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[EXEMPT FROM FILING FEES  
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**FILED**  
**ALAMEDA COUNTY**

JAN 24 2014

CLERK OF THE SUPERIOR COURT  
 By [Signature] Deputy

8 *Attorneys for Plaintiff*  
 THE PEOPLE OF THE STATE OF CALIFORNIA

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

ORIGINAL

14 THE PEOPLE OF THE STATE OF  
 CALIFORNIA,  
 15  
 16 Plaintiff,  
 17 vs.  
 18 KAISER FOUNDATION HEALTH PLAN,  
 INC.,  
 19 Defendant.

Case No. **RG 14711370**  
 COMPLAINT FOR INJUNCTION, CIVIL  
 PENALTIES AND OTHER EQUITABLE  
 RELIEF FOR VIOLATIONS OF BUSINESS  
 AND PROFESSIONS CODE SECTION  
 17200 (UNFAIR COMPETITION LAW)

22 Plaintiff, the People of the State of California, by and through Kamala D. Harris, Attorney  
 23 General of the State of California, alleges the following on information and belief:

24 **DEFENDANT AND VENUE**

- 25 1. Defendant Kaiser Foundation Health Plan, Inc. ("Kaiser") is a California corporation  
 26 with its principal place of business at 1 Kaiser Plaza, Oakland, California 94612.  
 27 2. Kaiser is engaged in the business of providing managed healthcare and related  
 28 services to the public. Kaiser offers Health Maintenance Organization (HMO) health plans for

1 individuals, employer groups, and public entities, as well as a Preferred Provider Organization  
2 (PPO) plans to California residents. It also sells Medicare supplemental and Medicare Advantage  
3 health plans to seniors.

4 3. Kaiser at all times mentioned herein has transacted business in the County of  
5 Alameda and elsewhere within the State of California. The violations of law described herein  
6 occurred in the County of Alameda and elsewhere in the State of California.

7 **DEFENDANTS' BUSINESS ACTS AND PRACTICES**

8 4. On or about September 24, 2011, Kaiser learned that an external hard drive  
9 containing unencrypted personal information of former and current Kaiser employees had been  
10 purchased by a member of the public at a thrift store in Santa Cruz, California. Included in the  
11 data on the external hard drive were Kaiser employee names, Social Security numbers, dates of  
12 birth, and addresses, in addition to unencrypted personal information of some employees' spouses  
13 and children. After technical analysis, the vintage of the data was estimated to be from 2009.

14 5. Kaiser secured custody of the external hard drive on or about December 21, 2011, and  
15 conducted an initial forensic examination, which was completed on or about December 28, 2011.  
16 The initial forensic examination revealed that over 30,000 Social Security numbers were loaded  
17 onto the drive, in addition to other employee-related sensitive information. Kaiser continued to  
18 inventory the remaining contents of the drive through approximately mid-February 2012, and had  
19 sufficient information to identify and notify at least some individuals affected by the breach  
20 between December 2011 and February 2012. Beginning on or about March 19, 2012, Kaiser  
21 mailed letters notifying 20,539 California residents that their personal information, including  
22 Social Security numbers, was found on the unencrypted external hard drive.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

25 **(UNFAIR COMPETITION)**

26 6. Plaintiff realleges Paragraphs 1 through 5 and incorporates these Paragraphs by  
27 reference as though they were fully set forth in this cause of action.

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1           7. Kaiser has engaged in unfair competition as defined by California Business and  
2 Professions Code section 17200.

3           8. Kaiser's acts and practices of unfair competition include the following:

4                   (a) Kaiser violated California Civil Code section 1798.82, subdivision (a) by  
5 failing to disclose a breach of the security of its system and issue a security breach notification to  
6 those individuals affected in the most expedient time possible and without unreasonable delay, in  
7 that Kaiser could have notified individuals it had identified as affected by the breach as early as  
8 December 2011, but did not commence notice until on or about March 19, 2012.

9                   (b) Kaiser violated California Civil Code section 1798.85, subdivision (a)(1)  
10 by publicly posting and/or displaying the Social Security numbers of 20,539 Californians on an  
11 unencrypted hard drive made available to the general public via sale at a thrift store.

12   PRAYER FOR RELIEF

13           WHEREFORE, Plaintiff prays for judgment as follows:

14           1. That under California Business and Professions Code section 17203, Kaiser, its  
15 successors, agents, employees, and all persons who act in concert with Kaiser be permanently  
16 enjoined from committing any acts of unfair competition, including the violations alleged in the  
17 First Cause of Action.

18           2. That under California Business and Professions Code section 17206, Kaiser be  
19 ordered to pay Two Thousand Five Hundred Dollars (\$2,500) for each violation of California  
20 Business and Professions Code section 17200 by Kaiser, as proved at trial.

21           3. That Plaintiff recover its costs of suit herein, including costs of investigation.

22           4. For such other and further relief as the Court may deem just and proper.

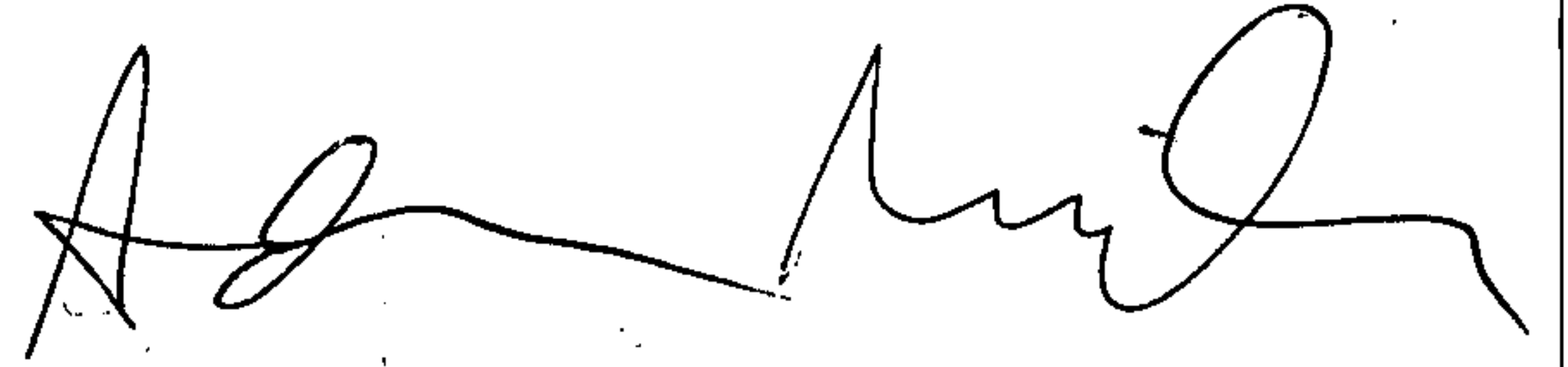
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Dated: January 23, 2014

Respectfully Submitted,

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