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 6
 7 Attorneys for Defendant
 FLEETVILLE GROUP LTD. a/k/a THERIAULT'S

FILED
 12 JUN - 1 PM 2:48
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 LOS ANGELES
 BY: _____

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11
 12 CANDY SPELLING, *an individual*

13 Plaintiff,

14 vs.

15 FLEETVILLE GROUP LTD. a/k/a
 THERIAULT'S, a Delaware corporation;
 16 and DOES 1 through 20, inclusive,

17 Defendants.

CASE NO. **CV12-04822** MMM / FLOX

**NOTICE OF REMOVAL OF CIVIL
 ACTION TO UNITED STATES
 DISTRICT COURT CENTRAL
 DISTRICT OF CALIFORNIA**

18
 19
 20 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

21 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. sections 1332, 1441,
 22 and 1446, defendant FLEETVILLE GROUP LTD. a/k/a THERIAULT'S, a
 23 Delaware corporation ("Defendant" or "Theriault's") hereby removes to this Court
 24 the following action:

25 On April 30, 2012, plaintiff Candy Spelling, an individual ("Plaintiff")
 26 commenced an action in the Superior Court of the State of California in and for the
 27 County of Los Angeles entitled CANDY SPELLING, an individual, v.
 28 FLEETVILLE GROUP LTD. a/k/a THERIAULT'S, a Delaware corporation; and

1 DOES 1 through 20, inclusive, as case number SC116862. A copy of the complaint
2 and all other documents served on Defendant are attached hereto as Exhibit A.

3 **Service of Process and Timely Removal**

4 Defendant first received a copy of the complaint on May 3, 2012 when
5 Defendant was served with a copy of the complaint and summons from the state
6 court.

7 Pursuant to 28 U.S.C. § 1446(b) and Rule 6 of the Federal Rules of Civil
8 Procedure, Defendant's removal is timely since it is being filed and served within
9 thirty days.

10 **Grounds for Removal – Diversity**

11 This action is properly removed pursuant to the provisions of 28 U.S.C.
12 sections 1332, 1441, and 1446 as this is a civil action between citizens of different
13 states and the amount in controversy exceeds the sum of \$75,000, exclusive of
14 interest and costs. Although Defendant disputes all allegations that plaintiff has
15 been damaged, this case involves an alleged breach of an oral consignment
16 agreement that Plaintiffs claim resulted in damages in excess of \$500,000. *See*, Ex.
17 A (Complaint) ¶16.

18 Complete diversity of citizenship exists in that: plaintiff Candy Spelling is,
19 and at the time of filing the complaint, was, a California resident (*see* Ex. A
20 (Complaint), ¶ 3), and Defendant Theriault's is, and at the time of filing the
21 complaint, was, a Delaware corporation with its principal place of business in the
22 County of Anne Arundel, Maryland (*see* Ex. A (Complaint), ¶ 4).

23 Plaintiff also names fictitious defendants in the complaint, however, in
24 accordance with 28 U.S.C. section 1441(b)(1), such defendants are disregarded for
25 purposes of assessing diversity of citizenship.

26 By removing on the basis of diversity jurisdiction, Defendant does not
27 concede or make any admissions relating to the merit and/or value of Plaintiff's
28

1 alleged facts or claims. Defendant denies the material allegations contained in the
2 complaint generally and specifically.

3 **Other Procedural Requirements**

4 Promptly upon filing this Notice of Removal, Defendant will serve a copy of
5 this Notice on all adverse parties and file with the Clerk of the Superior Court for
6 the State of California, County of Los Angeles. Pursuant to Rule 5(d) of the
7 Federal Rules of Civil Procedure, Defendant will file with this Court a Certificate
8 of Service of Notice to Adverse Parties of Removal to Federal Court.

9 **All Defendants Consent to Removal**

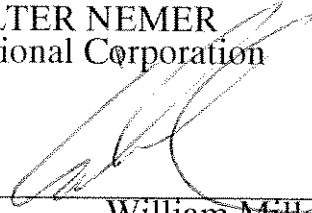
10 This removal is filed by the sole Defendant Theriault's, who consents to
11 removal of this action.

12 Accordingly, because there is complete diversity of citizenship among the
13 parties and the matter in controversy exceeds the sum or value of \$75,000,
14 exclusive of interest and costs, Defendant respectfully requests that this case
15 proceed before the Court as it is properly removed.

16 DATED: June 1, 2012

17 BUCHALTER NEMER
A Professional Corporation

18
19 By: _____

20 
William Miller
Attorneys for Defendant FLEETVILLE
GROUP LTD. a/k/a THERIAULT'S

21 BN 11667569v1

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EXHIBIT “A”

FILED

LOS ANGELES SUPERIOR COURT

APR 30 2012

JOHN A. CLARKE, CLERK
Andre Williams
BY ANDRE WILLIAMS, DEPUTY

CASE MANAGEMENT CONFERENCE

AUG 20 2012

Date

1 **BRIAN G. WOLF (BAR NO. 135257)**
2 **DAVID B. JONELIS (BAR NO. 265235)**
3 **LAVELY & SINGER**
4 **PROFESSIONAL CORPORATION**
5 2049 Century Park East, Suite 2400
6 Los Angeles, California 90067-2906
7 Telephone: (310) 556-3501
8 Facsimile: (310) 556-3615
9 Email: bwolf@lavelysinger.com
10 djonelis@lavelysinger.com

11 Attorneys for Plaintiff
12 CANDY SPELLING

Norman P. T... Dept B 830am

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF LOS ANGELES - WEST DISTRICT

15 CANDY SPELLING, an individual,
16 Plaintiff,

17 v.

18 FLEETVILLE GROUP LTD. a/k/a
19 THERIAULT'S, a Delaware
20 corporation; and DOES 1 through 20,
21 inclusive,

22 Defendants.

CASE NO.

SC116862

COMPLAINT FOR:

- 23 (1) BREACH OF ORAL CONTRACT;
- 24 (2) BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING;
- 25 (3) CONVERSION; and
- 26 (4) ACCOUNTING

Adopt 3/20/12 *AW*

27 Plaintiff CANDY SPELLING ("Plaintiff") alleges as follows:

28 **SUMMARY OF THE ACTION**

1. Plaintiff is a well known author, social commentator, socialite, and philanthropist. Plaintiff is also the owner of a world-renowned collection of rare dolls, automatons, and other rare and antique collectible items (collectively, the "Spelling Collection"). In or around July 2011, Plaintiff retained defendant Fleetville Group Ltd. a/k/a Theriault's ("Theriault's" or "Defendant") to sell the Spelling Collection at auction. In reliance on Theriault's' alleged expertise in marketing and selling rare and valuable collections of antique dolls, Plaintiff entrusted Theriault's with possession of the Spelling Collection for the sole and limited purpose of conducting professional auctions featuring the Spelling Collection.

ORIGINAL

1 provides Defendant with the limited right to possess the Spelling Collection in order to conduct
2 auctions.

3 14. As alleged above, Defendant has materially breached the Consignment Agreement
4 by failing and refusing to timely and accurately account for and pay Plaintiff for the sales of all
5 items sold from the Spelling Collection at auction. Defendant has further materially breached the
6 Consignment Agreement by failing and refusing to return to Plaintiff the unsold items in the
7 Spelling Collection, thus exceeding the limited scope of its possessory rights under the
8 Consignment Agreement.

9 15. Plaintiff has performed all duties and obligations on her part required to be
10 performed by the Consignment Agreement, except to the extent such performance was waived,
11 excused, or prevented by Defendant's acts and/or omissions.

12 16. As a direct and proximate result of Defendant's material breaches of the
13 Consignment Agreement, Plaintiff has suffered damages in an amount not currently known, but
14 believed to be in excess of \$500,000. When Plaintiff has ascertained the full amount of her
15 damages, she will seek leave of Court to amend this Complaint accordingly.

16
17 **SECOND CAUSE OF ACTION**

18 **(For Breach of the Covenant of Good Faith And Fair Dealing)**

19 17. Plaintiff realleges, adopts and incorporates by reference, each and every allegation
20 contained in Paragraphs 1 through 16, inclusive, of this Complaint as if fully set forth herein.

21 18. Implied in every contract is a covenant of good faith and fair dealing that neither
22 party will engage in any act or omission that is intended, or has the natural tendency, to deprive
23 the other party of the benefits of the bargain. This covenant is implied in the Consignment
24 Agreement, and imposes upon Defendant a duty not to engage in any act or omission which would
25 frustrate Plaintiff's enjoyment of her rights and benefits under the Consignment Agreement.

26 19. Defendant has breached the implied covenant of good faith and fair dealing, and
27 denied Plaintiff the rights and benefits to which she is entitled under the Consignment Agreement,
28 by engaging in the aforesaid conduct designed to frustrate the purpose of the Consignment

1 Agreement and to prevent Plaintiff from receiving the payments to which she is entitled. Plaintiff
2 is informed and believes and based thereon alleges that Defendant pursued this course of conduct
3 calculatingly and in bad faith with the intent to deprive, interfere with, injure and frustrate
4 Plaintiff's enjoyment of the benefits and rights conferred pursuant to the terms of the Consignment
5 Agreement.

6 20. The conduct of Defendant as alleged above demonstrates a failure or refusal to
7 discharge its contractual responsibilities prompted not by an honest mistake, bad judgment or
8 negligence but rather by Defendant's conscious and deliberate actions, which have unfairly
9 frustrated the agreed common purposes of the Consignment Agreement and disappointed the
10 reasonable expectations of Plaintiff, thereby depriving Plaintiff of the benefits of the Consignment
11 Agreement.

12 21. As a direct and proximate result of the aforesaid breaches of the covenant of good
13 faith and fair dealing by Defendant, Plaintiff has suffered damages in an amount not currently
14 known, but believed to be in excess of \$500,000. When Plaintiff has ascertained the full amount
15 of her damages, she will seek leave of Court to amend this Complaint accordingly.

16
17 **THIRD CAUSE OF ACTION**

18 **(For Conversion)**

19 22. Plaintiff realleges, adopts and incorporates by reference, each and every allegation
20 contained in Paragraphs 1 through 21, inclusive, of this Complaint as if fully set forth herein.

21 23. Plaintiff is, and at all relevant times has been, the lawful owner of all unsold items
22 in the Spelling Collection. Moreover, as provided by California Commercial Code Section
23 2326(4): "If a person delivers or consigns for sale goods which the person used or bought for use
24 for personal, family, or household purposes, those goods do not become the property of the
25 deliverer or consignee unless the deliverer or consignee purchases and fully pays for the goods."
26 Accordingly, Defendant may not assert any ownership rights in the Spelling Collection.

27 24. As alleged hereinabove, Defendant has intentionally and substantially interfered
28 with Plaintiff's ownership rights in the Spelling Collection by failing and refusing to return the

1 unsold items to Plaintiff as demanded. Because the Consignment Agreement only contemplated
2 that Defendant would retain possession of the Spelling Collection for the limited purpose of
3 conducting auctions during its relationship with Plaintiff, and because Plaintiff has since
4 terminated that relationship, Plaintiff has not consented to Defendant's continued possession of the
5 Spelling Collection. Accordingly, by refusing to return the unsold items in the Spelling Collection
6 to Plaintiff as demanded, Defendant has unlawfully converted those items for its own use.

7 25. As a direct and proximate result of the aforesaid bad-faith conduct and wrongful
8 conversion, Plaintiff has suffered not only the loss of the unsold items in the Spelling Collection,
9 but also the loss of the opportunity to have third parties other than Defendant auction and/or
10 otherwise sell those items for Plaintiff's financial gain. Such damages are in an amount in excess
11 of the jurisdictional limits of this Court in an amount according to proof at trial.

12 26. Plaintiff is informed and believes and based thereon alleges that Defendant, in doing
13 the things herein alleged, acted willfully, maliciously, oppressively and despicably with the full
14 knowledge of the adverse effect of its actions on Plaintiff, and with willful and deliberate disregard
15 of the consequences to Plaintiff such as to constitute oppression, fraud or malice, and that such
16 actions were authorized, ratified and adopted by the officers, directors and/or managing agents of
17 Defendant. By reason thereof, Plaintiff is entitled to recover punitive and exemplary damages
18 from Defendant in an amount to be determined at the time of trial.

19
20 **FOURTH CAUSE OF ACTION**

21 **(For Accounting)**

22 27. Plaintiff realleges, adopts and incorporates by reference, each and every allegation
23 contained in Paragraphs 1 through 21, and 23 through 26, inclusive, of this Complaint as if fully
24 set forth herein.

25 28. The precise amount of money currently due from Defendant to Plaintiff is unknown
26 to Plaintiff and cannot be reasonably ascertained without a full and complete accounting of
27 Defendant's relevant books and records pertaining to the sale of Plaintiff's property.
28 Notwithstanding Plaintiff's repeated demands for a full and complete accounting of financial

1 records pertaining to the sale of Plaintiff's property, including without limitation, producing sales
2 invoices, payment receipts, and ledger documents, Defendant has failed and refused to supply all
3 information and documents in its custody, possession or control necessary to determine the full
4 amount owed to Plaintiff and the correct number and status of all unsold items in the Spelling
5 Collection. As a result, the precise amount owed to Plaintiff cannot be determined without a full
6 and complete accounting.

7
8 **PRAYER FOR RELIEF**

9
10 **AS TO THE FIRST CAUSE OF ACTION:**

11 1. General and special damages in an amount not less than \$500,000 in accordance
12 with proof at trial, together with interest thereon at the legal rate;

13 **AS TO THE SECOND CAUSE OF ACTION:**

14 2. General and special damages in an amount not less than \$500,000 in accordance
15 with proof at trial, together with interest thereon at the legal rate;

16 **AS TO THE THIRD CAUSE OF ACTION:**

17 3. General and special damages in an amount in accordance with proof at trial,
18 together with interest thereon at the maximum legal rate;

19 4. Exemplary and punitive damages in an amount according to proof at the time of
20 trial;

21 **AS TO THE FOURTH CAUSE OF ACTION:**

22 5. For an accounting and distribution to Plaintiff of the full amounts due and owing
23 to Plaintiff from Defendant's sale of the items in the Spelling Collection at auction;

24 **AS TO ALL CAUSES OF ACTION:**

25 6. For all costs of suit;

26 7. For the maximum interest as may be provided by law;

27 ///

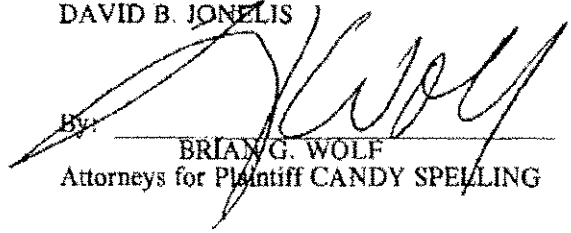
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- 8. For reasonable attorneys fees as may be provided by law; and
- 9. For such other and further relief as deemed just and proper.

DATE: April 30, 2012

LAVELY & SINGER
PROFESSIONAL CORPORATION
BRIAN G. WOLF
DAVID B. JONELIS

By: 
BRIAN G. WOLF
Attorneys for Plaintiff CANDY SPELTING

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

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

FLEETVILLE GROUP LTD. a/k/a THERIAULT'S, a Delaware corporation; and DOES 1 through 20, inclusive

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

CANDY SPELLING, an individual

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

FILED

LOS ANGELES SUPERIOR COURT

APR 30 2012

JOHN A. CLARKE, CLERK
John A. Clarke
BY ANDRE WILLIAMS, DEPUTY

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

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):
**LOS ANGELES SUPERIOR COURT
1725 Main Street
Santa Monica, California 90401
WEST DISTRICT**

CASE NUMBER:
(Número del Caso) **SC116862**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
**BRIAN G. WOLF (Bar No. 135257) 310-556-3501 310-556-3615
LAVELY & SINGER PROFESSIONAL CORPORATION
2049 Century Park East, Suite 2400
Los Angeles, California 90067**

DATE: **APR 30 2012**
(Fecha) **APR 30 2012**

JOHN A. CLARKE Clerk, by *Andre Williams* Deputy
(Secretario) (Adjunto)

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



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

ORIGINAL

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Bar number, and address):
BRIAN G. WOLF (Bar No. 135257)
DAVID B. JONELIS (Bar No. 265235)
LAVELY & SINGER PROFESSIONAL CORPORATION
2049 Century Park East, Suite 2400
Los Angeles, California 90067
 TELEPHONE NO.: **310-556-3501** FAX NO.: **310-556-3615**
 ATTORNEY FOR (Party): **Plaintiff CANDY SPELLING**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
 STREET ADDRESS **1725 Main Street**
 MAILING ADDRESS (same)
 CITY AND ZIP CODE **Santa Monica, California 90401**
 BRANCH NAME **WEST DISTRICT**

CASE NAME: **SPELLING vs. FLEETVILLE GROUP LTD., etc.**

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)
 Counter **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

FOR COURT USE ONLY

FILED
 LOS ANGELES SUPERIOR COURT
 APR 30 2012
 JOHN A. WANNENBERG, CLERK
 BY ANDRE WILLIAMS, DEPUTY

CASE NUMBER: **SC116862**
 JUDGE: **Norman P. Tarte**
 DEPT: **B**

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

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

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W (23) Non-PIP/D/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input checked="" type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (06) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

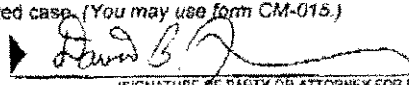
a. Large number of separately represented parties d. Large number of witnesses
 b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal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

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

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

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

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

Date: **April 30, 2012**
DAVID B. JONELIS
 (TYPE OR PRINT NAME)  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

ORIGINAL

NOTICE

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

Page 1 of 2

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
 JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 4 HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

- Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.
- Step 2:** Check one Superior Court type of action in Column **B** below which best describes the nature of this case.
- Step 3:** In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

1. Class actions must be filed in the Stanley Mosk Courthouse, central district.
2. May be filed in central (other county, or no bodily injury/property damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III, complete Item IV. Sign the declaration.

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Auto Tort
Other Personal Injury/Property
Damage/Wrongful Death Tort

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 2, 4.
Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1, 2, 4
Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 2, 3, 4, 8.
Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4.
	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4.
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4.
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4.
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 3.
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4.

SHORT TITLE etc	SPELLING vs. FLEETVILLE GROUP LTD.,	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3. 1, 2, 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2, 3.
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1, 2, 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5. 2, 5. 1, 2, 5. 1, 2, 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2, 5, 6. 2, 5.
	Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 6.
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input checked="" type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5. 1, 2, 3, 5. 1, 2, 3, 6.
	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Real Property	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6.
		<input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6. 2, 6.
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2, 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2, 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6.

SHORT TITLE etc.	SPELLING vs. FLEETVILLE GROUP LTD. ,	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 5.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6038 Toxic Tort/Environmental	1, 2, 3, 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2, 9.
		<input type="checkbox"/> A6160 Abstract of Judgment	2, 5.
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9.
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8.
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8.
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8.
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)		1, 2, 8.	
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2, 3, 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2, 3, 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2, 3, 8.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2, 7.
<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law		2, 3, 4, 8.	
	<input type="checkbox"/> A6100 Other Civil Petition	2, 9.	

SHORT TITLE SPELLING vs. FLEETVILLE GROUP LTD., etc.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10.	ADDRESS: 10776 Wilshire Boulevard, #2201						
<table border="1"> <tr> <td>CITY</td> <td>STATE</td> <td>ZIP CODE</td> </tr> <tr> <td>Los Angeles</td> <td>CA</td> <td>90024</td> </tr> </table>	CITY	STATE	ZIP CODE	Los Angeles	CA	90024	
CITY	STATE	ZIP CODE					
Los Angeles	CA	90024					

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the SANTA MONICA courthouse in the WEST District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: April 30, 2012


 (SIGNATURE OF ATTORNEY FILING PARTY)
David B. Jonelis

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

CASE NO. SC116862

NOTICE OF CASE ASSIGNMENT TO INDIVIDUAL CALENDAR COURT

**TO PLAINTIFFS AND PLAINTIFFS' ATTORNEYS OF RECORD or PLAINTIFFS
IN PRO PER:**

IT IS HEREBY ORDERED AND YOU ARE HEREBY NOTIFIED that this action shall be assigned to a Judge for all purposes, including trial, as follows:

Norman P. Tarte

Department: B

Santa Monica Courthouse
1725 Main Street
Santa Monica, CA 90401

Judge Richard A. Stone
Beverly Hills Courthouse
Department WE-X
9355 Burton Way
Beverly Hills, CA 90210

IT IS FURTHER ORDERED THAT PLAINTIFF OR COUNSEL FOR PLAINTIFF SHALL GIVE NOTICE OF THIS ALL-PURPOSE CASE ASSIGNMENT by serving a copy of this Notice on all parties to this action at the time the Summons and Complaint are served, or, if not a served party, then when such party (including any cross-defendant or complainant-in-intervention) appears in the action.

CASE MANAGEMENT REVIEW AND CONFERENCE: Upon the filing of the Complaint, a Case Management Review and Conference will be calendared for hearing in the Court to which the case is assigned. The hearing date will be stamped upon the face of the Complaint. Plaintiff shall give notice of the Case Management Review and Conference to all named parties in conjunction with service of the Summons and Complaint and include any later appearing party such as a cross-defendant or complainant-in-intervention served within this time period. Proof of service must be brought to the hearing if not previously filed. Failure to timely file proof of service of Summons and Complaint within 60 days after filing the Complaint (CRC 3.110) may result in an Order to Show Cause re sanctions being issued. (CRC 3.110(f).)

If a case is assigned to Department X, located in the Beverly Hills Courthouse, all documents, pleadings, motions, and papers filed subsequent to the original Complaint shall be filed directly in the courtroom stamped upon the Complaint.

Pursuant to CRC 3.725, no later than 15 calendar days before the date set for the Case Management Conference or Review, each party must file a Case Management Statement and serve it on all other parties in the case. In lieu of each party's filing a separate Case Management Statement, any two or more parties may file a joint Statement.

The subjects to be considered at the Case Management Conference shall include the following (CRC Rule 3.727):

- (1) Whether there are any related cases;
- (2) Whether all parties named in the Complaint or Cross-Complaint have been served, have appeared, or have been dismissed;
- (3) Whether any additional parties may be added or the pleadings may be amended;
- (4) Whether, if the case is a limited civil case, the economic litigation procedures under Code of Civil Procedure Section 90 et seq. will apply to it or the party intends to bring a motion to exempt the case from these procedures;
- (5) Whether any other matters (e.g., the bankruptcy of a party) may affect the Court's jurisdiction or processing of the case;
- (6) Whether the parties have stipulated to, or the case should be referred to, judicial arbitration in courts having a judicial arbitration program or to any other form of alternative dispute resolution (ADR) process and, if so, the date by which the judicial arbitration or other ADR process must be completed;
- (7) Whether an early settlement conference should be scheduled and, if so, on what date;
- (8) Whether discovery has been completed and, if not, the date by which it will be completed;
- (9) What discovery issues are anticipated;
- (10) Whether the case should be bifurcated or a hearing should be set for a motion to bifurcate under Code of Civil Procedure Section 598;
- (11) Whether there are any Cross-Complaints that are not ready to be set for trial and, if so, whether they should be severed;
- (12) Whether the case is entitled to any statutory preference and, if so, the statute granting the preference;
- (13) Whether a jury trial is demanded and, if so, the identity of each party requesting a jury trial;

- (14) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;
- (15) The estimated length of trial;
- (16) The nature of the injuries;
- (17) The amount of damages, including any special or punitive damages;
- (18) Any additional relief sought;
- (19) Whether there are any insurance coverage issues that may affect the resolution of the case; and
- (20) Any other matters that should be considered by the Court or addressed in its Case Management Order.

SANCTIONS: The Court has authority to impose appropriate sanctions for the failure or refusal to comply with provisions of the California Rules of Court and Local Rules governing time standards and case management conference requirements or deadlines. Such sanctions may be imposed upon counsel, a party, or both, as permitted by rule, statute, or law.

This is not a complete representation of the applicable Local Rules or California Rules of Court, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under the Trial Court Delay Reduction Rules. Careful reading and compliance with the Local Rules and California Rules of Court are absolutely imperative.



JOSEPH S. BIDERMAN, Supervising Judge
Los Angeles Superior Court, West District

TIME STANDARDS: Cases will be subject to processing under the following time standards:

COMPLAINTS: All Complaints shall be served on all named defendants and proof of service filed within 60 days after the filing of the Complaint. The Court may set an OSC re failure to file proof of service of Summons and Complaint if not timely filed. (CRC 3.110(b).)

CROSS-COMPLAINTS: No Cross-Complaint may be filed by any party after its answer is filed without first obtaining leave of court. Cross-Complaints shall be served and proof of service filed within 30 days of the filing date, unless a party has appeared in the action. (CRC 3.110(c).)

APPLICABLE RULES: Counsel as well as self-represented parties are directed to familiarize themselves with the Local Rules for the County of Los Angeles, particularly Chapter 3 Civil Division Rules, and California Rules of Court relating to civil case management. These Rules apply to all general civil cases and shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE: A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment of the Judge, or if a party has not yet appeared, within 15 days of the first appearance of that party. (Government Code Section 68616, subdivision (i); Local Rule 7.5.)

PREPARATION AND PROCEDURES FOR CASE MANAGEMENT REVIEW AND CONFERENCE: Pursuant to CRC 3.724, no later than 30 calendar days before the date set for the Case Management Conference, the parties must meet and confer, in person or by telephone, to consider each of the issues identified in Rule 3.727 and, in addition, to consider the following:

- (1) Resolving any discovery disputes and setting a discovery schedule;
- (2) Identifying and, if possible, informally resolving any anticipated motions;
- (3) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;
- (4) Identifying the facts and issues in the case that are in dispute;
- (5) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;
- (6) Determining whether settlement is possible;
- (7) Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability; and
- (8) Other relevant matters.

1 **PROOF OF SERVICE**

2
3 I am employed in the County of Los Angeles, State of California. I am over the
4 age of 18 and not a party to the within action. My business address is at
5 BUCHALTER NEMER, A Professional Corporation, 1000 Wilshire Boulevard, Suite
6 1500, Los Angeles, CA 90017-2457.

7 On the date set forth below, I served the foregoing documents described as:

8 **NOTICE OF REMOVAL OF CIVIL ACTION TO UNITED**
9 **STATES DISTRICT COURT CENTRAL DISTRICT OF**
10 **CALIFORNIA**

11 on all other parties and/or their attorney(s) of record to this action by placing a true
12 copy thereof in a sealed envelope as follows:

13 Brian G. Wolf, Esq.
14 David B. Jonelis, Esq.
15 Lavelly & Singer
16 Professional Corporation
17 2049 Century Park East, Suite 1400
18 Los Angeles, California 90067-2906

19 **BY MAIL** I am readily familiar with the business' practice for collection
20 and processing of correspondence for mailing with the United States Postal Service.
21 The address(es) shown above is(are) the same as shown on the envelope. The
22 envelope was placed for deposit in the United States Postal Service at Buchalter
23 Nemer in Los Angeles, California on June 1, 2012. The envelope was sealed and
24 placed for collection and mailing with first-class prepaid postage on this date
25 following ordinary business practices.

26 I declare that I am employed in the office of a member of the bar of this court at
27 whose direction the service was made. Executed on June 1, 2012, at Los Angeles,
28 California.

Karen Phoong



(Signature)

**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 Margaret M. Morrow and the assigned discovery Magistrate Judge is Fernando M. Olguin.

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

CV12- 4822 MMM (FMOx)

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.

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

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Candy Spelling	DEFENDANTS Fleetville Group LTD. a/k/a Theriault's
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Lavelly & Singer, Professional Corporation (310) 556-3501 2049 Century Park East, Suite 2400 Los Angeles, CA 90067	Attorneys (If Known) Buchalter Nemer, APC (213) 891-0700 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" 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%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" 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 checked="" 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 checked="" 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 checked="" 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.)
 Removal Based on Complete Diversity. 28 U.S.C. sections 1332, 1441, and 1446.

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

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 checked="" 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 CIVIL 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 FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related 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 (1395fi) <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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CV12-04822

**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
Los Angeles	

- (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
	Delaware

- (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
Los Angeles	

* 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 June 1, 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))

1 **PROOF OF SERVICE**

2
3 I am employed in the County of Los Angeles, State of California. I am over the
4 age of 18 and not a party to the within action. My business address is at
5 BUCHALTER NEMER, A Professional Corporation, 1000 Wilshire Boulevard, Suite
6 1500, Los Angeles, CA 90017-2457.

7 On the date set forth below, I served the foregoing documents described as:

8 **CIVIL CASE COVER SHEET**

9 on all other parties and/or their attorney(s) of record to this action by placing a true
10 copy thereof in a sealed envelope as follows:


11
12 Brian G. Wolf, Esq.
13 David B. Jonelis, Esq.
14 Lavelly & Singer
15 Professional Corporation
16 2049 Century Park East, Suite 1400
17 Los Angeles, California 90067-2906

18 **BY MAIL** I am readily familiar with the business' practice for collection
19 and processing of correspondence for mailing with the United States Postal Service.
20 The address(es) shown above is(are) the same as shown on the envelope. The
21 envelope was placed for deposit in the United States Postal Service at Buchalter
22 Nemer in Los Angeles, California on June 1, 2012. The envelope was sealed and
23 placed for collection and mailing with first-class prepaid postage on this date
24 following ordinary business practices.

25 I declare that I am employed in the office of a member of the bar of this court at
26 whose direction the service was made. Executed on June 1, 2012, at Los Angeles,
27 California.

28

Karen Phoong


(Signature)

BN 11677050v1

**UNITED STATE DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE TO COUNSEL

The court has directed that the following rules be specifically called to your attention:

- I. Continuing Obligation to Report Related Cases (Local Rule 83-1.3.3)
- II. Service of Papers and Process (Local Rule 4)

I. CONTINUING OBLIGATION TO REPORT RELATED CASES

Parties are under the continuing obligation to promptly advise the Court whenever one or more civil actions or proceedings previously commenced and one or more currently filed appear to be related.

Local Rule 83-1.3.3 states: "It shall be the continuing duty of the attorney in any case promptly to bring to the attention of the Court, by the filing of a Notice of Related Case(s) pursuant to Local Rule 83-1.3, all facts which in the opinion of the attorney or party appear relevant to a determination whether such action and one or more pending actions should, under the criteria and procedures set forth in Local Rule 83-1.3, be heard by the same judge."

Local Rule 83-1.2.1. states: "It is not permissible to dismiss and thereafter refile an action for the purpose of obtaining a different judge."

Local Rule 83-1.2.2 provides: Whenever an action is dismissed by a party or by the Court before judgment and thereafter the same or essentially the same claims, involving the same or essentially the same parties, are alleged in another action, the later-filed action shall be assigned to the judge to whom the first-filed action was assigned. It shall be the duty of every attorney in any such later-filed action to bring those facts to the attention of the Court in the Civil Cover Sheet and by the filing of a Notice of Related Case(s) pursuant to L.R. 83-1.3.

II. SERVICE OF PAPERS AND PROCESS

Local Rule 4-2 states: "Except as otherwise provided by order of Court, or when required by the treaties or statutes of the United States, process shall not be presented to a United States Marshal for Service." Service of process must be accomplished in accordance with Rule 4 of the Federal Rules of Civil Procedure or in any manner provided by State Law, when applicable. Service upon the United States, an officer or agency thereof, shall be served pursuant to the provisions of FRCP 4 (i). Service should be promptly made; unreasonable delay may result in dismissal of the action under Local Rule 41 and Rule 4(m) of the Federal Rules of Civil Procedure. Proof of service or a waiver of service of summons and complaint must be filed with the court.

This notice shall be given by the Clerk to the plaintiff at the time an action is filed (or to the defendant at the time a notice of removal is filed), and by the plaintiff to other parties as attachments to copies of the complaint and summonses, or by the defendant to other parties as attachments to copies of the notice to plaintiffs of removal to federal court, when served.