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**FILED**  
ALAMEDA COUNTY

JUL 12 2018

CLERK OF THE SUPERIOR COURT  
By  Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA

17 PEOPLE OF THE STATE OF CALIFORNIA,  
 18 Plaintiff,  
 19 v.  
 20 MEAD JOHNSON NUTRITION COMPANY,  
 a Delaware corporation; MEAD JOHNSON &  
 21 COMPANY, LLC, a Delaware limited liability  
 company; NURTURE, INC. (dba HAPPY  
 22 FAMILY), a Delaware corporation; PERRIGO  
 COMPANY, a Delaware corporation; PBM  
 23 PRODUCTS, LLC, a Delaware limited  
 liability company; PBM NUTRITIONALS,  
 24 LLC (dba Perrigo Nutritionals), a Delaware  
 limited liability company; TARGET  
 25 CORPORATION, a Minnesota corporation;  
 TARGET BRANDS, INC., a Minnesota  
 26 corporation; WALMART, INC. (fka WAL-  
 MART STORES, INC.), a Delaware  
 27 corporation; and DOES 1-50, inclusive.  
 28 Defendants.

Case No. **RG18912553**  
**COMPLAINT FOR CIVIL PENALTIES,  
 INJUNCTIVE RELIEF AND OTHER  
 EQUITABLE RELIEF**

(Health and Safety Code, §§ 25249.5 et seq.; Business and Professions Code, § 17200 et seq.)

Verified answer required pursuant to C.C.P. § 446

By Fax

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1 Plaintiff, the People of the State of California, by and through Xavier Becerra, Attorney  
2 General of the State of California; Nancy E. O'Malley, District Attorney of Alameda County;  
3 Edward S. Berberian, District Attorney of Marin County; Dean Flippo, District Attorney of  
4 Monterey County; Allison Haley, District Attorney of Napa County; Tony Rackauckas, District  
5 Attorney of Orange County; Jeffrey F. Rosen, District Attorney of Santa Clara County; Jeffrey  
6 Rosell, District Attorney of Santa Cruz County; Stephanie Bridgett, District Attorney of Shasta  
7 County; Krishna Abrams, District Attorney of Solano County; and Jill R. Ravitch, District  
8 Attorney of Sonoma County hereby allege:

### 9 I. INTRODUCTION

10 1. This complaint seeks to remedy the Defendants' failure to warn California consumers  
11 of the exposures to lead in infant and toddler formula products ("Products") that the Defendants  
12 sell, manufacture, and/or distribute for sale in the state of California.

13 2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and  
14 Safety Code section 25249.6, or "Proposition 65," businesses must provide a "clear and  
15 reasonable warning" before exposing individuals to chemicals listed as known to California to  
16 cause cancer or reproductive toxicity.

17 3. Lead is known to the State of California to cause cancer and reproductive toxicity.

18 4. Infants and toddlers who ingest the Products are exposed to lead.

19 5. None of the Defendants is providing clear and reasonable warnings regarding exposure  
20 to lead to infants and toddlers from the Products. This constitutes a violation of Health and  
21 Safety Code, section 25249.6, which also is an unfair business practice that violates Business and  
22 Professions Code, section 17200.

### 23 II. PARTIES

24 6. Plaintiff is the People of the State of California, by and through the Attorney General  
25 of California, Xavier Becerra, and Nancy E. O'Malley, District Attorney of Alameda County;  
26 Edward S. Berberian, District Attorney of Marin County; Dean Flippo, District Attorney of  
27 Monterey County; Allison Haley, District Attorney of Napa County; Tony Rackauckas, District  
28 Attorney of Orange County; Jeffrey F. Rosen, District Attorney of Santa Clara County; Jeffrey

1 Rosell, District Attorney of Santa Cruz County; Stephanie Bridgett, District Attorney of Shasta  
2 County; Krishna Abrams, District Attorney of Solano County; and Jill R. Ravitch, District  
3 Attorney of Sonoma County (collectively referred to as “Plaintiff” or the “People”).

4 7. The Attorney General and District Attorneys may bring actions to enforce Proposition  
5 65 (Health & Saf. Code, § 25249.7, subd. (c)); and to prohibit unfair and unlawful business  
6 practices (Bus. & Prof. Code, §§ 17200, 17204, and 17206). The People bring this action under  
7 the authority granted to them by Proposition 65 and the Unfair Competition Law.

8 8. Defendant MEAD JOHNSON NUTRITION COMPANY is a corporation organized  
9 and existing under the laws of the State of Delaware, with its principal place of business in  
10 Chicago, Illinois. MEAD JOHNSON NUTRITION COMPANY is a “person in the course of  
11 doing business” within the meaning of Health and Safety Code, section 25249.11. MEAD  
12 JOHNSON NUTRITION COMPANY is also “a person” within the meaning of Business and  
13 Professions Code, section 17201.

14 9. Defendant MEAD JOHNSON & COMPANY, LLC is a limited liability company  
15 organized and existing under the laws of the State of Delaware, with its principal place of  
16 business in Evansville, Indiana. MEAD JOHNSON & COMPANY, LLC is a “person in the  
17 course of doing business” within the meaning of Health and Safety Code, section 25249.11.  
18 MEAD JOHNSON & COMPANY, LLC is also “a person” within the meaning of Business and  
19 Professions Code, section 17201.

20 10. For the purposes of this complaint, MEAD JOHNSON NUTRITION COMPANY and  
21 MEAD JOHNSON & COMPANY, LLC are individually and collectively referred to as “MEAD  
22 JOHNSON.”

23 11. Defendant NURTURE, INC. (dba Happy Family) is a corporation organized and  
24 existing under the laws of the State of Delaware, with its principal place of business in New York,  
25 New York. NURTURE, INC. is a “person in the course of doing business” within the meaning of  
26 Health and Safety Code, section 25249.11. NURTURE, INC. is also “a person” within the  
27 meaning of Business and Professions Code, section 17201.

28

1           12. Defendant PERRIGO COMPANY is a corporation organized and existing under the  
2 laws of Delaware, with its principal place of business in Allegan, Michigan. PERRIGO  
3 COMPANY is a “person in the course of doing business” within the meaning of Health and  
4 Safety Code, section 25249.11. PERRIGO COMPANY is also “a person” within the meaning of  
5 Business and Professions Code, section 17201.

6           13. Defendant PBM PRODUCTS, LLC is a limited liability company organized and  
7 existing under the laws of the State of Delaware with its principal place of business in  
8 Gordonsville, Virginia. PBM PRODUCTS, LLC is a “person in the course of doing business”  
9 within the meaning of Health and Safety Code, section 25249.11. PBM PRODUCTS, LLC is  
10 also “a person” within the meaning of Business and Professions Code, section 17201.

11           14. Defendant PBM NUTRITIONALS, LLC (dba Perrigo Nutritionals) is a limited  
12 liability company organized and existing under the laws of the State of Delaware with its  
13 principal place of business in Georgia, Vermont. PBM NUTRITIONALS, LLC is a “person in  
14 the course of doing business” within the meaning of Health and Safety Code, section 25249.11.  
15 PBM NUTRIONALS, LLC is also “a person” within the meaning of Business and Professions  
16 Code, section 17201.

17           15. For the purposes of this complaint, PERRIGO COMPANY, PBM PRODUCTS, LLC,  
18 and PBM NUTRITIONALS, LCC are individually and collectively referred to as “PERRIGO.”

19           16. Defendant TARGET CORPORATION is a corporation organized and existing under  
20 the laws of the State of Minnesota, with its principal place of business in Minneapolis, Minnesota.  
21 TARGET CORPORATION is a “person in the course of doing business” within the meaning of  
22 Health and Safety Code, section 25249.11. TARGET CORPORATION is also “a person” within  
23 the meaning of Business and Professions Code, sections 17201.

24           17. Defendant TARGET BRANDS, INC. is a corporation organized and existing under  
25 the laws of the State of Minnesota, with its principal place of business in Minneapolis, Minnesota.  
26 TARGET BRANDS, INC is a “person in the course of doing business” within the meaning of  
27 Health and Safety Code, section 25249.11. TARGET BRANDS, INC. is also “a person” within  
28 the meaning of Business and Professions Code, sections 17201.

1 18. For the purposes of this complaint, TARGET CORPORATION AND TARGET  
2 BRANDS, INC are individually and collectively referred to as "TARGET."

3 19. Defendant WALMART, INC. (fka Wal-Mart Stores, Inc.)("WALMART") is a  
4 corporation organized and existing under the laws of the State of Delaware, with its principal  
5 place of business in Bentonville, Arkansas. WALMART is a "person in the course of doing  
6 business" within the meaning of Health and Safety Code, section 25249.11. WALMART is also  
7 "a person" within the meaning of Business and Professions Code, section 17201.

8 20. Defendant DOES 1-50, their agents, employees, officers, and others acting on their  
9 behalf, as well as subsidiaries, affiliates, and other entities controlled by DOES 1 through 50  
10 (hereafter collectively referred to as "DOES 1 through 50") are business entities or persons  
11 engaged in the import, manufacture, sale, and/or distribution of infant and/or toddler formulas  
12 that contain lead. Infants and toddlers who consume these products are exposed to lead through  
13 ingestion. None of the DOES is providing clear and reasonable warnings concerning exposures  
14 to lead to infants and toddlers from the infant and toddler formulas; thus, DOES 1 through 50  
15 participated in some or all of the acts alleged herein. The names and identities of defendants  
16 DOES 1 through 50 are unknown to the People, and when they are known this complaint will be  
17 amended to state their names and identities.

### 18 III. JURISDICTION AND VENUE

19 21. This Court has jurisdiction over this matter pursuant to California Constitution,  
20 Article VI, section 10, because this case is a cause not given by statute to other trial courts.

21 22. This Court has jurisdiction over each Defendant named above, because each is a  
22 business entity that does sufficient business and/or has sufficient minimum contacts in California,  
23 or otherwise intentionally avails itself of the California market through the manufacture,  
24 distribution, sale, and/or marketing of products and services in California, to render the exercise  
25 of jurisdiction over it by the California courts consistent with traditional notions of fair play and  
26 substantial justice.

27 23. Venue is proper in this Court because the causes of action, or parts thereof, arise in  
28 Alameda County because Defendants' Products are sold and consumed in this county.

1 IV. STATUTORY BACKGROUND

2 A. Proposition 65

3 24. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute  
4 passed as "Proposition 65" by a vote of the people in November 1986.

5 25. The warning requirement of Proposition 65 is contained in Health and Safety Code,  
6 section 25249.6, which provides:

7 No Person in the course of doing business shall knowingly and intentionally  
8 expose any individual to a chemical known to the state to cause cancer or  
9 reproductive toxicity without first giving clear and reasonable warning to such  
individual, except as provided in Section 25249.10.

10 26. An exposure to a chemical in a consumer product is one "which results from a  
11 person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a  
12 consumer good, or any exposure that results from receiving a consumer service." (Cal. Code  
13 Regs., tit. 27, § 25602, subd. (b).)

14 27. Proposition 65 establishes a procedure by which California is to develop a list of  
15 chemicals "known to the State to cause cancer or reproductive toxicity." (Health & Saf. Code, §  
16 25249.8.)

17 28. Any person "violating or threatening to violate" the statute may be enjoined in any  
18 court of competent jurisdiction. (Health & Saf. Code, § 25249.7.) To "threaten to violate" means  
19 "to create a condition in which there is a substantial probability that a violation will occur." (*Id.*,  
20 § 25249.11, subd. (e).) In addition, violators are liable for civil penalties of up to \$2,500 per day  
21 for each violation, recoverable in a civil action. (*Id.*, § 25249.7, subd. (b).)

22 29. Actions to enforce the law "may be brought by the Attorney General in the name of  
23 the People of the State of California, [or] by a district attorney . . ." (*Id.*, § 25249.7, subd. (c).)

24 30. The Attorney General and the District Attorneys may "seek and recover costs and  
25 attorney's fees on behalf of any party who provides a notice pursuant to subdivision (d) and who  
26 renders assistance in that action." (*Id.*, § 25249.7, subd. (j).)

27 ///

1               **b. The Unfair Competition Law**

2               31. California Business and Professions Code, section 17200 provides that “unfair  
3 competition shall mean and include unlawful, unfair, or fraudulent business practice.” Section  
4 17203 of the Business and Professions Code provides that “[a]ny person performing or proposing  
5 to perform an act of unfair competition within this state may be enjoined in any court of  
6 competent jurisdiction.”

7               32. Section 17206(a) provides that any person violating Section 17200 “shall be liable for  
8 a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which  
9 shall be assessed and recovered in a civil action brought in the name of the people of the State of  
10 California by the Attorney General or by any district attorney.” Under section 17205, these  
11 penalties are “cumulative to each other and to the remedies or penalties available under all other  
12 laws of this statute.”

13                                       **V. FACTS**

14              33. Lead was placed on the list of chemicals known to the State of California to cause  
15 birth defects or other reproductive harm on February 27, 1987. It is specifically identified under  
16 three subcategories: “developmental reproductive toxicity,” which means harm to the developing  
17 fetus; “female reproductive toxicity,” which means harm to the female reproductive system; and  
18 “male reproductive toxicity,” which means harm to the male reproductive system. (Cal. Code  
19 Regs., tit. 27, § 27001, subd. (c).)

20              34. Lead was placed on the list of chemicals known to the State of California to cause  
21 cancer on October 1, 1992. (*Ibid.*)

22              35. MEAD JOHNSON products that have caused and continue to cause exposures to lead  
23 include, but are not limited to: *Enfamil Enfacare for babies born prematurely*, *Enfamil Infant*  
24 *Formula Milk Based Powder with Iron*, *Enfamil Infant Gentlease*, *Enfagrow Premium Toddler*  
25 *Next Step*, *Enfamil Infant FORMULA – A.R. for spit up*, *Enfamil Reguline*, *Nutramigen with*  
26 *Enflora LGG Hypoallergenic Formula with Iron*, *Enfamil Infant Soy ProSobee*, *Enfamil Soy*  
27 *Infant Formula (Concentrated Liquid)*, *Enfagrow Premium Toddler Transitions*, *Nutramigen*  
28



1 *DHA + ARA Hypoallergenic Infant Formula with Iron (liquid), and Enfagrow Toddler Transitions*  
2 *Gentlease 9-18 Months.*

3 36. NURTURE, INC. products that have caused and continue to cause exposures to lead  
4 include, but are not limited to: *HappyTot Organic Milk Drink and HappyTot Grow & Shine*  
5 *Toddler Formula.*

6 37. PERRIGO products that have caused and continue to cause exposures to lead include,  
7 but are not limited to: *“First Stage” formula including, but not limited to, NPS J79; and “Second*  
8 *Stage” formula including, but not limited to, NPS R49.*

9 38. TARGET Products that have caused and continue to cause exposures to lead include,  
10 but are not limited to: *Up & Up Toddler Beginnings.*

11 39. WALMART products that have caused and continue to cause exposures to lead  
12 include, but are not limited to: *Parent’s Choice Toddler Beginnings.*

13 40. At all times material to this complaint, Defendants, and each of them, knew their  
14 respective Products contained lead.

15 41. Notwithstanding this knowledge, all Defendants—at all times material to this  
16 complaint—advertised, manufactured, marketed, distributed, and/or sold the Products in  
17 California, causing consumers to be exposed to lead. Defendants continue to advertise,  
18 manufacture, market, distribute, and/or sell the Products in California.

19 42. These exposures are knowing and intentional because they are the result of  
20 Defendants’ deliberate act of advertising, manufacturing, marketing, distributing, and/or selling  
21 the Products known to contain lead to consumers, with the knowledge that the intended use of  
22 these Products would result in exposures to lead.

23 43. At all times material to this complaint, Defendants failed to provide clear and  
24 reasonable warning that the use of the Products results in exposure to lead, a chemical known to  
25 the State of California to cause birth defects and other reproductive harm, and no such warning  
26 was provided by any other person to the individuals who suffered such exposures.

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**VI. FIRST CAUSE OF ACTION**

(Against All Defendants for Violation of Proposition 65)

44. The People re-allege paragraphs 1 through 43, as if fully set forth herein.

45. By committing the acts alleged above, Defendants, and each of them, in the course of doing business, knowingly and intentionally exposed individuals to lead, a chemical known to the state of California to cause cancer and reproductive toxicity, without first giving clear and reasonable warning to such individuals, within the meaning of Health and Safety Code section 25249.6.

46. By committing the acts alleged above, Defendants are liable to the People for civil penalties of up to \$2500 per day per violation.

**VII. SECOND CAUSE OF ACTION**

(Against all Defendants for Unlawful Business Practices in Violation of Business and Professions Code section 17200 et seq.)

47. The People re-allege Paragraphs 1 through 46, as if fully set forth herein.

48. Defendants have violated and continue to violate Business and Professions Code section 17200 by knowingly and intentionally exposing individuals in California to lead without providing a clear and reasonable warning, in violation of Proposition 65, Health and Safety Code section 25249.6 et seq.

49. By committing the acts alleged above, Defendants are liable to the People for civil penalties of up to \$2,500 for each violation.

**PRAYER FOR RELIEF**

**WHEREFORE**, the People respectfully request that the Court:

1. Order civil penalties against each Defendant according to proof, pursuant to all causes of action;
2. Pursuant to Health and Safety Code section 25249.7, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting defendants from exposing persons within the State of California to lead caused by the ingestion of their Products, without providing clear and reasonable warnings, as the People shall specify in further application to the Court;

1           3. Pursuant to Business and Professions Code section 17203, enter such temporary  
2 restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting  
3 Defendants, their agents, employees, and all other persons or entities, corporate or otherwise, in  
4 active concert or participation with any of them, from exposing persons within the State of  
5 California to lead caused by the ingestion of their Products, without providing clear and  
6 reasonable warnings, as required by law.

7           4. Award the People costs of suit, including costs of investigation;

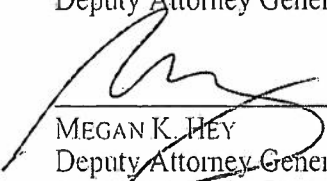
8           5. Award attorneys' fees and costs at the discretion of the Attorney General, pursuant to  
9 Health and Safety Code section 25249.7(j); and

10          6. Grant such other and further relief as the Court deems just and proper.

11  
12  
13 Dated: July 12, 2018

Respectfully Submitted,

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CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): MEGAN K. HEY, Deputy Attorney General (State Bar No. 232345) Office of the Attorney General 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013 TELEPHONE NO.: (213) 269-6344 FAX NO.: (213) 897-2802 ATTORNEY FOR (Name): Plaintiff, People of the State of California		FOR COURT USE ONLY  <b>FILED</b> <b>ALAMEDA COUNTY</b>  JUL 12 2018  CLERK OF THE SUPERIOR COURT By  Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street, Room 109 MAILING ADDRESS: SAME CITY AND ZIP CODE: Oakland, California 94612 BRANCH NAME: Rene C. Davidson Courthouse		
CASE NAME: People of the State of California v. Mead Johnson Nutrition Co., et al.		CASE NUMBER: <b>RG 189125531</b>
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	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 checked="" 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-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 checked="" 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 checked="" 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 checked="" 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): Two

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: July 12, 2018  
 MEGAN K. HEY, Deputy Attorney General  
 (TYPE OR PRINT NAME)

  
 (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.

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By Fax