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12 ENTREPRENEUR MEDIA, INC.

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 **ENTREPRENEUR MEDIA, INC.,**
17 **a California corporation,**
18 **Plaintiff,**
19 **v.**
20 **AMERICAN CITY BUSINESS**
21 **JOURNALS, INC., a Delaware**
22 **corporation; and DOES 1-10,**
23 **Defendants.**

Case No. SACV11-722 JVS(ANx)
Complaint For:
(1) Trademark Infringement (Lanham Act, 15 U.S.C. § 1114)
(2) Unfair Competition/False Designation Of Origin (Lanham Act, 15 U.S.C. § 1125(a))
(3) Unfair Competition (Cal. Bus. & Prof. Code § 17200 *et seq.*)
(4) Common Law Trademark Infringement
(5) Common Law Unfair Competition
(6) Declaratory Relief
Demand For Jury Trial

BY _____
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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

FILED

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2 Plaintiff Entrepreneur Media, Inc. ("EMI"), for its Complaint against
3 American City Business Journals, Inc. and Does 1-10 ("Defendants"), alleges as
4 follows:

5 **Jurisdiction and Venue**

6 1. This is a civil action alleging trademark infringement, false
7 designation of origin, and unfair competition under the Lanham Act, 15 U.S.C.
8 §§ 1114(a), 1125(a); unfair competition under California Business & Professions
9 Code §§ 17200 et seq.; California common law trademark infringement and unfair
10 competition; and declaratory relief under the Declaratory Judgment Act, 28
11 U.S.C. § 2201.

12 2. Pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1338(a), this Court
13 has subject matter jurisdiction over EMI's claims for relief for violation of the
14 federal trademark and unfair competition statutes. Pursuant to 28 U.S.C.
15 § 1338(b), this Court has supplemental jurisdiction over EMI's state law unfair
16 competition claims, in that the claims are joined with substantial and related
17 claims under the Lanham Act. This Court also has supplemental jurisdiction over
18 EMI's state law claims pursuant to 28 U.S.C. § 1367(a), in that all of EMI's
19 claims arise out of a common nucleus of operative facts.

20 3. This Court has personal jurisdiction over Defendants because
21 Defendants have conducted substantial business in this State, as, on information
22 and belief, Defendants have marketed and sold their publications to residents of
23 this State, and maintain offices in this State.

24 4. Venue in this Court exists under 28 U.S.C. § 1391(b)(1), (c), as
25 Defendants are deemed residents of this District for venue purposes; and under
26 subsection (b)(2) because a substantial part of the events giving rise to the claims
27 alleged in this Complaint occurred in this District, as, on information and belief,
28 Defendants have marketed and sold their publications to residents of this District,

1 including, for example, Defendants' "Los Angeles Business" website.
2

3 **The Parties**

4 5. EMI is a California corporation, having its principal place of
5 business at 2445 McCabe Way, Irvine, California 92614.

6 6. On information and belief, American City Business Journals, Inc.
7 ("ACBJ") is a Delaware corporation, having its principal place of business at 120
8 W. Morehead Street, Suite 400, Charlotte, North Carolina, 28202. ACBJ
9 publishes business journals in over 30 cities across the country, and offers
10 websites providing business news for various cities.

11 7. EMI is ignorant of the true names of defendants Does 1 through 10,
12 inclusive, and therefore sues those defendants by such fictitious names. EMI is
13 informed and believes, and on that basis alleges, that defendants Does 1 through
14 10, inclusive, are responsible for the acts alleged in this Complaint. When the
15 true names of such fictitious defendants are ascertained, EMI will seek leave of
16 this Court to amend this Complaint to name those individuals or entities.

17 8. EMI is informed and believes, and on that basis alleges, that each of
18 the Defendants was the agent and employee of the remaining Defendants and, at
19 all times mentioned, acted within the course and scope of such agency and
20 employment.

21 **Facts Common to All Claims for Relief**

22 **EMI and Its Successful ENTREPRENEUR® Brand**

23 9. For over 30 years, EMI (together with its predecessor companies) has
24 published magazines and books which provide editorial content and other
25 information, as well as offer products and services related or of interest to
26 businesses, business owners, and prospective business owners.

27 10. EMI's longstanding marketing and sales efforts have been conducted
28 primarily under the mark ENTREPRENEUR® (the "ENTREPRENEUR® Mark").

1
2 11. EMI is the publisher of ENTREPRENEUR® magazine and other
3 publications incorporating the ENTREPRENEUR® name in their titles.
4 ENTREPRENEUR® magazine is published monthly with a current paid
5 circulation, including both subscriptions and newsstand sales, of more than
6 600,000 in the United States. ENTREPRENEUR® magazine is also sold and
7 distributed in over 100 foreign countries.

8 12. ENTREPRENEUR® magazine routinely features articles and
9 interviews of some of the biggest names in the entrepreneur community, including
10 Richard Branson, skateboarding icon Tony Hawk, quarterback Drew Brees, and
11 hip hop mogul Russell Simmons:

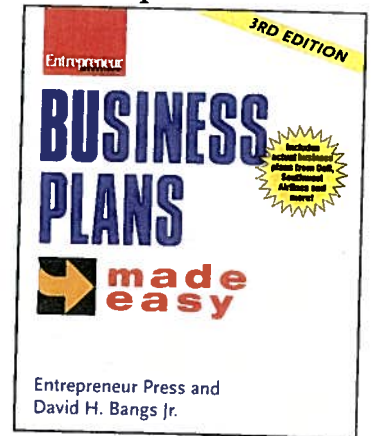
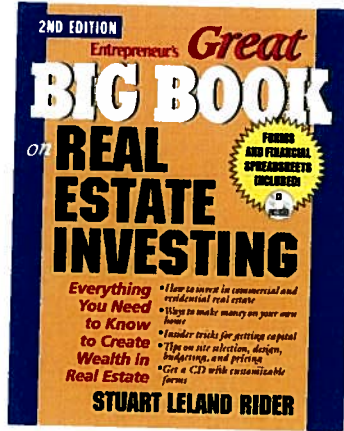
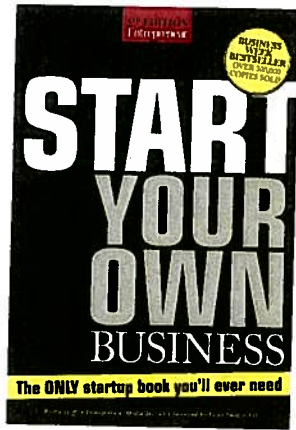


18 13. ENTREPRENEUR® magazine also annually publishes, and has
19 continuously published for over thirty years, the highly anticipated Franchise
20 500® ranking of America's top franchises using EMI's top-secret formula:



28 14. EMI also publishes over 200 book titles under the

1 ENTREPRENEUR® name and ENTREPRENEUR PRESS® imprint:

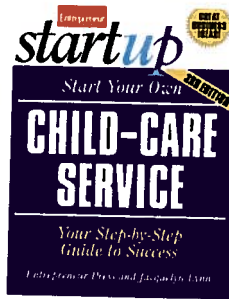


10 15. EMI has recently launched many of its most successful titles as e-

11 books:



13 2011 TITLES | Ep Entrepreneur Press



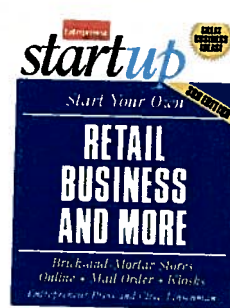
17 Start Your Own Child-

18 Care Service (3rd Ed.)



20 Start Your Own Clothing

21 Store and More (3rd Ed.)



23 Start Your Own Retail

24 Business and More

25 16. EMI also conducts seminars, workshops and other educational

26 services geared towards how to successfully start and operate businesses. These

27 events have included the Sales Success Secrets/Business Success Secrets®

28 Breakfasts sponsored by State Farm Insurance; the Women in Charge

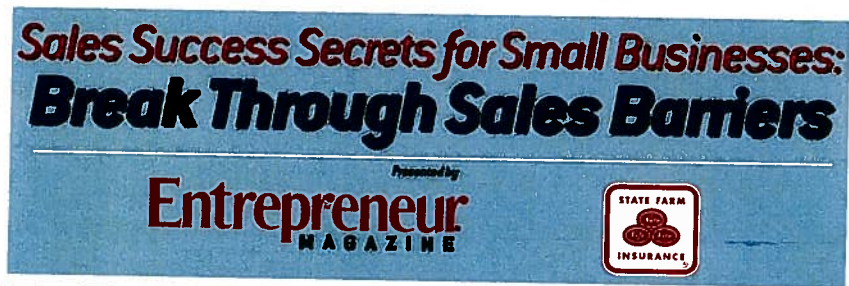
Conferences sponsored by OPEN—American Express; the Business Success

Secrets® Breakfast Seminars sponsored by Deluxe Corporation and Sprint; the

Winning Strategies for Business Conference sponsored by Verizon; and

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Entrepreneur® Magazine's Growth 2.0 Conferences presented by The UPS Store®:



17. EMI operates a number of websites to further disseminate and market its content and services, including *entrepreneur.com*, *EntrepreneurEnEspañol.com*, *YoungEntrepreneur.com*, and *EntrepreneurPress.com*:



18. The website at *entrepreneur.com* has averaged over 6 million unique visitors and over 52.6 million page views per month, and is ranked in the top 1,100 sites in the United States by Alexa.

19. EMI has also launched apps for iPhones/ iPads, Android and

1 Blackberry:
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9 20. EMI's fame and high-quality content and services have resulted in
10 numerous co-branding business relationships with some of the top names in news
11 and business. These co-branding relationships have included MSNBC, Reuters,
12 PerfectBusiness.com, Princeton Review (ranking top entrepreneurial schools),
13 Great Place to Work® (annual Best Small & Medium Workplaces rankings), and
14 Palo Alto Software (Entrepreneur® magazine's Business Plan Pro® software):



16 FROM OUR PARTNERS

17 Entrepreneur

Do You Need a Full-Timer, Contractor or Outsourced Help?

Lessons Learned From Mom Inventors

How a Young Fashion Designer Stands Out in a Crowded Market



20 21. Through careful cultivation of its various products and services, EMI
21 has developed an outstanding reputation as an innovator in the field of business
22 start-up and strategy and has established an extremely loyal customer following.

23 22. EMI has received a tremendous amount of public recognition and
24 acclaim for the products sold and services provided under its ENTREPRENEUR®
25 brand. Through EMI's widespread and continuous use of the
26 ENTREPRENEUR® Mark, the mark has acquired extensive goodwill, has
27 developed a high degree of distinctiveness, and has become famous, well known
28 and recognized as identifying goods and services that originate from EMI.

1 23. The fame and quality of the products and services bearing the
 2 ENTREPRENEUR[®] Mark have been widely recognized through industry awards
 3 and commendations. ENTREPRENEUR[®] magazine was a finalist in two
 4 categories in Folio's 2010 Eddie & Ozzie magazine awards, has been named one
 5 of the top performing magazines for four years in "Capell's Circulation Report,"
 6 and has been honored for its content by receipt of the prestigious Maggie awards
 7 in both 2009 and 2010 from the Western Publishing Association. EMI's website
 8 at *entrepreneur.com* has been awarded "Outstanding Achievement in Web
 9 Development" by the Web Marketing Association, and its Entrepreneur Connect
 10 was voted the #1 "Top 10 Social Networks for Entrepreneurs" by Mashable.com.
 11 EMI has also received multiple Integrated Marketing Awards from Min Online
 12 for its magazine and website. In addition, both ENTREPRENEUR[®] magazine
 13 and the *entrepreneur.com* website have been named to BtoB magazine's 2010 and
 14 2011 lists of the top 50 media outlets for business-to-business advertising.

15
 16 EMI's Trademark Rights

17 24. EMI owns, and has obtained United States federal registrations for,
 18 the ENTREPRENEUR[®] Mark, as well as a family of related marks incorporating
 19 the term ENTREPRENEUR, as follows:

| 20 TRADEMARK | CLASS: GOODS/SERVICES | REG. NO. REG. DATE |
|-----------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 21 ENTREPRENEUR | 16: Paper goods and printed matter; namely magazines, books and published reports pertaining to business opportunities | 1,453,968 August 25, 1987 First Use in Commerce: May 2, 1978 |

| | | | |
|---|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 1 | ENTREPRENEUR | 35: Advertising and business services, namely, arranging for the promotion of the goods and services of others by means of a global computer network and other computer online services providers; providing business information for the use of customers in the field of starting and operating small businesses and permitting customers to obtain information via a global computer network and other computer online service providers and; web advertising services, namely, providing active links to the websites of others | 2,263,883 July 27, 1999 First Use in Commerce: July 1992 |
| 2 | ENTREPRENEUR | 35: Arranging and conducting trade show exhibitions in the field of entrepreneurial activities, namely the start-up and operation of small business enterprises 41: Educational services, namely, conducting seminars on the development and operation of businesses, and conducting work shops on computer technology, telecommunications, marketing, financing options, real estate management, tax planning and insurance | 2,502,032 October 30, 2001 First Use in Commerce: Oct. 18, 1991 |
| 3 | ENTREPRENEUR.COM | 9: Downloadable podcasts in the field of business, current events, lifestyle issues, and developments in science and technology 35: Providing business information and advice via a web site on a global computer network 38: Broadcasting programs via a global computer network; and streaming of audio and video material via the Internet; telecommunications services, namely, transmission of podcasts | 3,519,022 October 21, 2008 First Use in Commerce: Sept. 2002 |
| 4 | ENTREPRENEUR CONNECT | 42: Online business networking services in the nature of creating and hosting a community for registered users to create professional profiles, to participate in group discussions, to make business contacts, and to upload onto the website materials promoting their businesses, products and services | 3,652,950 July 14, 2009 First Use in Commerce: April 26, 2008 |
| 5 | ENTREPRENEUR ENESPANOL.COM | 35: Advertising and business services, namely, arranging for the promotion of goods and services of others by means of a global computer network and other computer online service providers; providing business information for the use of customers in the field of starting and operating businesses and permitting customers to obtain information via a global computer network and other computer online service providers; internet advertising services, namely, promoting the goods and services of others by providing a web site with active links to their websites featuring their goods and services | 3,266,532 July 17, 2007 First Use in Commerce: Oct. 13, 2006 |

| | | | |
|-------------------------------------------|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1 2 3 4 5 6 7 8 9 | ENTREPRENEUR PRESS | 16: Paper goods and printed matter, namely, books, manuals, prepared reports, work books, study guides, legal and business forms, and newsletters concerning advice and information relating to the subjects of starting, running and operating a business, and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public 35: On-line ordering services featuring printed and electronically downloadable publications, namely, books, study guides, legal and business forms, and newsletters, concerning advice and information relating to the subjects of starting, running and operating a business and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public | 3,470,064 July 22, 2008 First Use in Commerce: April 1999 |
| 10 11 12 | ENTREPRENEUR'S STARTUPS | 16: Paper goods and printed matter, namely, magazines, books, booklets and published reports pertaining to business opportunities | 3,204,899 February 6, 2007 First Use in Commerce: Jan. 27, 2006 |
| 13 14 15 16 17 18 19 | ENTREPRENEUR ASSIST | 38: Providing online facilities for real-time interaction between website visitors concerning topics of general interest to entrepreneurs, new and existing businesses and members of the general public 42: Providing website visitors with online non-downloadable software applications in the field of business planning and productivity for bookmarking, filing and tabbing articles found on websites for quicker retrieval, for creating text documents, spreadsheets and presentations, for customizing business forms and templates, for selecting and downloading a selection of business books, for scheduling event deadlines and appointments with email reminders, and for assisting in the creation of business plans | 3,924,374 March 1, 2011 First Use in Commerce: June 15, 2007 |

20 25. The above marks are collectively referred to as the "EMI Marks."
21 The above registrations are collectively referred to as the "EMI Registrations."

22 26. EMI's registration numbers 1,453,968, 2,263,883, and 2,502,032 for
23 ENTREPRENEUR[®] are incontestable pursuant to 15 U.S.C. § 1065.

24 27. The EMI Registrations constitute prima facie evidence that the marks
25 are valid and that EMI is entitled to the exclusive use of the marks in commerce
26 throughout the United States on the goods and services listed in the registrations.

27 28. EMI also has extensive common law rights in the
28 ENTREPRENEUR[®] Mark, based on its use of that mark over the last three

1 decades.

2 29. Through extensive use, marketing, branding and promotion, the
3 ENTREPRENEUR[®] Mark is well-known and famous, enjoying substantial
4 recognition, goodwill and association with EMI. The public distinguishes EMI's
5 goods and services from those of other publishers and providers of educational
6 services on the basis of the ENTREPRENEUR[®] Mark. The ENTREPRENEUR[®]
7 Mark is distinctive and has acquired secondary meaning in the United States.

8 30. The U.S. District Court for the Central District of California held that:

9 • "The extensive advertising and public recognition over the past 25
10 years have established [the ENTREPRENEUR[®] Mark] as a strong mark in the
11 industry."

12 • The ENTREPRENEUR[®] Mark "is a strong distinctive mark,
13 deserving of significant protection."

14 • The ENTREPRENEUR[®] Mark "has acquired secondary meaning."
15 *Entrepreneur Media, Inc. v. Smith*, No. CV 98-3607 FMC (CTx), 2004 U.S. Dist.
16 LEXIS 24078, at *9-10, 13 (C.D. Cal. June 23, 2004).

17 31. The Ninth Circuit reviewed the District Court's findings and
18 affirmed them on appeal. *Entrepreneur Media, Inc. v. Smith*, 101 Fed. Appx. 212,
19 2004 U.S. App. LEXIS 11567 (9th Cir. 2004).

20 Defendants and Their Unauthorized Use of the EMI Marks

21 32. Defendants market and sell business-oriented publications specific to
22 cities across the country, including the San Francisco Business Times, the Silicon
23 Valley/San Jose Business Journal, the Washington Business Journal, and the
24 Atlanta Business Journal. Defendants also offer companion websites for each of
25 its journals, as well as online-only content for other cities like Los Angeles.

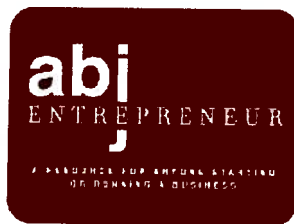
26 33. Defendants also offer a journal in Austin, Texas, the Austin Business
27 Journal, and a companion website. In or about April 2010, Defendants launched a
28

1 new website entitled “ABJ Entrepreneur” (the “ABJ Mark”) located at
2 *abjentrepreneur.com*, which Defendants describe as “a weekly look at the
3 entrepreneurship scene of Central Texas.”

4 34. The banner at the top of the website appears as follows:



10 And the site contains additional logos that appear as follows:



23 35. Defendants filed a federal trademark application on October 28,
24 2010, for the mark “ABJ ENTREPRENEUR” (Serial No. 76/705112) in Class 35
25 for “providing business information via the Internet,” claiming a first use in
26 commerce date of April 2010 (the “ABJ Application”). EMI has filed an
27 opposition to this application concurrently with the filing of this Complaint (the
28 “Opposition”).

36. Given EMI’s co-branding efforts with other reputable news providers, EMI is very concerned that consumers will be confused into believing that EMI and Defendants have entered into a co-branding project which combines Defendants’ Austin Business Journal (ABJ) with EMI’s ENTREPRENEUR® Magazine content. This potential for confusion is heightened by Defendants’ choice of red as the primary color for its website and logo, which is the same

1 color used by EMI for its logo stylization. Defendants will thus enjoy the benefits
2 of EMI's reputation and goodwill based on this consumer confusion, to EMI's
3 detriment.

4 37. On December 15, 2010, EMI sent a letter to Defendants notifying
5 them of EMI's concerns regarding the ABJ Mark, and attempted a business-to-
6 business resolution of this issue. Defendants ultimately refused to change their
7 trademark, forcing EMI to file this lawsuit to protect its rights.

8 Continuing Infringement and Unlawful Conduct

9 38. Defendants' continued use of the ABJ Mark in commerce in
10 violation of EMI's valuable intellectual property rights in the EMI Marks is
11 knowing, intentional and willful, and is causing damage to EMI.

12 39. Due to Defendants' willful continuing infringement and unlawful
13 conduct, EMI is now forced to bring this Complaint to protect its valuable and
14 longstanding intellectual property rights. EMI had to retain counsel and incur
15 substantial fees and costs (and continues to incur those fees and costs) to defend
16 this suit and pursue its claims.

17 40. Defendants' activities have caused and will cause irreparable harm to
18 EMI for which it has no adequate remedy at law, as Defendants' conduct
19 interferes with EMI's goodwill and customer relationships and will substantially
20 harm EMI's reputation as a source of high quality products, as well as dilute the
21 substantial value of EMI's name and trademarks.

22 41. EMI's interest in protecting its intellectual property rights, and
23 products and services from customer confusion outweigh any harm to Defendants.
24 The public interest is best served by granting the requested relief to EMI against
25 Defendants in this cause.

26 FIRST CLAIM FOR RELIEF

27 Lanham Act - Federal Trademark Infringement - 15 U.S.C. § 1114

1 42. EMI incorporates by reference the factual allegations set forth in
2 Paragraphs 9-41 above.

3 43. EMI owns the EMI Marks and the EMI Registrations. The
4 trademarks reflected in the EMI Registrations are strong and distinctive,
5 designating EMI as the source of all products and services advertised, marketed,
6 sold or used in connection with the EMI Marks. In particular, the
7 ENTREPRENEUR[®] Mark has been used for over 30 years, and has been
8 recognized by a federal district court as a strong and distinctive mark.

9 44. EMI is the senior user of the EMI Marks, as it began use of the
10 marks in interstate commerce prior to Defendants' first use of the ABJ Mark.

11 45. Defendants do not have authorization, license or permission from
12 EMI to market and sell their website services under the EMI Marks or the
13 ENTREPRENEUR[®] Mark, which are confusingly similar to the ABJ Mark and
14 closely related to the particular products and services with which the EMI Marks
15 and the ENTREPRENEUR[®] Mark have come to be associated.

16 46. Defendants were aware of the EMI Marks and the
17 ENTREPRENEUR[®] Mark, as Defendants were on constructive notice based on
18 EMI's longstanding federal registrations, and were put on actual notice at least as
19 early as December 15, 2010, the date of EMI's letter to Defendants.

20 47. On information and belief, Defendants' use of the ABJ Mark was
21 intended to confuse consumers into believing that Defendants' website was
22 related to or authorized by EMI. Thus, Defendants' unauthorized use of the ABJ
23 Mark was, and continues to be, knowing, intentional and willful.

24 48. On information and belief, Defendants' use of the ABJ Mark is likely
25 to cause confusion or mistake, or to deceive as to source, origin, affiliation or
26 sponsorship of Defendants' website.

27 49. As a direct and proximate result of Defendants' wrongful conduct,
28

1 EMI has been and will continue to be damaged.

2 50. Defendants' actions thus constitute trademark infringement.

3 51. Unless an injunction is issued enjoining any continuing or future use
4 of the ABJ Mark by Defendants, such continuing or future use is likely to
5 continue to cause confusion, mistake or to deceive as to source, origin, affiliation
6 or sponsorship, and thereby to damage EMI irreparably.

7 52. Defendants' activities have caused and will cause irreparable harm to
8 EMI for which it has no adequate remedy at law, in that (i) the EMI Marks and
9 the ENTREPRENEUR[®] Mark comprise unique and valuable property rights that
10 have no readily determinable market value; (ii) Defendants' infringement
11 constitutes an interference with EMI's goodwill and customer relationships and
12 will substantially harm EMI's reputation as a source of high quality goods and
13 services; and (iii) Defendants' wrongful conduct, and the damages resulting to
14 EMI, are continuing. Accordingly, EMI is entitled to injunctive relief pursuant to
15 15 U.S.C. § 1116(a).

16 53. Pursuant to 15 U.S.C. §1117(a), EMI is entitled to an order:
17 (a) requiring Defendants to account to EMI for any and all profits derived by
18 Defendants from their actions, to be increased in accordance with the applicable
19 provisions of law; and (b) awarding all damages sustained by EMI caused by
20 Defendants' conduct.

21 54. Defendants' conduct was intentional and without foundation in law,
22 and pursuant to 15 U.S.C. § 1117(a), EMI is as a result entitled to an award of
23 treble damages against Defendants.

24 55. Defendants' acts make this an exceptional case under 15 U.S.C.
25 § 1117(a), and EMI is thus entitled to an award of attorneys' fees and costs.

26 **SECOND CLAIM FOR RELIEF**

27 **Lanham Act - Unfair Competition and False Designation of Origin -**

15 U.S.C. § 1125(a)

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3 56. EMI incorporates by reference the factual allegations set forth in
4 Paragraphs 9-41 above.

5 57. The EMI Marks, and in particular the ENTREPRENEUR® Mark, are
6 strong and distinctive, designating EMI as the source of all goods and services
7 advertised, marketed, sold or used in connection with those marks. In addition,
8 by virtue of EMI's decades-long use of the ENTREPRENEUR® Mark in
9 connection with its products and services, and its extensive marketing,
10 advertising, promotion and sale of its products and services under that mark, the
11 EMI Marks, and in particular the ENTREPRENEUR® Mark, have acquired
12 secondary meaning, whereby the consuming public of this District, the State of
13 Texas and throughout the United States, associates the EMI Marks with a single
14 source of products and/or services.

15 58. EMI is the senior user of the EMI Marks, as it began use of the
16 marks in interstate commerce prior to Defendants' first use of the ABJ Mark.

17 59. Defendants were aware of the EMI Marks and the
18 ENTREPRENEUR® Mark, as Defendants were on constructive notice based on
19 EMI's longstanding federal registrations, and were put on actual notice at least as
20 early as December 15, 2010, the date of EMI's letter to Defendants.

21 60. On information and belief, through their use of the confusingly
22 similar ABJ Mark, Defendants intended to, and did in fact, confuse and mislead
23 consumers, and did misrepresent and create the false impression that EMI
24 somehow authorized, originated, sponsored, approved, licensed or participated in
25 Defendants' use of the confusingly similar ABJ Mark.

26 61. In fact, there is no connection, association or licensing relationship
27 between EMI and Defendants, nor has EMI ever authorized, licensed or given
28 permission to Defendants to use the EMI Marks in any manner whatsoever.

1 62. On information and belief, Defendants' use of the ABJ Mark is likely
2 to cause confusion as to the origin and authenticity of Defendants' website and
3 related products/services and is likely to cause others to believe that there is a
4 relationship between Defendants and EMI.

5 63. As a direct and proximate result of Defendants' wrongful conduct,
6 EMI has been and will continue to be damaged.

7 64. Defendants' actions thus constitute false designation of origin and
8 unfair competition.

9 65. Defendants' activities have caused and will cause irreparable harm to
10 EMI for which it has no adequate remedy at law, in that (i) the EMI Marks and
11 the ENTREPRENEUR® Mark comprise unique and valuable property rights that
12 have no readily determinable market value; (ii) Defendants' infringement
13 constitutes an interference with EMI's goodwill and customer relationships and
14 will substantially harm EMI's reputation as a source of high quality goods and
15 services; and (iii) Defendants' wrongful conduct, and the damages resulting to
16 EMI, are continuing. Accordingly, EMI is entitled to injunctive relief pursuant to
17 15 U.S.C. § 1116(a).

18 66. Pursuant to 15 U.S.C. §1117(a), EMI is entitled to an order:
19 (a) requiring Defendants to account to EMI for any and all profits derived by
20 Defendants from their actions, to be increased in accordance with the applicable
21 provisions of law; and (b) awarding all damages sustained by EMI caused by
22 Defendants' conduct.

23 67. Defendants' conduct was intentional and without foundation in law,
24 and pursuant to 15 U.S.C. § 1117(a), EMI is as a result entitled to an award of
25 treble damages against Defendants.

26 68. Defendants' acts make this an exceptional case under 15 U.S.C.
27 § 1117(a), and EMI is thus entitled to an award of attorneys' fees and costs.
28

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2 **THIRD CLAIM FOR RELIEF**

3 **Unfair Competition - California Business & Professions Code §§ 17200 et seq.**

4 69. EMI incorporates by reference the factual allegations set forth in
5 Paragraphs 9-41 above.

6 70. The above-described acts and practices by Defendants are likely to
7 confuse, mislead or deceive the general public and therefore constitute unfair and
8 fraudulent business practices in violation of California Business & Professions
9 Code §§ 17200, *et seq.*

10 71. The above-described acts further constitute business acts that violate
11 Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a) and are
12 therefore unlawful.

13 72. The unfair, unlawful, and fraudulent business practices of
14 Defendants described above present a continuing threat and are meant to deceive
15 members of the public.

16 73. As a direct and proximate result of Defendants' wrongful conduct,
17 EMI has been injured in fact and has lost money and profits, and has suffered
18 injury to its reputation and goodwill. Such harm will continue unless Defendants'
19 acts are enjoined by the Court. EMI has no adequate remedy at law.
20 Accordingly, EMI is entitled to an injunction prohibiting Defendants from
21 continuing the practices described above.

22 **FOURTH CLAIM FOR RELIEF**

23 **Common Law Trademark Infringement**

24 74. EMI incorporates by reference the factual allegations set forth in
25 Paragraphs 9-41 above.

26 75. EMI has valid and protectable common law rights in the EMI Marks.

27 76. EMI is the senior user of the EMI Marks.

28 77. Defendants' conduct, as described above, constitutes infringement of

1 EMI's common law rights in the EMI Marks.

2 78. Defendants' use of the EMI Marks on unauthorized services is likely
3 to cause confusion as to the origin of Defendants' services and is likely to cause
4 others to believe that there is a relationship between Defendants and EMI.

5 79. Defendants' wrongful acts have permitted and will permit them to
6 receive substantial profits based upon the strength of the reputation of EMI and
7 the substantial goodwill it has built up in the EMI Marks.

8 80. As a direct and proximate result of Defendants' wrongful conduct,
9 EMI has been and will continue to be damaged.

10 81. Unless an injunction is issued enjoining any continuing or future use
11 of the EMI Mark, such continuing or future use is likely to continue to cause
12 confusion and thereby to damage EMI irreparably. EMI has no adequate remedy
13 at law.

14 **FIFTH CLAIM FOR RELIEF**

15 **Common Law Unfair Competition**

16 82. EMI incorporates by reference the factual allegations set forth in
17 Paragraphs 9-41 above.

18 83. EMI has expended significant time and expense in developing the
19 EMI Marks and the high-quality products and services it markets and sells under
20 those marks. The EMI Marks have been very successful and have developed a
21 substantial reputation and goodwill in the marketplace.

22 84. Through their actions as described above, Defendants have
23 misappropriated EMI's efforts and are exploiting the EMI Marks and EMI's
24 reputation to market and sell its products and services under the ABJ Mark.
25 These actions constitute unfair competition.

26 85. As a direct and proximate result of Defendants' wrongful conduct,
27 EMI has been and will continue to be damaged.

1
2 86. Unless an injunction is issued enjoining Defendants' unfairly
3 competitive conduct, EMI will continue to be damaged irreparably. EMI has no
4 adequate remedy at law.

5 87. On information and belief, Defendants have acted willfully,
6 intentionally and maliciously, such that EMI is entitled to punitive damages.

7 **SIXTH CLAIM FOR RELIEF**

8 **Declaratory Relief**

9 1. EMI incorporates by reference the factual allegations set forth in
10 Paragraphs 9-41 above.

11 2. An actual and justiciable controversy has arisen and now exists
12 between EMI and Defendants, in that EMI contends that (a) Defendants' use of
13 the ABJ Mark constitutes trademark infringement, false designation of origin, and
14 unfair competition under the Lanham Act and state law, and (b) the ABJ Mark
15 should not be registered by the Patent and Trademark Office. Defendants contend
16 that their mark is not infringing, and that the ABJ Application should be accepted
17 by the Patent and Trademark Office and a registration issued.

18 3. EMI desires a judicial determination and declaration of Defendants'
19 rights with respect to the ABJ Mark and the ABJ Application.

20 4. A judicial determination is necessary and appropriate at this time
21 under the circumstances to provide a complete and final adjudication of all of the
22 issues in this action, in the interests of judicial efficiency and finality, and to
23 ensure consistency in the rulings of this Court and the Patent and Trademark
24 Office.

25 5. EMI therefore requests a judicial declaration that (a) the ABJ Mark
26 infringes the EMI Marks, and creates a false designation of origin; (b) Defendants
27 are unfairly competing with EMI; (c) the Patent and Trademark Office is ordered
28 to sustain the Opposition to the ABJ Mark in favor of EMI and against

1 Defendants; and (e) Defendants are prohibited from filing any future applications
2 for the ABJ Mark or any marks likely to cause confusion with the EMI Marks.
3

4 **PRAYER**

5 WHEREFORE, EMI prays for the following relief:

6 A. An injunction ordering that Defendants, their officers, agents,
7 servants, employees, and attorneys, and all other persons who are in active concert
8 or participation with them, who receive actual notice of the injunction order by
9 personal or other service:

10 (1) cease all use and never use the ABJ Mark, the EMI Marks, or any
11 other mark likely to cause confusion with the EMI Marks, in connection with the
12 promotion, advertising, offering for sale, or sale, of any products or services;

13 (2) never use any false designation of origin, false representation, or
14 any false or misleading description of fact, that can, or is likely to, lead the
15 consuming public or individual members thereof, to believe that any products or
16 services produced, offered, promoted, marketed, advertised, provided or sold by
17 Defendants are in any manner associated or connected with EMI, or are licensed,
18 approved or authorized in any way by EMI;

19 (3) never represent, suggest in any fashion to any third party, or
20 perform any act that may give rise to the belief that Defendants, or any of their
21 goods or services, are related to, authorized or sponsored by EMI;

22 (4) cease all use of the domain name *abjentpreneur.com* and any
23 similar domain names, and never register any domain names that contain any of
24 the EMI Marks, or any domain names confusingly similar to the EMI Marks;

25 (5) never unfairly compete with EMI in any manner whatsoever, or
26 engage in any unfair, fraudulent or deceptive business practices that relate in any
27 way to the production, distribution, marketing, and/or sale of products and services
28 bearing the EMI Marks;

1 (6) withdraw all pending federal and state trademark applications for
2 the ABJ Mark, and never apply for or seek to register any mark that is likely to
3 cause confusion with the EMI Marks.
4

5 B. An order pursuant to 15 U.S.C. § 1116(a) directing Defendants to file
6 with this Court and to serve upon EMI's counsel, within thirty (30) days after the
7 entry and service on Defendants of an injunction, a report in writing and under oath
8 setting forth in detail the manner and form in which Defendants have complied
9 with the injunction.

10 C. An order transferring to EMI the domain name *abjentpreneur.com*
11 and any other domain names Defendants own that include "entrepreneur" or are
12 otherwise confusingly similar to the EMI Marks.

13 D. An order finding that, by the acts complained of above, Defendants
14 have infringed EMI's federally registered trademarks in violation of 15 U.S.C.
15 § 1114.

16 E. An order finding that, by the acts complained of above, Defendants
17 have created a false designation of origin and/or a false representation of
18 association, in violation of 15 U.S.C. § 1125(a).

19 F. An order finding that, by the acts complained of above, Defendants
20 have engaged in unfair competition and acts of unfair and deceptive business
21 practices in violation of California Business & Professions Code §§ 17200 *et seq.*

22 G. An order finding that, by the acts complained of above, Defendants
23 have engaged in common law trademark infringement.

24 H. An order finding that, by the acts complained of above, Defendants
25 have engaged in common law unfair competition.

26 I. An order declaring that (a) the ABJ Mark infringes the EMI Marks,
27 and creates a false designation of origin; (b) Defendants are unfairly competing
28 with EMI; (c) the Patent and Trademark Office is ordered to sustain the Opposition

1 to the ABJ Mark in favor of EMI and against Defendants; and (e) Defendants are
2 prohibited from filing any future applications for the ABJ Mark or any marks
3 likely to cause confusion with the EMI Marks.

4 J. An order pursuant to 15 U.S.C. § 1117(a) compelling Defendants to
5 account to EMI for any and all profits derived from their unlawful and infringing
6 conduct.

7 K. An order awarding EMI damages as follows:

8 (1) pursuant to 15 U.S.C. § 1117(a), EMI's actual damages, as well as
9 all of Defendants' profits or gains of any kind from their acts of trademark
10 infringement, false designation of origin, and unfair competition, including a
11 trebling of those damages;

12 (2) punitive damages based on Defendants' unfair competition under
13 California common law.

14 L. An order pursuant to 15 U.S.C. § 1117(a) finding that this is an
15 exceptional case and awarding EMI its reasonable attorneys' fees.

16 M. An order awarding EMI all of its costs, disbursements and other
17 expenses incurred due to Defendants' unlawful conduct, pursuant to 15 U.S.C.
18 § 1117(a).

19 N. An order awarding EMI interest.

20 O. An order awarding EMI such other relief as the Court may deem
21 appropriate.

22 Dated: May 11, 2011

LATHAM & WATKINS LLP

23
24 By: 

Perry J. Viscounty
Jennifer L. Barry
Sean P. McClure

25
26
27 Attorneys for Plaintiff
ENTREPRENEUR MEDIA, INC.

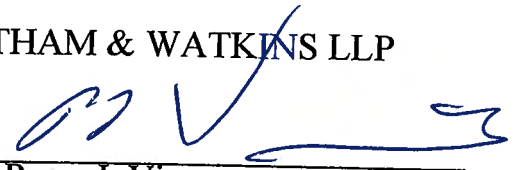
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JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule 38-1, Plaintiff demands a trial by jury.

Dated: May 11, 2011

LATHAM & WATKINS LLP

By: 
Perry J. Viscounty
Jennifer L. Barry
Sean P. McClure

Attorneys for Plaintiff
ENTREPRENEUR MEDIA, INC.

**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 James V. Selna and the assigned discovery Magistrate Judge is Arthur Nakazato.

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

SACV11- 722 JVS (ANx)

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.

Perry J. Viscounty (State Bar No. 132143)
Latham & Watkins LLP
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626-1925
Telephone: (714) 540-1235
Facsimile: (714) 755-8290

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ENTREPRENEUR MEDIA, INC., a California
corporation,

PLAINTIFF(S)

v.

AMERICAN CITY BUSINESS JOURNALS, INC.,
a Delaware corporation; **and DOES 1-10,**

DEFENDANT(S).

CASE NUMBER

SACV11-722 JVS(ANx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Perry J. Viscounty, whose address is Latham & Watkins LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: MAY 11 2011

By: Nancy Castro

Deputy Clerk

(Seal of the Court)

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

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

COPY

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> ENTREPRENEUR MEDIA, INC., a California Corporation, | DEFENDANTS AMERICAN CITY BUSINESS JOURNALS, INC., a Delaware corporation, and DOES 1-10 |
| (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Latham & Watkins LLP 650 Town Center Drive, 20th Floor Costa Mesa, CA 92626-1235 Telephone: (714) 540-1235 | Attorneys (If Known) |

| | | | | | | | | | | | | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|-------------------------------------------------------|--|----------------|--|-------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------|--------------------------|-------------------------------------------------------|---------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------|-------------------------------------------------------|----------------|-------------------------------------------------------|
| II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="border: none;">Citizen of This State</td> <td style="border: none; text-align: center;">PTF DEF</td> <td style="border: none;"></td> <td style="border: none; text-align: center;">PTF DEF</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="border: none;">Incorporated or Principal Place of Business in this State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table> | Citizen of This State | PTF DEF | | PTF DEF | | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |
| Citizen of This State | PTF DEF | | PTF DEF | | | | | | | | | | | | | | |
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| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | | | | | | | | | | | | | |

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

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

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

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Lanham Act, 15 U.S.C. 1114, 1125(a); Trademark infringement, false designation of origin, unfair competition, declaratory judgment

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

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| OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes | CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 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 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 checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <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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**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 |
| Orange County | |

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

| | |
|---------------------------|-------------------------------------------------------------------------------------------------|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | State of North Carolina |

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

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

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date May 11, 2011

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)) |