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 7 Attorneys for the United States.

8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10	UNITED STATES OF AMERICA,)	
)	
11	Judgment Creditor,)	Case No.: 2:04-cv-0859-PMP-PAL
)	
12	vs.)	
)	
13	EUGENE CHEN, M.D.,)	
)	
14	Judgment Debtor,)	
)	
15	and)	WRIT OF
)	CONTINUING GARNISHMENT
16)	
17	ANTHEM BLUE CROSS BLUE SHIELD,)	
)	
18	_____ Garnishee.)	

19 To the Garnishee: Anthem Blue Cross Blue Shield
 20 c/o Linda Anthonie
 21 700 Broadway
 22 CO 0105-0560
 Denver, Colorado 80273

23 An Application For Writ of Continuing Garnishment against the following described
 24 earnings, money or property of the above-named Judgment Debtor has been filed with the United
 25 States District Court for the District of Nevada.

1 Whereupon the Court, having considered the Application for Writ of Continuing
2 Garnishment against the earnings of the Judgment Debtor, EUGENE CHEN M.D., now finds
3 that the requirements of 28 U.S.C. § 3205 are satisfied and that an appropriate Writ of
4 Garnishment shall, and hereby does, issue.

5 IT IS THEREFORE ORDERED THAT:

6 1. A judgment has been entered against the above named Judgment Debtor in the
7 amount of \$1,267,586.60, plus interest at the rate of 0.49% from June 4, 2009, until paid in full.
8 A credit of \$212,476.43, as of April 14, 2010, leaves a balance due of \$1,060,243.45.
9

10 2. The Garnishee shall withhold and retain any earnings, money or property on
11 which the debtor has a substantial nonexempt interest and for which the Garnishee is or may
12 become indebted to the Judgment Debtor pending further order of this Court.

13 3. In regard to earnings, the Garnishee shall withhold and retain the lesser of: (a)
14 twenty-five percent (25%) of Judgment Debtor's disposable earnings; or (b) all amounts of
15 Judgment Debtor's disposable earnings in excess of thirty times the federal minimum hourly
16 wage. See 15 U.S.C. § 1673(a).

17 4. The Garnishee is required by law pursuant to 28 U.S.C. §3205(c)(2)(E) to
18 complete under oath the accompanying Answer of Garnishee within ten (10) days of receipt of
19 this Writ of Continuing Garnishment, and to send the original to: Clerk of the Court, U.S.
20 District Court, 333 Las Vegas Bld. So., Room 1334, Las Vegas, Nevada 89101.
21

22 5. The Garnishee is also required to send a copy to the Judgment Debtor at: Law
23 Office of Hutchison & Steffen, 10080 Alta Dr. #200, Las Vegas, Nevada 89145.
24

25 . . .
26

1 6. The Garnishee is also required to send a copy to the United States Attorney at:
2 Roger W. Wenthe AUSA, U.S. Attorney's Office, 333 Las Vegas Boulevard, South, Suite 5000,
3 Las Vegas, Nevada 89101.

4 7. Pursuant to 15 U.S.C. § 1674, Garnishee is prohibited from discharging the
5 Judgment Debtor from employment by reason of the fact that his/her earnings have been subject to
6 garnishment for any one indebtedness.

7
8 8. Pursuant to 28 U.S.C. § 3205(c)(3), the United States shall serve the Garnishee and the
9 Judgment Debtor with copies of this Writ of Continuing Garnishment and shall certify to the Court
10 that such service was made. The writ shall be accompanied by the instructions required by 28 U.S.C.
11 § 3205(c)(3)(A) & (B).

12
13 LANCE S. WILSON

14 CLERK

Lance S. Wilson

(By) DEPUTY CLERK



4/22/2010

DATE

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,)
11 Judgment Creditor,)
12 vs.)
13 EUGENE CHEN M.D.,)
14 Judgment Debtor,)
15 and)
16 ANTHEM BLUE CROSS BLUE)
SHIELD,)
17 _____ Garnishee.)

Case No.: 2:04-cr-0859-PMP-PAL

**ORDER GRANTING WRIT
OF CONTINUING GARNISHMENT**

18 IT IS SO ORDERED:

19 The Court has determined that the requirements to a post-judgment garnishment writ
20 have been met. The Clerk is directed to issue the Writ of Continuing Garnishment.
21

22 DATED: April 22, 2010 _____

23 
UNITED STATES DISTRICT COURT JUDGE

1 DANIEL G. BOGDEN
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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,)
)
 11 Judgment Creditor,)
)
 12 vs.)
)
 13 EUGENE CHEN M.D.,)
)
 14 Judgment Debtor,)
)
 15 and)
)
 16 ANTHEM BLUE CROSS BLUE)
 SHIELD,)
 17)
 Garnishee.)

Case No.: 2:04-cr-0859-PMP-PAL

**CLERK'S NOTICE OF
 POST-JUDGMENT GARNISHMENT
 AND INSTRUCTIONS TO
 JUDGMENT DEBTOR**

18 You are hereby notified that the Judgment Debtor's property (wages) is being taken by
 19 United States of America which has a court judgment in the above-referenced case in the sum of
 20 \$1,267,586.60 for treble damages and a civil penalty. A balance of \$1,060,243.45 remains
 21 outstanding as of April 15, 2010.

22 In addition, you are hereby notified that there are exemptions under the law which may
 23 protect some of the property from being taken by the Government if the Judgment Debtor,
 24 EUGENE CHEN M.D., can show that the exemptions apply. Attached is a summary of the
 25 major exemptions which apply in most situations in the State of Nevada.
 26

1 The hearing will take place within 5 days after the Clerk receives your request, if you ask
2 for it to take place that quickly, or as soon after that as possible.

3 At the hearing you may explain to the judge why you think you do not owe the money to
4 the Government. If you do not request a hearing within 20 days of receiving this notice, your
5 property may be delivered to the United States to be applied toward the debt you owe the
6 Government.

7 If you live outside the Federal judicial district in which the court is located, you may
8 request, not later than 20 days after you receive this notice, that this proceeding to take your
9 property be transferred by the court to the Federal judicial district in which you reside. You
10 must make your request in writing, and either mail it or deliver it in person to the clerk of the
11 court at:

12 Clerk, United States District Court
13 333 Las Vegas Boulevard South, Room 1334
14 Las Vegas, Nevada 89101

15 So the Government will know you want the proceeding to be transferred, you must also send a copy
16 of your request to the United States Attorney at:

17 Roger W. Wenthe, AUSA
18 United States Attorney's Office
19 333 Las Vegas Boulevard South Suite 5000
20 Las Vegas, Nevada 89101

21 Be sure to keep a copy of this notice for your own records. If you have any questions
22 about your rights or about this procedure, you should contact a lawyer, an office of public legal
23 assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you
24 to other sources of information.

25 LANCE S. WILSON
26 CLERK

Lance S. Wilson
(By) DEPUTY CLERK



4/22/2010
DATE

**NOTICE TO JUDGMENT DEBTOR ON
HOW TO CLAIM EXEMPTIONS**

This post-judgment enforcement has been issued on request of the United States of America.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. This Notice lists the exemptions under federal law and your state law. There is no exemption solely because you are having difficulty paying your debts.

If the United States of America as creditor is asking that your wages be withheld, seventy-five percent (75%) of your disposable earnings are automatically exempt. That is, only twenty-five percent (25%) of your disposable earnings may be taken, calculated by deducting the following deductions from your gross wages per pay period: Federal income taxes, Social Security (F.I.C.A.), state income taxes, state disability insurance, and payments to public employee retirement systems. The law limits garnishment to 25% of the debtor's disposable earnings or the amount by which disposable earnings for the week exceeds thirty times the federal minimum hourly wage, whichever is less. See 15 U.S.C. § 1673(A). You do not need to file a claim for exemptions to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

If you believe that the money or property about to be taken from you is exempt, you should (i) select **either** the federal Bankruptcy Code exemptions or the Nevada state law exemptions, (ii) fill out the claim for exemption form, (iii) sign and notarize, and (iv) deliver or mail the form to the clerk's office of this court and send a copy to the counsel for the United States. This must be done within 20 days after this notice of execution was received. You have a right to a hearing within five business days, or as soon as practicable, from the date you file your claim with the court.

If you request a hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

MAJOR EXEMPTIONS UNDER FEDERAL LAW

this case: I claim that the exemption(s) from garnishment which are checked below apply in

- 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- 2. Veterans' benefits (38 U.S.C. § 3101).
- 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).
- 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

___ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:

- (a)___ \$20,200 of equity in your residence.
- (b)___ \$3,225 of equity in a motor vehicle.
- (c)___ Jewelry worth up to \$1,350.
- (d)___ Personal property worth up to \$10,775. (However, no single item worth more than \$525 can be claimed as exempt.)
- (e)___ Property totaling up to \$1,075 in value, plus up to \$10,125 of any unused amount of the exemption provided in number 7(a) above.
- (f)___ \$2,025 of equity in professional books, implements or tools, of your trade or your dependant's trade.
- (g)___ Any unmatured life insurance contract you own, other than credit life insurance.
- (h)___ The aggregate value, up to \$10,775, of any accrued dividend or interest under, or loan value of, any unmatured life insurance contract you own, but only if you are the insured or you are a dependant of the insured.
- (i)___ Professionally prescribed health aids for you or your dependants.
- (j)___ Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support, and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.
- (k)___ A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(i)-(iii).
- (l)___ Your right to receive, or property that is traceable to,
 - an award under a crime victim's reparation law;
 - a payment on account of the wrongful death of an individual of whom you were a dependant, but only to the extent reasonably necessary for your support or the support of your dependants;
 - a payment under a life insurance contract that insured an individual of whom you were a dependant on the date of the insured's death, but only to the extent reasonably necessary for your support or the support of your dependants;

- a payment, not to exceed \$20,200, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to compensate actual pecuniary loss are not exempt under this paragraph;
- a payment in compensation of loss of your future earnings or the future earnings of an individual of whom you are, or were, a dependant, but only to the extent reasonably necessary for your support or the support of your dependants.

MAJOR EXEMPTIONS UNDER NEVADA STATE LAW

NOTE: The law of the state where you have been domiciled for at least 180 days governs your rights.

NOTE: If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the Nevada state law exemptions listed below.

		<u>Value Claimed</u>
_____	8. Pensions and Retirement Benefits -- Benefits under the public employee retirement system. (Nev. Rev. Stat. §286.670).	_____
_____	9. Public Assistance -- All exempt. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local government entity. (Nev. Rev. Stat. §§422.291 and 615.270).	_____
_____	10. Insurance Benefits -- Life insurance benefits, if the annual premium does not exceed \$15,000; otherwise, a prorated portion of the benefits. Health insurance proceeds and disability benefits which are supplemental to life insurance or annuity contract, group health and group life; monthly payments of \$350 or less from annuity contracts. (Nev. Rev. Stat. §§21.090(k), 687B.260, 270, 280 and 290).	_____
_____	11. Workers' Compensation -- All exempt. (Nev. Rev. Stat. §616.550).	_____
_____	12. Unemployment Compensation -- Exempt, as long as funds are not commingled, except for debts for necessities furnished while the debtor was unemployed. (Nev. Rev. Stat. §612.710).	_____
_____	13. Homestead or Residential Property -- \$550,000 in equity in either a dwelling or a mobile home subject to certain liens; land held in a spendthrift trust for the debtor. (Nev. Rev. Stat. §§21.909, 21.080, 115.010 and 115.040).	_____

- _____ 14. Rental/Lease Deposits – All money reasonably deposited with a landlord to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his/her primary residence. (Nev. Rev. Stat. §21.075(2)).
-
- _____ 15. Motor Vehicles -- One motor vehicle, if the judgment debtor's equity does not exceed \$15,000. (Nev. Rev. Stat. §21.090(f)).
-
- _____ 16. Wages -- For any work week, 75% of disposable earnings, or fifty times the Federal minimum hourly wage, whichever is greater. (Nev. Rev. Stat. §21.090(g)).
-
- _____ 17. Retirement Plans--Money, not to exceed \$500,000 in present value, held in: an individual retirement arrangement; a written simplified employee pension plan; a cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code; a trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to the Internal Revenue Code; and a trust forming part of a qualified tuition program, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university. (Nev. Rev. Stat. §§21.0090(1)(r)(1-5)).
-
- _____ 18. Child Support--All money and other benefits paid pursuant to a court order for the support, education and maintenance of a child, whether collected by the judgment debtor or the State. (Nev. Rev. Stat. §21.075(2)).
-
- _____ 19. Spousal Support--All money and other benefits paid pursuant to a court order for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled. (Nev. Rev. Stat. §21.075(2)).
-
- _____ 20. Handicapped mobility – A vehicle used by the judgment debtor or his/her dependent which is specially equipped or modified to provide mobility for a person with a permanent disability. (Nev. Rev. Stat. §21.075(2)).
-
- _____ 21. Prosthetics – A prosthesis or any equipment prescribed by a physician or dentist for the judgment debtor or his/her dependent. (Nev. Rev. Stat. §21.075(2)).
-

- _____ 22. Compensation – Payment, not to exceed \$16,150, received as compensation for personal bodily injury, not including compensation for pain and suffering or actual pecuniary loss, suffered by the judgment debtor or by an individual upon whom the judgment debtor is dependent; payment on account of the wrongful death of an individual upon whom the judgment debtor was a dependant, but only to the extent reasonably necessary for support of the judgment debtor and any dependent of the judgment debtor; payment in compensation of loss of the future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, but only to the extent reasonably necessary for the support of the judgment debtor and any dependant of the judgment debtor; payment received as restitution for a criminal act. (Nev. Rev. Stat. §21.075(2)).
-
- _____ 23. Personal Property-- All family pictures and keepsakes; private libraries, works of art, musical instruments and jewelry, not to exceed \$5,000; household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000. A collection or cabinet of metal-bearing ores, geological specimens, art curiosities or paleontological remains, if the debtor catalogues them and the catalog is kept near the collection for the free inspection of all visitors, shall be entitled to hold the same exemption from execution as above. Personal property not otherwise exempt from execution not to exceed \$1,000 in value. Coin (or any numismatic) collections are not exempt. (Nev. Rev. Stat. §§21.075, 21.080, 21.090, and 21.100).
-
- _____ 24. Trade Implements -- not to exceed \$4,500 in farm equipment and farm stock, supplies, tools, and seed; the professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the judgment debtor's trade or business not to exceed \$10,000 in value; not to exceed \$4,500 in mining equipment, including the cabin and the mining claim. (Nev. Rev. Stat. §§21.090(c),(d) and (e)).
-
- _____ 25. Partnership Property -- A partner's interest in specific partnership property. (Nev. Rev. Stat. §87.250(2)(c)).
-
- _____ 26. Cemeteries and Burial Funds -- A cemetery association's land, as long as the land is used as a cemetery; trust funds consisting of prepayments for cemetery and burial services. (Nev. Rev. Stat. §§83.110 and 689.700).
-
- _____ 27. Fraternal Benefit Society Benefits -- Exempt. (Nev. Rev. Stat. §695A.220).
-

VERIFICATION AND REQUEST FOR HEARING

The statements made in this claim of entitlement to exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(_____) or telephonically at (_____)
Address Phone no.

Name

Date

State of Nevada

County of _____

Signed and sworn to before me on this ____ day of _____, 20__.

NOTARY PUBLIC

Within 20 days after this notice was mailed, you must either mail or deliver this notarized form in person to:

Clerk, United States District Court
333 Las Vegas Blvd. South, Room 1334
Las Vegas, Nevada 89101.

You must also send a copy of your request to the United States Attorney at:

Roger W. Wenthe, AUSA
United States Attorney's Office
333 Las Vegas Blvd., South
Suite 5000
Las Vegas, Nevada 89101

IF YOU DO NOT FILE THIS AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

3. Complete this paragraph if you believe the Writ of Continuing Garnishment was improperly issued:

() I believe that the Writ of Continuing Garnishment was issued improperly. (Explain)

() I claim ownership of all or part of the property taken and I am not one of the persons against whom a judgment has been entered.

() I do not own the property taken.

The statements made in this claim of entitlement to exemptions and request for hearing as to exemption entitlement are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at the address listed below.

Dated this ___ day of _____, 20__.

Signature of Debtor

Printed Name

Mailing Address

Phone Number

SUBSCRIBED and SWORN to before me
this ___ day of _____, _____.

NOTARY PUBLIC in and for the
County of _____,
State of _____.

1 DANIEL G. BOGDEN
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2 District of Nevada
3 ROGER W. WENTHE
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13 EUGENE CHEN, M.D.,)

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16 ANTHEM BLUE CROSS BLUE)
17 SHIELD,)

18 _____)
Garnishee.)

Case No.: 2:04-CV-0859-PMP-PAL

INSTRUCTIONS TO THE GARNISHEE

19
20 TO: Anthem Blue Cross Blue Shield
c/o Linda Anthone
21 700 Broadway
CO 0105-0560
22 Denver, Colorado 80273

23 Pursuant to the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3205(c)(3),
24 the United States serves the following instructions upon the Garnishee with a copy of the Writ of
25 Continuing Garnishment.

26 . . .

1 1. Enclosed is a Writ of Continuing Garnishment requesting that you determine
2 whether or not you have in your possession, custody or control any of the property of the
3 Judgment Debtor listed therein, or any other property of the Judgment Debtor.

4 2. You are required by law to serve a written answer to this writ within 10 days of
5 service of this writ. You are further required to withhold and retain any property, including
6 earnings, in which the Judgment Debtor has a substantial non-exempt interest.

7 3. In regard to earnings, the law limits garnishment to 25% of the Judgment Debtor's
8 disposable earnings or the amount by which disposable earnings for the week exceeds thirty
9 times the federal minimum hourly wage, whichever is less. See 15 U.S.C. § 1673(A).

10 To calculate disposable earnings, subtract the following from wages, commissions, and
11 income:

- 12 i. Federal Income Tax
- 13 ii. Federal Social Security Tax (F.I.C.A.)
- 14 iii. State income tax
- iv. State disability insurance
- v. Public employee retirement withholding

15 4. You are required by law to withhold and retain 25% of the Judgment Debtor's
16 disposable income pending the issuance of a final order in this matter. **DO NOT SEND THIS**
17 **MONEY TO THE UNITED STATES ATTORNEY'S OFFICE AT THIS TIME; THE**
18 **FEDERAL DEBT COLLECTION PROCEDURES ACT REQUIRES THAT THE GARNISHEE**
19 **WITHHOLD SUCH MONEY PENDING THE ISSUANCE OF THE FINAL ORDER. WHEN**
20 **A FINAL ORDER IS ISSUED IN THIS MATTER, YOU WILL BE SENT A COPY OF**
21 **THAT ORDER WITH INSTRUCTIONS AS TO WHERE TO SEND THE**
22 **GARNISHMENT PAYMENTS.**

23 **5. IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD**
24 **PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU**
25 **LIABLE FOR THAT AMOUNT OF THE JUDGMENT DEBTOR'S NONEXEMPT**
26

1 **PROPERTY WHICH YOU FAILED TO WITHHOLD.** ADDITIONALLY, YOU MAY BE
2 HELD LIABLE FOR A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES OF
3 AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING
4 AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

5 6. A form answer has been included with these instructions for your use, should you
6 desire to use it. You are not required to use the form answer. If you use the form answer, please
7 fill out the information completely and send the original to the Clerk of the Court as directed in
8 the Writ of Continuing Garnishment. Copies of your answer must also be mailed to the United
9 States Attorney's Office and the Judgment Debtor.

10 7. If you have additional questions concerning this procedure, please contact
11 Assistant United States Attorney Roger W. Wenthe at (702)388-6336, or by mail at: United
12 States Attorney's Office, 333 Las Vegas Boulevard South, Suite 5000, Las Vegas, Nevada
13 89101. The United States Attorney's Office cannot provide you with legal advice on this matter;
14 for legal advice, you should contact an attorney. If you are unsure of how to proceed, you may
15 want to consult an attorney.

16 DATED this 15th day of April, 2010.

17 Respectfully submitted,

18 DANIEL G. BOGDEN
19 United States Attorney

20
21 /s/ Roger W. Wenthe
22 ROGER W. WENTHE
23 Assistant United States Attorney
24
25
26