark registration symbol "®" in connection with the mark APPLIED MED THERAPY falsely indicates that Defendants own a federal registration for the mark APPLIED MED THERAPY and constitutes false advertising in violation of 15 U.S.C. § 1125(a).

40. Defendants' acts complained of herein have been deliberate, willful, and intentional, with full knowledge and in conscious disregard of Applied Medical's rights in the APPLIED MEDICAL Marks and with intent to trade off Applied Medical's goodwill in its marks, and constitute a knowing use of Applied Medical's marks and an exceptional case within the meaning of 15 U.S.C. § 1117. As such, Applied Medical is entitled to recover its actual damages, enhanced damages, its attorneys' fees and costs incurred in this action, and prejudgment interest.

41. As a result of the foregoing alleged actions of Defendants, Defendants have been unjustly enriched and Applied Medical has been irreparably injured and damaged. Unless the foregoing alleged actions of Defendants are enjoined, Applied Medical will continue to suffer injury and damage to its name and reputation and the goodwill of its marks. This harm constitutes an injury for which Applied Medical does not have an adequate remedy at law.

COUNT III
CYBERSQUATTING
Lanham Act § 43(d), 15 U.S.C. § 1125(d)

42. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1 through 41 herein.

43. Defendants registered and are using in bad faith the domain name <appliedmedtherapy.com> without permission to advance their commercial interests.

44. The infringing <appliedmedtherapy.com> domain name registered and used by Defendants is confusingly similar to Applied Medical's APPLIED MEDICAL Marks.

45. Applied Medical's APPLIED MEDICAL Marks were all distinctive long before and at the time Defendants registered and began using the infringing domain name

1 <appliedmedtherapy.com>.

2 46. Defendants' registration and use of the infringing <appliedmedtherapy.com> domain
3 name has been and is in bad faith, in that the registration and/or use occurred (i) with full knowledge
4 and conscious disregard of Applied Medical's rights in the APPLIED MEDICAL Marks and (ii) with
5 an intent to profit from Applied Medical's goodwill in the marks by creating a likelihood of confusion
6 as to the source, sponsorship, affiliation, or endorsement of Defendants' goods and services.

7 47. The acts of Defendants' complained of herein constitute cybersquatting in violation of
8 15 U.S.C. § 1125(d).

9 48. As a result of the foregoing alleged actions of Defendants, Defendants have been
10 unjustly enriched and Applied Medical has been irreparably injured and damaged. Unless the
11 foregoing alleged actions of Defendants are enjoined, Applied Medical will continue to suffer injury
12 and damage to its name and reputation and the goodwill of its marks. This harm constitutes an injury
13 for which Applied Medical does not have an adequate remedy at law.
14

15
16 **COUNT IV**
COMMON LAW TRADEMARK INFRINGEMENT

17 49. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1
18 through 48 herein.

19 50. The acts of Defendants complained of herein and specifically, without limitation,
20 Defendants' unauthorized use of the mark APPLIED MED THERAPY on or in connection with goods
21 and services in the manner described above is likely to cause confusion, mistake, or deception of
22 consumers or potential consumers.

23 51. Defendants' unauthorized use of the mark APPLIED MED THERAPY infringes
24 Applied Medical's exclusive rights in the APPLIED MEDICAL Marks, all in violation of the common
25 law.
26

27 52. The acts of Defendants complained of herein, if not enjoined, will continue. Applied
28

1 Medical has no adequate remedy at law because the amount of damages is difficult to ascertain with
 2 specificity. As a result of the acts of Defendants complained of herein, Applied Medical has incurred
 3 damages in an amount to be proven at trial consisting of, *inter alia*, diminution in value of the goodwill
 4 associated with the APPLIED MEDICAL Marks.

5 **COUNT V**
 6 **COMMON LAW UNFAIR COMPETITION**

7 53. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1
 8 through 52 herein.

9 54. Defendants have engaged in and continue to engage in unfair competition by using the
 10 mark APPLIED MED THERAPY with the intention of interfering with and trading on the business
 11 reputation and goodwill created by Applied Medical through its use and promotion of the APPLIED
 12 MEDICAL Marks in connection with surgical products and related medical education and training
 13 services.
 14

15 55. Defendants' acts have caused Applied Medical competitive injury, as set forth above,
 16 and damages in an amount to be proven at trial, which consist of, *inter alia*, diminution in value of the
 17 goodwill associated with the APPLIED MEDICAL Marks.

18 56. The acts of Defendants complained of herein, including Defendants' use of the mark
 19 APPLIED MED THERAPY, if not enjoined, will continue. Plaintiffs have no adequate remedy at law
 20 because the amount of damages is difficult to ascertain with specificity.
 21

22 **COUNT VI**
 23 **CALIFORNIA UNFAIR COMPETITION**
Cal. Bus. & Prof. Code §§ 17200 et seq.

24 57. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1
 25 through 56 herein.

26 58. The acts of Defendants complained of herein constitute unlawful and unfair business
 27 practices that have injured and will continue to injure Applied Medical in its business and property, in
 28

violation of California Business and Professions Code §§ 17200 *et seq.*

59. Defendants' acts alleged herein have caused monetary damages to Applied Medical in an amount to be determined at trial, and have caused and will continue to cause irreparable injury to Applied Medical and its business, its reputation, and its APPLIED MEDICAL Marks. Unless the foregoing alleged actions of Defendants are enjoined, Applied Medical will continue to suffer injury and damage.

60. As a direct and proximate result of Defendants' conduct alleged herein, Defendants have been unjustly enriched and should be ordered to disgorge any and all profits earned as a result of such unlawful conduct. Applied Medical also is entitled to a judgment enjoining and restraining Defendants from engaging in further unfair competition.

COUNT VII UNJUST ENRICHMENT

61. Applied Medical realleges and incorporates the allegations set forth in Paragraphs 1 through 60 herein.

62. The acts of Defendants complained of herein constitute unjust enrichment of Defendants at the expense of Applied Medical.

63. Applied Medical has been damaged by the acts of Defendants in an amount currently unknown.

PRAYER FOR RELIEF

WHEREFORE, Applied Medical prays that:

A. Judgment be entered for Applied Medical on all its claims.

B. Defendants, their officers, agents, servants, employees, owners and representatives, and all others in active concert or participation with any of them, be enjoined and restrained, during the pendency of this action, and permanently thereafter, from:

1. using in any manner the APPLIED MED THERAPY mark, or any mark, trade

1 name, domain name or other commercial designation that incorporates the term
2 “Applied” in connection with products or services in the medical field or any
3 other mark, trade name, domain name or other commercial designation that is
4 likely to cause confusion with any of the APPLIED MEDICAL Marks;

5 2. using the domain name <appliedmedtherapy.com> or any domain name that is
6 confusingly similar to or a colorable imitation of the APPLIED MEDICAL
7 Marks; and

8 3. doing any other act or thing likely to confuse, mislead, or deceive others into
9 believing that Defendants, or their products or services, come from, or are
10 connected with, sponsored by, or approved by Applied Medical.

11
12 C. Defendants, in accordance with 15 U.S.C. § 1125(d), be required to cancel the domain
13 name <appliedmedtherapy.com>.

14 D. Defendants, in accordance with 15 U.S.C. § 1116(a), be required to file with the Court,
15 and serve upon Applied Medical, within thirty (30) days after the entry and service on
16 Defendants of an injunction, a report in writing and under oath, setting forth in detail
17 the manner and form in which Defendants have complied with the terms of such
18 injunction.

19
20 E. Defendants, in accordance 15 U.S.C. § 1118, be required to deliver to Applied Medical
21 for destruction, or to show proof of said destruction or sufficient modification to
22 eliminate the infringing matter, all signs, corporate papers, labels, prints, packages,
23 bottles, receptacles, containers, advertising, or other promotional materials in
24 Defendants’ possession or control bearing the term APPLIED MED THERAPY in any
25 manner, or any other mark that is a colorable imitation of the APPLIED MEDICAL
26 Marks.
27
28

- 1 F. Defendants be ordered to expressly abandon any trademark application for the mark
2 APPLIED MED THERAPY, including U.S. Application Serial No. 85323625.
- 3 G. An accounting be directed to determine Defendants' profits resulting from their
4 activities, and that such profits be paid to Applied Medical and increased as the Court
5 finds to be just under the circumstances of this case.
- 6 H. Defendants be required to pay, pursuant to 15 U.S.C. § 1117:
- 7 1. Applied Medical's actual damages;
- 8 2. Defendants' profits;
- 9 3. An award of enhanced damages;
- 10 4. An award of statutory damages in the amount of not less than \$1,000 and not
11 more than \$100,000 per domain name, if Plaintiff elects to recover such statutory
12 damages instead of actual damages and profits before final judgment is rendered;
- 13 5. Applied Medical's reasonable attorneys' fees and costs of suit; and
- 14 6. Pre-judgment interest.
- 15 I. Defendants be required to pay punitive damages as appropriate under state law.
- 16 J. Plaintiffs recover such other relief as the Court may deem appropriate.
- 17
- 18

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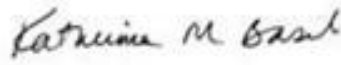
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2 Dated: June 8, 2012

By:



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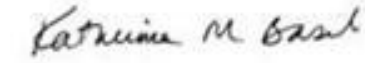
15 Attorneys for Plaintiff
16 Applied Medical Resources Corporation
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JURY DEMAND

Applied Medical hereby demands a trial by jury for all issues so triable.

Dated: June 8, 2012

By:



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Attorneys for Plaintiff
Applied Medical Resources Corporation

**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 David O. Carter and the assigned discovery Magistrate Judge is Marc Goldman.

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

SACV12- 917 DOC (MLGx)

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.

COPY

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

UNITED STATES DISTRICT COURT
for the
Central District of California

Applied Medical Resources Corporation

Plaintiff(s)

v.

The Yellow Crane, Inc.,
Applied Med Therapy, and
Dmitriy Gaevoy

Defendant(s)

Civil Action No. **SACV12-917 DOC(MLGx)**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Katherine M. Basile
Novak Druce + Quigg, LLP
21771 Stevens Creek Blvd, First Floor
Cupertino, California 95014

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

CLERK OF COURT

Date: JUN 28 2012

Signature of Clerk or Deputy Clerk

NANCY INTERIANO



COPY

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

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> APPLIED MEDICAL RESOURCES CORPORATION	DEFENDANTS THE YELLOW CRANE INC, APPLIED MED THERAPY, and DMITRIY GAEVOY
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) NOVAK DRUCE + QUIJGO, LLP 21771 Stevens Creek Blvd, First Floor, Cupertino, CA 95014 Katherine M. Basile Tel: (408) 414-7330 - See Attachment for full list	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		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
	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.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check "Yes" only if demanded in complaint.)	MONEY DEMANDED IN COMPLAINT: \$ Indeterminate
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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.) 15 U.S.C. 1114(f), trademark infringement; 15 U.S.C. 1125(a), false designation of origin and false advertising; 15 U.S.C. 1125(d), cybersquatting; common law infringement
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VII. NATURE OF SUIT (Place an X in one box only.)
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OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PERSONAL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FOREIGN RIGHTS <input type="checkbox"/> 600 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related <input type="checkbox"/> 630 Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395B) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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SACV12-917 DOC(MLGx)

FOR OFFICE USE ONLY: Case Number: _____

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

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(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
Applied Medical Resources Corporation: Orange County	

- (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
	The Yellow Crane, Inc. - Alabama Applied Med Therapy - Alabama Dmitriy Gaevoy - Alabama

- (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
Orange County	

* 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): Kathleen M. Basile / KMC Date: June 8, 2012

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))

ATTACHMENT

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