



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Feb-20-2013 1:30 pm

Case Number: CGC-13-528871

Filing Date: Feb-20-2013 1:21

Filed by: ROSSALY DELAVEGA

Juke Box: 001 Image: 03949592

**COMPLAINT**

**WINELAND -THOMPSON ADVENTURES, INC. DBA THOMSON VS. DOES 1  
THROUGH 10, INCLUSIVE**

001C03949592

**Instructions:**

Please place this sheet on top of the document to be scanned.

**SUMMONS  
(CITACION JUDICIAL)**

**SUM-100**

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

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

DOES 1 through 10, inclusive

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

WINELAND-THOMSON ADVENTURES, INC. d/b/a THOMSON SAFARIS, a Massachusetts corporation

**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](http://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](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://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](http://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](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://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 ó 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):

San Francisco Superior Court  
400 McAllister Street  
San Francisco, CA 94102

CASE NUMBER:  
(Número del Caso):

CGC-13-529871

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):  
Laurie E. Sherwood, Esq. SBN: 155312 415-781-7072 415-391-6258  
Walsworth, Franklin, Bevins & McCall LLP  
601 Montgomery Street, 9th Floor  
San Francisco, CA 94111

DATE: FEB 20 2013 CLERK OF THE COURT

Clerk, by Deputy  
(Secretario)

ROSSALY DELAVEGA NAVARRO

(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):



1 RODNEY E. GOULD, State Bar No. 238877  
rgould@rhglaw.com  
2 RUBIN, HAY & GOULD, P.C.  
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9 Facsimile: (415) 391-6258

10 Attorneys for Plaintiff  
WINELAND-THOMSON ADVENTURES, INC.  
11 d/b/a THOMSON SAFARIS

**FILED**  
Superior Court of California  
County of San Francisco

FEB 20 2013

CLERK OF THE COURT  
BY: *Shirley L. DeLoe*  
Deputy Clerk

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF SAN FRANCISCO**

14 **CGC - 13 - 528871**

15 WINELAND-THOMSON ADVENTURES, INC. )  
16 d/b/a THOMSON SAFARIS, a Massachusetts )  
corporation, )

17 Plaintiff, )

18 vs. )

19 DOES 1 through 10, inclusive, )

20 Defendants. )  
21 )  
22 )

Case No. \_\_\_\_\_

**COMPLAINT FOR DEFAMATION AND  
TORTIOUS INTERFERENCE WITH  
PROSPECTIVE ECONOMIC  
ADVANTAGE**

22 Plaintiff, WINELAND-THOMSON ADVENTURES, INC. d/b/a THOMSON SAFARIS,  
23 for its Complaint against Defendants DOES 1 through 10, inclusive, alleges the following on  
24 information and belief:

25 **THE PARTIES**

26 1. WINELAND-THOMSON ADVENTURES, INC. d/b/a THOMSON SAFARIS  
27 (“THOMSON SAFARIS”) is now, and at all times herein mentioned was, a corporation licensed  
28 by the Commonwealth of Massachusetts with its principal place of business in Watertown,

1 Massachusetts.

2 2. DOES 1 through 10, inclusive, are persons or entities of unknown identity and  
3 capacity and are sued hereunder by their fictitious names. Plaintiff will file an amendment  
4 identifying the true names and capacities of each of the DOES 1 through 10 as Plaintiff discovers  
5 the true names and capacities of such unidentified defendants. Plaintiff is informed and believes  
6 and thereon alleges that DOES 1 through 10, inclusive, are responsible for the harm suffered by  
7 Plaintiff as described herein, and that the acts and conduct alleged herein of each defendant was  
8 known to, and authorized and ratified by each and every other remaining defendant.

9 **JURISDICTION AND VENUE**

10 3. Jurisdiction and venue are proper in this Court in that Plaintiff has suffered injury in  
11 California as a result of Defendants' tortious act of publishing defamatory statements about  
12 Plaintiff on the Internet, which was published to millions of people in the United States including  
13 persons in the State of California. Defendants published such defamatory statements via  
14 Weebly.com. Upon information and belief, Weebly.com is owned by Weebly, Inc. ("WEEBLY")  
15 which is now, and at all times herein, a corporation licensed by the State of California with a  
16 principal place of business in San Francisco, California.

17 **FACTUAL BACKGROUND**

18 4. THOMSON SAFARIS is a tour operator that arranges and conducts safaris and  
19 travel tours in Africa, and in particular Tanzania.

20 5. WEEBLY is a website building and hosting service.

21 6. WEEBLY hosts a website ("Website") wherein DOES 1 through 10, inclusive,  
22 identify themselves as a group called "Stop Thomson Safaris."

23 7. The Website provides no information as to the real identity of DOES 1 through 10,  
24 but merely states they are "a group of people who have seen first hand the effect of Thomson's  
25 occupation on the residents of Loliondo and decided to raise awareness about the situation."

26 8. DOES 1 through 10, via the Website, wrongfully accuse THOMSON SAFARIS  
27 and/or its principals, inter alia, of:

- 28
- Engaging in the beating of children and adults

- 1                   ▪ Illegally confiscating property
- 2                   ▪ Refusing to allow local inhabitants access to water sources
- 3                   ▪ Confining and starving members of the local Tanzanian community
- 4                   ▪ Burning homes
- 5                   ▪ Bribing police and other government officials
- 6           9.       Defendants' statements are false.
- 7           10.       Defendants' statements are libelous on their face.
- 8           11.       Defendants' statements caused damage to THOMSON SAFARIS.
- 9           12.       THOMSON SAFARIS is informed and believes that DOES 1 through 10, via the
- 10 Website, have continued to publish similar statements up to the date of filing of this Complaint.
- 11           13.       DOES 1 through 10, via the Website, also encourage visitors to avoid traveling with
- 12 THOMSON SAFARIS and, instead, to travel with certain "responsible" tour companies.
- 13 Information concerning these "responsible" tour companies is available via a link on the Website.
- 14           14.       THOMSON SAFARIS is informed and believes that DOES 1 thorough 10,
- 15 inclusive, engaged in such conduct in an effort to discredit THOMSON SAFRIS, and to intimidate
- 16 its current and potential clients such that they would decline to travel with THOMSON SAFARIS.
- 17 THOMSON SAFARIS is informed and believes that DOES 1 through 10, inclusive, have willfully,
- 18 maliciously and deliberately attempted to deprive THOMSON SAFARIS of the ability to compete
- 19 in the tour industry.
- 20           15.       By falsely stating THOMSON SAFARIS has engaged in criminal and/or unethical
- 21 conduct, DOES 1 through 10, inclusive, have deliberately, willfully and maliciously defamed
- 22 THOMSON SAFARIS and interfered with THOMSON SAFARIS' prospective economic
- 23 advantage.
- 24           16.       THOMSON SAFARIS is informed and believes that DOES 1 through 10, inclusive,
- 25 have engaged in the conduct alleged herein to smear THOMSON SAFARIS' reputation and stifle
- 26 competition.
- 27           17.       The conduct of DOES 1 through 10 was and is willful, malicious, despicable,
- 28 engaged in with the intent to injure THOMSON SAFARIS and its employees, and in conscious

1 disregard for THOMSON SAFARIS and its employees' rights.

2 **COUNT I**

3 **(Defamation)**

4 18. THOMSON SAFARIS restates and re-alleges paragraphs 1 through 17, the same as  
5 if fully set forth herein.

6 19. The statements of DOES 1 through 10 that THOMSON SAFARIS engaged in  
7 criminal and/or unethical conduct are false, unprivileged and defamatory.

8 20. DOES 1 through 10 published these false, unprivileged and defamatory statements  
9 on the Internet via Weebly.com to millions of people in the United States and the world.

10 21. At the time DOES 1 through 10 wrote the false, unprivileged and defamatory  
11 statements, DOES 1 through 10 knew the statements to be false, unprivileged, and defamatory.

12 22. The writings referred to THOMSON SAFARIS by name throughout, were made of  
13 and concerning THOMSON SAFARIS, and were reasonably understood by those who read the  
14 writings as referring to THOMSON SAFARIS.

15 23. DOES 1 through 10 wrote the defamatory statements with the purpose of harming  
16 THOMSON SAFARIS.

17 24. In an effort to deprive THOMSON SAFARIS of business transactions with current  
18 and potential customers, DOES 1 through 10 made the representations, statements and comments  
19 alleged herein.

20 25. As a direct result of the conduct of DOES 1 through 10, inclusive, as alleged herein,  
21 THOMSON SAFARIS has been damaged in an amount to be proven at trial.

22 26. As a result of the publication of false, unprivileged, and defamatory statements by  
23 DOES 1 through 10, THOMSON SAFARIS' reputation and business has suffered and will  
24 continue to suffer irreparable harm unless the conduct of DOES 1 through 10 is enjoined by the  
25 Court. DOES 1 through 10 have committed these acts fraudulently and maliciously, knowing their  
26 accusations are false, and with the intent to injure THOMSON SAFARIS, in violation of Civil  
27 Code Section 3294, thereby entitling THOMSON SAFARIS to an award of exemplary damages to  
28 punish DOES 1 through 10.

**COUNT II**

**(Tortious Interference with Prospective Economic Advantage)**

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27. Plaintiff restates and re-alleges paragraphs 1 through 26, the same as if fully set forth herein.

28. Prior to the tortious conduct of DOES 1 through 10, THOMSON SAFARIS enjoyed a good relationship and reputation with its business associates, customers, and with business and community leaders in the areas in which THOMSON SAFARIS is conducting business and cultivating prospective business.

29. These relationships embody and represent a substantial likelihood of probable future economic benefit to THOMSON SAFARIS.

30. DOES 1 through 10 possessed specific knowledge of such relationships.

31. Through disparaging accusations to third parties, DOES 1 through 10 have attempted to and have tortiously interfered with THOMSON SAFARIS' prospective relationships with its present and prospective business associates and customers.

32. Upon information and belief, through their conduct DOES 1 through 10 have induced or otherwise caused third parties to question or doubt THOMSON SAFARIS' ability to arrange and conduct safaris and travel tours and/or otherwise damaged THOMSON SAFARIS' reputation with third parties.

33. The actions of DOES 1 through 10 are intentional, improper and without justification.

34. DOES 1 through 10 are acting with the express purpose of harming THOMSON SAFARIS.

35. As a direct result of the conduct of DOES 1 through 10, inclusive, as alleged herein, THOMSON SAFARIS has been damaged in an amount to be proven at trial.

36. As a result of the publication of false, unprivileged, and defamatory statements by DOES 1 through 10, THOMSON SAFARIS' reputation and business has suffered and will continue to suffer irreparable harm unless the conduct of DOES 1 through 10 is enjoined by the Court. DOES 1 through 10 have committed these acts fraudulently and maliciously, knowing their

1 accusations are false, and with the intent to injure THOMSON SAFARIS, in violation of Civ. Code  
2 Section 3294, thereby entitling THOMSON SAFARIS to an award of exemplary damages to  
3 punish DOES 1 through 10.

4 **COUNT III**

5 **(Injunctive Relief)**

6 37. THOMSON SAFARIS restates and re-alleges paragraphs 1 through 36, the same as  
7 if fully set forth herein.

8 38. THOMSON SAFARIS seeks injunctive relief, including the issuance of a  
9 preliminary injunction and permanent injunction prohibiting DOES 1 through 10 from:

- 10 a. Publishing material on the Internet, via Weebly.com or any other web-hosting  
11 service, that in any way alleges THOMSON SAFARIS and/or its principals  
12 engage(d) in criminal and/or unethical conduct including, but not limited to, beating  
13 children and adults, illegally confiscating property, refusing to allow local  
14 inhabitants access to water sources, confining and starving members of the local  
15 Tanzanian community, burning homes and bribing police and other government  
16 officials.
- 17 b. Interfering with THOMSON SAFARIS' present and prospective business  
18 relationships.

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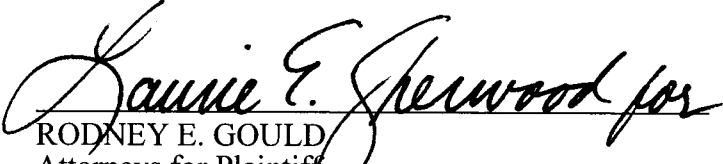
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. An award of general, specific and exemplary damages on Counts I and II according to proof at the time of trial.
2. On Count III, that Defendants and anyone acting in concert with them be enjoined preliminarily and permanently from interfering with THOMSON SAFARIS' prospective business relationship as more fully described in the Third Count.
3. For such other and further relief as the Court deems just and equitable.

Dated: February 20, 2013

RUBIN, HAY & GOULD, P.C.

By:   
RODNEY E. GOULD  
Attorneys for Plaintiff  
WINELAND-THOMSON ADVENTURES, INC.  
d/b/a THOMSON SAFARIS

Dated: February 20, 2013

WALSWORTH, FRANKLIN, BEVINS & McCALL, LLP

By:   
LAURIE E. SHERWOOD  
Attorneys for Plaintiff  
WINELAND-THOMSON ADVENTURES, INC.  
d/b/a THOMSON SAFARIS


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**DEMAND FOR JURY TRIAL**

Plaintiff, WINELAND-THOMSON ADVENTURES, INC. d/b/a THOMSON SAFARIS,  
demands a jury trial on all claims and issues appropriate for determination by a jury.

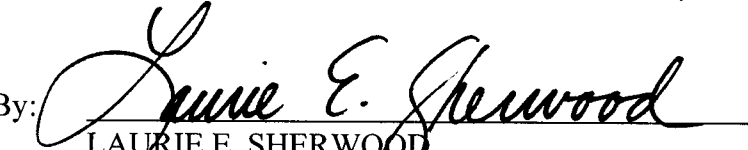
Dated: February 20, 2013

RUBIN, HAY & GOULD, P.C.

By:   
RODNEY E. GOULD  
Attorneys for Plaintiff  
WINELAND-THOMSON ADVENTURES, INC.  
d/b/a THOMSON SAFARIS

Dated: February 20, 2013

WALSWORTH, FRANKLIN, BEVINS & McCALL, LLP

By:   
LAURIE E. SHERWOOD  
Attorneys for Plaintiff  
WINELAND-THOMSON ADVENTURES, INC.  
d/b/a THOMSON SAFARIS

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Laurie E. Sherwood, SBN: 155312</b> Walsworth, Franklin, Bevins & McCall LLP 601 Montgomery Street, 9th Floor San Francisco, CA 94111  TELEPHONE NO.: (415) 781-7072 FAX NO.: (415) 391-6258 ATTORNEY FOR (Name): <u>Wineland-Thomson Adventures, Inc. dba Thomson Safaris</u>		FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> Superior Court of California County of San Francisco <div style="font-size: 1.5em; font-weight: bold;">FEB 20 2013</div> CLERK OF THE COURT BY: <u>[Signature]</u> Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		
CASE NAME: <u>Wineland-Thomson Adventures, Inc. v. DOES 1 through 10, inclusive</u>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">CGC-13-528871</div> JUDGE: DEPT:

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:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input checked="" 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-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <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 type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <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) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <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. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> 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):
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:

Laurie E. Sherwood, SBN: 155312  
 (TYPE OR PRINT NAME)

[Signature]  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**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.