1	JEFF W. REISIG	FILED YOLO SUPERIOR COURT
2	District Attorney of Yolo County	MAY 2 4 2017
3	DAVID IREY, SBN 142864 Assistant Chief Deputy District Attorney	O WEISENBERG
	DAVID GREEN, SBN 287176	DEPUTY DEPUTY
4	Deputy District Attorney 301 Second Street	
5	Woodland, CA 95695 Telephone: (530) 666-8180	
6	•	
7	Attorneys for Plaintiff, The People of the State of California	
8	[Plaintiff's Counsel Continued on Attachment A]	
9	[1 iuinig]'s Counsei Commueu on Attachment Af	
10	SUPERIOR COURT OF THE	STATE OF CALIFORNIA
11	COUNTY (	OF YOLO
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14	THE PEOPLE OF THE STATE OF CALIFORNIA,	Case No. W17-815
15	ŕ	COMPLAINT FOR PERMANENT
16	Plaintiff,	INJUNCTION, CIVIL PENALTIES AND OTHER EQUITABLE RELIEF
17	v.	
18	TRACTOR SUPPLY COMPANY, INC., a	(Health & Saf. Code, Div. 20, Chapters 6.5
19	Delaware Corporation; and PETSENSE, INC., a Delaware Corporation,	and 6.95; Bus. & Prof. Code § 17200, et seq.)
20	•	Filing Fees Exempt (Govt. Code § 6103)
21	Defendants.	a mag c see Enempt (cotti. come y oros)
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	Plaintiff, THE PEOPLE OF THE STATE	OF CALIFORNIA ("People"), based on
24	information and belief, alleges as follows:	
25	PLAIN	TIFF
26	1. The People bring this action by and	through Jeff W. Reisig, District Attorney of
27	Yolo County; Todd Riebe, District Attorney of A	mador County; Michael L. Ramsey, District
28	Attorney of Butte County; Vern Pierson, District	Attorney of El Dorado County; Lisa A.
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Complaint for Permanent Injunction, Civil Penalties and Other Equitable Relief

2. Pursuant to Health and Safety Code section 25182, the Prosecutors may bring a civil action in the name of the People of the State of California to enjoin any violation of Chapter 6.5 of Division 20 of the Health and Safety Code (hereinafter "Chapter 6.5") and to seek civil penalties for violations of the provisions of Chapter 6.5.

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3. Pursuant to Health and Safety Code sections 25515.6 and 25515.7, the Prosecutors may bring a civil action in the name of the People of the State of California to enjoin any violation of Health and Safety Code sections 25504 to 25508.2, inclusive, or section 25511 of Chapter 6.95 of Division 20 of the Health and Safety Code (hereinafter "Chapter 6.95").

- 4. Pursuant to Business and Professions Code sections 17203, 17204, and 17206, the Prosecutors may bring a civil action in the name of the State of California to enjoin any person who engages, has engaged, or proposes to engage in unfair competition, as defined in California Business and Professions Code section 17200, and to seek civil penalties for each act of unfair competition.
- 5. Plaintiff brings this action without prejudice to any other action or claim which Plaintiff may have based on separate, independent and unrelated violations arising out of matters or allegations that are not set forth in this Complaint.

### **DEFENDANTS**

- 6. Defendant TRACTOR SUPPLY COMPANY, INC., is now, and at all times mentioned in this Complaint was, a Delaware corporation, with its principal corporate offices located in Brentwood, Tennessee.
- 7. Defendant PETSENSE, INC., is now, and at all times mentioned in this Complaint was, a Delaware corporation, with its principal corporate offices located in Scottsdale, Arizona.
- 8. Tractor Supply Company, Inc., and Petsense, Inc., will hereafter be collectively referred to as "Defendants."
- 9. At all relevant times, Defendants owned, operated, licensed, or leased, in their own capacity and through affiliates, retail stores in Yolo County and at other locations throughout the State of California ("Defendants' Facilities"). The specific list of the locations of Defendants' Facilities is attached as **Exhibit A-1 (Tractor Supply)** and **Exhibit A-2 (Petsense)**.
- 10. The People are informed and believe and based thereon allege that at all relevant times, Defendants stocked, stored, and sold hazardous materials at and from Defendants' Facilities. These hazardous materials include, but are not limited to, pesticides, fertilizers, overthe-counter and pet medications, automotive type fluid products, batteries, ignitable liquids, and other flammable, reactive, toxic and corrosive materials. Defendants also generated regulated quantities of hazardous waste at each of Defendants' Facilities as a result of its business practices.

- 11. At all relevant times hereto, Defendants were and are legally responsible for compliance with the provisions of the Health and Safety Code, including Chapters 6.5 and 6.95 of Division 20, at Defendants' Facilities. The People are informed and believe and based thereon allege that, at all relevant times, Defendants controlled and were responsible for the operations of Defendants' Facilities and/or aided and abetted or acted in concert with persons who exercised control over those operations, including but not limited to, all acts and omissions relating to the management of hazardous materials and hazardous waste at Defendants' Facilities, and/or that Defendants, or their predecessors, failed to take appropriate steps to prevent and/or correct the violations alleged herein despite having power, authority and notice sufficient to do so.
- 12. Defendants are each a "person," as defined in Health and Safety Code section 25118 and Business and Professions Code section 17201, and a "business," as defined in Health and Safety Code section 25501, subdivision (c).
- 13. When reference is made herein to any act or omission of Defendants, such allegation shall include the act or omission of the owners, officers, directors, employees, and representatives of Defendants, and each of them, engaged in said acts or omissions.

## JURISDICTION AND VENUE

- 14. Venue is proper in this County pursuant to Health and Safety Code sections 25183 and 25515.6, and Business and Professions Code section 17200 et seq., in that certain of the violations alleged in the Complaint occurred in the County of Yolo and throughout the State of California. This Court has jurisdiction pursuant to Article 6, section 10 of the California Constitution, section 393 of the Code of Civil Procedure and section 25182 of the Health and Safety Code.
- 15. Plaintiff and Defendants entered into a series of agreements to toll any and all applicable statutes of limitation. As a result of those tolling agreements, the time for commencing an action to enforce any violation which might otherwise have expired on and between July 18, 2016, and the filing of this complaint, inclusive, was tolled, did not lapse, and shall be included as validly within the statutory time for commencing this action.

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16. The State of California has enacted a comprehensive statutory and regulatory framework for the generation, handling, treatment, storage, transportation, and disposal of hazardous wastes. This framework, contained in Chapter 6.5 of Division 20 of the Health and Safety Code, section 25100 et seq., and its implementing regulations, which are found at Title 22 of the California Code of Regulations section 66260.1 et seq., mandates a "cradle to grave" system known as the Hazardous Waste Control Law ("HWCL"). The HWCL system is maintained to record the generation, registration, tracking, storage, treatment, and disposal of hazardous wastes and to provide for the protection of the public and the environment from present or potential risks posed by hazardous wastes. The State of California has enacted a comprehensive statutory and regulatory framework for the notification, handling, training and spill/release reporting of hazardous materials. This framework is contained in Chapter 6.95 of Division 20 of the Health and Safety Code, section 25500 et seq., and its implementing regulations and is known as the Hazardous Materials Release Response Plans and Inventory Law. In order to better inform the public and to assist emergency responders, Chapter 6.95 has, for over twenty (20) years, mandated that basic information on the location, type, quantity, and the health risks of hazardous materials handled, used, stored, or disposed of in the State, which could be accidentally released into the environment, be made available to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies and other interested persons.

### **ENFORCEMENT AUTHORITY**

- 17. Section 25189 of the Health and Safety Code imposes civil liability for any negligent or intentional violation of the HWCL, or for any violation of any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to the HWCL. Section 25189.2 of the Health and Safety Code is an alternative strict liability provision, which creates liability for any violation of the HWCL, or for any violation of any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to the HWCL.
  - 18. Business and Professions Code section 17206 imposes civil liability for any act of

unfair competition, as defined in California Business and Professions Code section 17200.

- 19. Business and Professions Code section 17203 authorizes the Court to issue an order that enjoins any person who engages, has engaged, or proposes to engage in unfair competition, as defined in California Business and Professions Code section 17200.
- 20. Health and Safety Code sections 25181 and 25184 authorize the Court to issue an order that enjoins any ongoing or potential violation of the HWCL, or of any applicable rule, regulation, permit, standard, requirement, or order issued or promulgated pursuant to the HWCL.
- 21. Health and Safety Code sections 25515.6 and 25515.8 authorize the Court to issue an order that enjoins any ongoing or potential violation of Chapter 6.95.
- 22. Health and Safety Code sections 25184 and 25515.8 provide that in civil actions brought pursuant to the HWCL or Chapter 6.95, respectively, in which an injunction or temporary restraining order is sought, it shall not be necessary for the People to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued, or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.

### **GENERAL ALLEGATIONS**

- 23. The facts constituting grounds for commencing this action were discovered within five (5) years of the tolled statute of limitations period, as set out in paragraph 15, or within five (5) years of the filing of this complaint, and continued thereafter and shall henceforth be referred to as "all relevant times."
- 24. At all relevant times Defendants owned, operated, licensed, or leased and continues to own, operate, license, or lease, and is responsible for acts and/or omissions committed at Defendants' Facilities throughout California.
- 25. At all relevant times, Defendants handled at Defendants' Facilities hazardous materials, including but not limited to, pesticides, fertilizers, over-the-counter and pet medications, automotive type fluid products, batteries, ignitable liquids, and other flammable,

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reactive, toxic and corrosive materials. Many of those hazardous materials are sold to the public in the ordinary course of business.

- 26. At all relevant times, Defendants also generated regulated quantities of hazardous waste at each of Defendants' Facilities as a result of various causes, including but not limited to, damage to containers, spills and releases of hazardous materials, and various hazardous wastes generated from customer returns of hazardous products, which must be handled and disposed of as hazardous waste in compliance with the HWCL.
- 27. At all relevant times, Defendants are and were responsible for the operation of Defendants' Facilities.
- 28. At all relevant times to this Complaint, Defendants are and were aware of and conducted, approved and/or controlled the hazardous-materials, and hazardous-waste management activities at Defendants' Facilities.
- 29. At all relevant times to this Complaint, Defendants' actions and/or omissions, as part of a continuing course of conduct, are or were the legal cause of the violations alleged herein, and Defendants reasonably could have taken action to prevent them.
- 30. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times, Defendants, at each of Defendants' Facilities, generated hazardous waste during every one hundred eighty (180) day period.
- 31. Plaintiff is informed and believes and thereupon alleges that, at all relevant times, Defendants violated provisions of the following statutes, including implementing regulations associated with each of the statutes and any related permit, rule, standard, or requirement issued or promulgated pursuant to these statutes, at Defendants' Facilities within the time period applicable to this action: Chapter 6.5 of the Health and Safety Code, section 25100 et seq., Chapter 6.95 of the Health and Safety Code, section 25500 et seq., Health and Safety Code Sections 117600-118360; and Business and Professions Code section 17200 et seq.

# SPECIFIC ACTS/OMISSIONS IN VIOLATION OF CALIFORNIA ENVIRONMENTAL LAWS

- 32. Plaintiff alleges that Defendants, at all relevant times hereto, caused and/or performed each of the acts and/or omissions in violation of California law in the ownership and/or operation of some or all of the Defendants' Facilities as alleged below:
- a. Disposed, or caused the disposal, of hazardous waste at a point not authorized by law, in violation of Health & Safety Code Sections 25189 and 25189.2, including, without limitation, to any trash, dumpster, compactor, drain, sink, or toilet at any of the Defendants' Facilities, and onto the surface or subsurface of the ground at any unauthorized location, or at a landfill or transfer station not authorized to receive hazardous waste;
- b. Failed to determine if a generated waste, including but not limited to, items returned by customers to Defendants' Facilities, items that became waste as a result of container breakage and damage, and wastes generated at Defendants' Facilities, were hazardous wastes, as required by Title 22 of the California Code of Regulations section 66262.11;
- c. Failed to properly manage, identify the date of accumulation, and label containers of hazardous waste at Defendants' Facilities, in violation of Title 22 of the California Code of Regulations, section 66262.34;
- d. Failed to prepare and maintain copies of hazardous waste manifests for three (3) years, in violation of Title 22 of the California Code of Regulations, section 66262.40; and failed to retain documentation demonstrating the applicability of claimed exemptions. As used in this paragraph "manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the information required by law and that complies with all applicable federal and state regulations, and includes but is not limited to, receipts;
- e. Failed to timely cause to be prepared and filed with the Department of Toxic Substances Control (DTSC) a hazardous waste manifest for all hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, from any of Defendants' Facilities as required by Health & Safety Code Section 25160(b)(3) and California Code of Regulations, Title 22, Section 66262.23 [Use of the

- f. Failed to timely notify the DTSC by filing an exception report concerning the treatment, storage, or disposal facility's failure to return any executed manifest, as required by Health & Safety Code Section 25160(b)(3);
- g. Failed to comply with employee training obligations pertaining to handling of hazardous waste at Defendants' Facilities, in violation of Title 22 of the California Code of Regulations, section 66262.34(d) and 40 C.F.R. § 262.34(d)(5)(iii);
- h. Failed to properly manage, mark, and store universal waste at each of Defendants' Facilities in compliance with the standards for universal waste management found in California Code of Regulations, Title 22, Sections 66273.33 [Universal Waste Management Requirements for Batteries, Lamps, and Mercury-Containing Equipment] through 66273.36; or in the alternative, failed to manage such waste as hazardous waste as required by Chapter 6.5 of the Health and Safety Code and its implementing regulations in the California Code of Regulations, Title 22, including, but not limited to, Section 66262.34;
- i. Failed to keep a record of each shipment of universal waste sent from any of Defendants' Facilities, as required by Title 22 of the California Code of Regulations Section 66273.39, or in the alternative, failed to manage such waste as hazardous waste as required by Chapter 6.5 of the Health and Safety Code and its implementing regulations in the California Code of Regulations, Title 22, including, but not limited to, Section 66262.34;
- j. Failed to treat returned or discarded non-empty aerosol cans at Defendants' Facilities as universal waste or hazardous waste, in violation of California Code of Regulations, Title 22, Chapter 23, section 66273.1 et seq.;
- k. Failed to implement, maintain or submit to the unified program agency (as defined in Health and Safety Code sections 25501 and 25502), a complete hazardous materials business plan for each of the Defendants' Facilities, in violation of Health and Safety Code sections 25505 and 25508, and section 2650 of Title 19 of the California Code of Regulations [Minimum Standards for Business Plans];

- 1. Failed to implement, maintain and comply with, an employee training program meeting the requirements of Health and Safety Code section 25505, subdivision (a)(4), and Title 19 of the California Code of Regulations section 2659, pertaining to hazardous materials, and business and area plans, including but not limited to Hazardous Materials Business Plans;
- m. Failed to properly manage, mark, store and dispose of damaged and expired medications in violation of Health and Safety Code Sections 117600-118360 and the regulations promulgated thereunder;
- n. Failed to contact the transporter and/or the owner or operator of the designated facility that was to receive hazardous waste from Defendants, to determine the status of the hazardous waste, in the event of non-receipt of a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter, as required by Title 22 of the California Code of Regulations, Section 66262.42; and
- o. Transported, or caused to be transported, any hazardous waste to an unauthorized location in California, in violation of Health and Safety Code section 25189.5.
- 33. Plaintiff alleges that Defendants, at all relevant times hereto, caused and/or performed some or all of the acts and/or omissions in violation of California law in the ownership and/or operation of some or all of Defendants' Facilities as alleged in paragraph 32, subdivisions (a) through (o), inclusive.
- 34. Plaintiff alleges that Defendants' noncompliance with the above statutes and regulations threatened public health and safety and the environment. The claims herein stated against Defendants do not include claims for performance of cleanup, corrective action, or response action for any actual past or future releases, spills, or disposals of hazardous waste or hazardous substances that were caused or contributed to by Defendants at or from Defendants' Facilities.

# FIRST CAUSE OF ACTION

(Disposal of Hazardous Waste at a Point Not Authorized) (Health & Safety Code, §§ 25189, 25189.2)

35. Plaintiff realleges paragraphs 1 through 34, inclusive.

- 36. Health and Safety Code sections 25189 and 25189.2 prohibit the disposal, or causing of the disposal, of hazardous waste at a point not authorized under Chapter 6.5. Section 25189, subdivisions (c) and (d), respectively, prohibit the intentional or negligent disposal of hazardous waste at an unauthorized point, and section 25189.2, subdivision (c) prohibits the disposal of hazardous waste at an unauthorized point as a matter of strict liability.
- 37. Defendants disposed and/or caused the disposal of hazardous waste at and from Defendants' Facilities to unauthorized points, in violation of California Health and Safety Code sections 25189 and 25189.2.
- 38. At and within all relevant times herein, disposals of hazardous waste occurred at unauthorized points, and each day the waste was allowed to remain at such unauthorized point without the immediate filing of a report of the deposit with the DTSC, subjects Defendants to a separate and additional civil penalty under Health and Safety Code section 25189, and section 25189.2.
- 39. Based on the above, the People request injunctive relief against Defendants under Health and Safety Code section 25181, and civil penalties under Health and Safety Code section 25189 or 25189.2, as described in the People's prayer for relief.

# SECOND CAUSE OF ACTION

(Unauthorized Transportation of Hazardous Waste) (Health & Safety Code, §§ 25189, 25189.2; Cal. Code Regs., Tit. 22, § 66263.23)

- 40. Plaintiff realleges paragraphs 1 through 39 inclusive.
- 41. Section 25189.5 of the Health and Safety Code prohibits any person from transporting or causing the transportation of hazardous waste to an unauthorized location, when the person knew of should have known that he or she was causing the transportation of any hazardous waste.
- 42. At and within all relevant times Defendants transported, or caused the transportation, of hazardous waste to an unauthorized location, in violation of Health and Safety Code section 25189.5.

Plaintiff realleges paragraphs 1 through 49, inclusive.

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- 51. Chapter 6.95 of Division 20 of the Health and Safety Code requires businesses, among other things, to provide training to employees and retain records, maintain hazardous materials response plans and inventories, and applicable permits.
- 52. Defendants, at and within all relevant times, failed to maintain the required hazardous materials response plans and inventories and applicable permits required for the Defendants' Facilities, and, unless enjoined by order of the court, Defendants may or will continue in the course of conduct as alleged herein.
- 53. Plaintiff alleges that Defendants are liable for civil penalties as set forth in Health and Safety Code sections 25515, subdivisions (a) and (b), for each and every separate violation of Health and Safety Code sections 25504 to 25508.2, inclusive, or section 25511, and any applicable permit, rule, regulation, standard, or requirement issued or promulgated pursuant thereto which occurred within all relevant times.
- 54. Plaintiff alleges that, as a consequence of Defendants' violation of each of these sections, Defendants are liable for a civil penalty for each day in which the violation occurred, pursuant to Health and Safety Code section 25515, subdivision (a).
- 55. Plaintiff alleges that, as a consequence of Defendants' knowing violation of any of these sections, Defendants are liable for a civil penalty for each separate violation for each day in which the violation occurred, pursuant to Health and Safety Code section 25515, subdivision (b).
- 56. Based on the above, the People request injunctive relief against Defendants under Health and Safety Code sections 25515.6 and 25515.8, as described in the People's prayer for relief.

## FIFTH CAUSE OF ACTION

(Violations of Unfair Competition Laws) (Business & Professions Code, § 17200 et seq.)

- 57. Plaintiff realleges paragraphs 1 through 56, inclusive.
- 58. Plaintiff alleges that within four (4) years of the filing of this complaint, exclusive of any applicable tolling periods and those set forth in paragraph 15, Defendants engaged in, and continues to engage in, unlawful acts, omissions, and practices that constitute unlawful and unfair competition within the meaning of Business and Professions Code sections 17200 through 17208,

as alleged in the First through Fourth Causes of Action and paragraph 32, above, and unless enjoined by order of the Court, Defendants may or will continue in the course of conduct as alleged herein.

- 59. Each and every separate act constitutes an unlawful and/or unfair business practice. Each day that Defendants engaged in each separate unlawful act, omission or practice is a separate and distinct violation of Business and Professions Code section 17200.
- 60. Plaintiff alleges that, pursuant to Business and Professions Code section 17206, Defendants are liable for civil penalties for each and every separate act of unfair competition as alleged herein.
- Business and Professions Code section 17203 to prevent Defendants from engaging in the acts or practices alleged in paragraph 32 this Complaint—including those acts that violate Chapter 6.5 and/or 6.95 of Division 20 of the Health and Safety Code and their implementing regulations, and county and local ordinances pertaining to hazardous waste generator permits—which thereby constitute unfair competition within the meaning of Business and Professions Code section 17200.

## PRAYER FOR RELIEF

Based on the above, the People request the following relief as to Defendants:

- 1. A Permanent Injunction requiring Defendants to comply with those provisions of Health and Safety Code, Division 20, Chapter 6.5, and implementing regulations, which Defendants are alleged to have violated;
- 2. A Permanent Injunction requiring Defendants to comply with those provisions of Health and Safety Code, Division 20, Chapter 6.95, and implementing regulations, which Defendants are alleged to have violated;
- 3. A Permanent Injunction, issued pursuant to Business and Professions Code section 17203, prohibiting Defendants from engaging in the unlawful activity alleged in paragraph 32 of this Complaint—including those acts that violate the provisions of Chapters 6.5 and 6.95 of

1	Division 20	of the Health and Safety Code-	-which thereby constitute unfair competition within
2	the meaning	of Business and Professions Co	ode section 17200;
3	4.	Civil penalties against Defen	dants for each violation of Health and Safety Code
4	section 25189	9, or alternatively section 25189	0.2, in an amount according to proof;
5	5.	Civil penalties against Defen	dants pursuant to Health and Safety Code section
6	25515, in an	amount according to proof;	
7	6.	Civil penalties against Defen	adants pursuant to Business and Professions Code
8	section 17206	5 for each act of unfair competit	tion, in an amount according to proof;
9	7.	Plaintiff's costs of inspection	n, investigation, attorney's fees, enforcement,
10	prosecution,	and suit herein; and	
11	8.	Such other and further relief	as the Court deems just and proper.
12	Dated: 4	5/24/17	JEFF W. REISIG, District Attorney
13	Dated		County of Yolo, State of California
14			By:
15			P.P. David J. Irey
16			Assistant Chief Deputy District Attorney Attorneys for Plaintiff
17			The People of the State of California
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1	Attachment A - Additional Counsel for the Plaintiff
2	TODD RIEBE
3	Amador County District Attorney ROBERT E. NICHOLS, SBN 100028
4	Deputy District Attorney 708 Court Street
5	Jackson, CA 95642 Telephone: (209) 223-6444
6	
7	MICHAEL L. RAMSEY Butte County District Attorney
8	ROBERT E. NICHOLS, SBN 100028 Deputy District Attorney
9	Administration Building 25 County Center Drive, Suite 245
10	Oroville, CA 95965-3370 Telephone: (530) 538-7411
11	VERN PIERSON
12	El Dorado County District Attorney
13	ROBERT E. NICHOLS, SBN 100028  Deputy District Attorney
14	515 Main Street Placerville, CA 95667
15	Telephone: (530) 621-6472
16	LISA A. SMITTCAMP
17	Fresno County District Attorney SABRINA D. ASHJIAN, SBN 256981
18	Deputy District Attorney 929 L. Street
19	Fresno, CA 93721 Telephone: (559) 600-3156
20	
21	DWAYNE R. STEWART Glenn County District Attorney
22	ROBERT E. NICHOLS, SBN 100028  Deputy District Attorney
23	P.O. Box 430
24	Willows, CA 95988 Telephone: (530) 934-6525
25	MAGGIE FLEMING
26	Humboldt County District Attorney ROBERT E. NICHOLS, SBN 100028
27	Deputy District Attorney
28	825 Fifth Street, Fourth Floor Eureka, CA 95501

1	GILBERT G. OTERO
2	Imperial County District Attorney
1	ROBERT E. NICHOLS, SBN 100028 Deputy District Attorney 940 West Main Street, Suite 102
3	El Centro, CA 92243
4	Telephone: (442) 265-1175
5	LISA S. GREEN
6	Kern County District Attorney JEFFREY W. NOE, SBN 167387
7	Deputy District Attorney
	1215 Truxtun Avenue
8	Bakersfield, CA 93301 Telephone: (661) 868-2340
9	Telephone. (001) 000-2540
10	KEITH FAGUNDES
	Kings County District Attorney
11	ROBERT E. NICHOLS, SBN 100028  Deputy District Attorney
12	Kings County Government Center
	1400 West Lacey Boulevard
13	Hanford, CA 93230
14	Telephone: (559) 582-0326
15	STACEY L. MONTGOMERY
1.	Lassen County District Attorney
16	ROBERT E. NICHOLS, SBN 100028
17	Deputy District Attorney 220 South Lassen Street, Suite 8
1.0	Susanville, CA 96130
18	Telephone: (530) 251-8283
19	
20	DAVID LINN Modern Country District Attack
20	Madera County District Attorney ROBERT E. NICHOLS, SBN 100028
21	Deputy District Attorney
22	209 West Yosemite Avenue
<i>44</i>	Madera, CA 93637
23	Telephone: (559) 675-7726
24	C. DAVID EYSTER
25	Mendocino County District Attorney
25	ROBERT E. NICHOLS, SBN 100028
26	Deputy District Attorney 100 N. State Street, Room G-10
27	Ukiah, CA 95482
<i>41</i>	Telephone: (707) 463-4211
10	·

1	LARRY D. MORSE II
2	Merced County District Attorney
	ROBERT E. NICHOLS, SBN 100028 Deputy District Attorney
3	2222 M Street
4	Merced, CA 95340
5	Telephone: (209) 385-7381
6	ALLISON HALEY
	Napa County District Attorney PATRICK COLLINS, SBN 138114
7	Deputy District Attorney
8	931 Parkway Mall
9	Napa, CA 94559
9	Telephone: (707) 253-4211
10	R. SCOTT OWENS
11	Placer County District Attorney
	JANE CRUE, SBN 210122
12	Deputy District Attorney
13	10810 Justice Center Drive, Suite 240 Roseville, CA 95678
14	Telephone: (916) 543-8000
15	MICHAEL A. HESTRIN
13	Riverside County District Attorney
16	LAUREN R. MARTINEAU SBN 250982
17	Deputy District Attorney
	3960 Orange Street, First Floor Riverside, CA 92501-3707
18	Telephone: (951) 955-5400
19	
20	ANNE MARIE SCHUBERT
20	Sacramento County District Attorney
21	DOUGLAS WHALEY, SBN 144557 Supervising Deputy District Attorney
22	906 G Street, Suite 700
22	Sacramento, CA 95814
23	Telephone: (916) 874-6174
24	MICHAEL A. RAMOS
25	San Bernardino County District Attorney
	RICK C. LAL, SBN 155607 Deputy District Attorney
26	303 West 3 <sup>rd</sup> Street, 6 <sup>th</sup> Floor
27	San Bernardino, CA 92415-0502
	Telephone: (909) 382-3669

1	BONNIE M. DUMANIS
2	San Diego County District Attorney
	ELIZABETH MCCLUTCHEY, SBN 163301 Deputy District Attorney
3	330 West Broadway, Suite 750
4	San Diego, CA 92101
5	Telephone: (619) 531-4070
6	TORI VERBER SALAZAR San Joaquin County District Attorney
7	CELESTE KAISCH, SBN 234174
8	Deputy District Attorney 222 E. Weber Avenue, Room 202
9	Stockton, CA 95202 Telephone: (209) 468-2400
10	DAN DOW
11	San Luis Obispo County District Attorney ERIC J. DOBROTH, SBN 197676
12	Deputy District Attorney
13	County Government Center, Room 450 San Luis Obispo, CA 93408
14	Telephone: (805) 781-5800
15	JOYCE E. DUDLEY Santa Barbara County District Attorney
16	ROBERT E. NICHOLS, SBN 100028 Deputy District Attorney
17	1112 Santa Barbara Street
18	Santa Barbara, CA 93101 Telephone: (805) 568-2308
19	JEFFREY F. ROSEN
20	Santa Clara County District Attorney YEN B. DANG, SBN 169388
21	Deputy District Attorney
22	70 West Hedding Street, West Wing San Jose, CA 95110
23	Telephone: (408) 792-2525
24	JEFFREY S. ROSELL
25	Santa Cruz County District Attorney EDWARD T. BROWNE, SBN 167638
26	Assistant District Attorney 701 Ocean Street, Room 200
27	Santa Cruz, CA 95060 Telephone: (831) 454-2400
28	1 cicpitotic. (651) 454-2400

1	STEPHANIE A. BRIDGETT
2	Shasta County District Attorney
	ANAND B. JESRANI, SBN 238252
3	Deputy District Attorney 1355 West Street
4	Redding, CA 96001-1632
5	Telephone: (530) 245-6300
6	J. KIRK ANDRUS Siskiyou County District Attorney
7	P.O. Box 986
	Yreka, CA 96097
8	Telephone: (530) 842-8125
9	KRISHNA A. ABRAMS
10	Solano County District Attorney
, ,	DIANE M. NEWMAN, SBN 179926 Deputy District Attorney
11	675 Texas Street, 4th Floor, # 4500
12	Fairfield, CA 94533-6340
13	Telephone: (707) 784-6800
14	JILL R. RAVITCH
	Sonoma County District Attorney
15	MATTHEW T. CHEEVER, SBN 191783 Deputy District Attorney
16	2300 County Center Drive, Suite B-170
17	Santa Rosa, CA 95403
17	Telephone: (707) 565-3161
18	BIRGIT A. FLADAGER
19	Stanislaus County District Attorney RICHARD B. MURY, III, SBN 128771
20	Deputy District Attorney
21	832 12th Street, Suite 300 Modesto, CA 95354
22	Telephone: (209) 525-5550
23	AMANDA HOPPER
24	Sutter County District Attorney ROBERT E. NICHOLS, SBN 100028
25	Deputy District Attorney
	446 2nd Street, Suite 102 Yuba City, CA 95991-5525
26	Telephone: (530)822-7330
27	

1	GREGG COHEN
2	Tehama County District Attorney ROBERT E. NICHOLS, SBN 100028
3	Deputy District Attorney P.O. Box 519
4	Red Bluff, CA 96080
5	Telephone: (530) 527-3053
6	TIM WARD Tulare County District Attorney
7	PAULA C. CLARK, SBN 241524
8	Deputy District Attorney 221 S. Mooney Blvd., Room 224
9	Visalia, CA 93291 Telephone: (559) 636-5494
10	LAURA L. KRIEG
11	Tuolumne County District Attorney ROBERT E. NICHOLS, SBN 100028
12	Deputy District Attorney
13	423 North Washington Street Sonora, CA 95370
14	Telephone: (209) 588-5450
15	GREGORY D. TOTTEN  Ventura County District Attorney
16	MITCHELL F. DISNEY, SBN 138114
17	Senior Deputy District Attorney 5720 Ralston Street, Suite 300
18	Ventura, CA 93003 Telephone: (805) 662-1750
19	MARK A. PETERSON
20	Contra Costa County District Attorney
21	STACEY GRASSINI, SBN 154937 Deputy District Attorney
22	900 Ward Street P.O. Box 670
23	Martinez, CA 94553-0150
24	Telephone: (925) 957-8604
25	
26	
27	