1 2 3 4 5 6 7 8 9 10 11		ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 11/21/2017 10:47 AM By: Sarah Sisto, Deputy [EXEMPT FROM FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103] E STATE OF CALIFORNIA OF SANTA BARBARA			
 12 13 14 15 16 17 18 19 20 21 22 23 	THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. Cottage Health, Goleta Valley Cottage Hospital, Santa Barbara Cottage Hospital, and Santa Ynez Valley Cottage Hospital, Defendants.	Case No. 17CV05269 COMPLAINT FOR INJUNCTION, CIVIL PENALTIES, AND OTHER EQUITABLE RELIEF (CIVIL CODE § 56.101; BUS. & PROF. CODE, § 17200, <i>et seq.</i>) [VERIFIED ANSWER REQUIRED PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 446]			
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	Complaint for Injunction, Civil Penalties, and other Equitable Relief				

1 Plaintiff, the People of the State of California ("Plaintiff" or the "People"), by and through 2 Xavier Becerra, Attorney General of the State of California, alleges the following on information 3 and belief:

INTRODUCTION

5 1. Plaintiff brings this action against Cottage Health, Goleta Valley Cottage Hospital, 6 Santa Barbara Cottage Hospital, and Santa Ynez Valley Cottage Hospital (collectively referred to 7 as "COTTAGE" or "DEFENDANTS") for violations of California's Confidentiality of Medical 8 Information Act ("CMIA") and Unfair Competition Law ("UCL").

9 2. From 2011 through 2013, over 50,000 of COTTAGE's patients had their 10 personally identifying information (PII) and electronic personal health information (ePHI)— 11 including medical history, diagnosis, laboratory test results, and medications—accessed and made 12 searchable online so that anyone with an internet connection could download and view patient 13 private medical data. COTTAGE had failed to adequately secure this information, resulting in 14 this data being indexed by Google and viewable in public search results.

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3. Again in 2015, over 4,500 of COTTAGE's patients had their PII and ePHI— 16 including medical record number, account number, name, address, Social Security Number, 17 employment information, admit and discharge dates, and other personal information-accessed 18 and made searchable online. COTTAGE had again failed to adequately secure this information, 19 resulting in more patient data being indexed by Google and viewable in public search results.

20 4. COTTAGE's data breaches were symptoms of its system-wide data security 21 failures. COTTAGE failed to employ basic security safeguards, leaving vulnerable software 22 unpatched or out-of-date, using default or weak passwords, and lacking sufficient perimeter 23 security, among many other problems.

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PLAINTIFF

25 5. Plaintiff is the People of the State of California. Plaintiff brings this action by and 26 through Xavier Becerra, Attorney General. The Attorney General is authorized by Civil Code 27 section 53.36(f)(1)(A) to bring actions to enforce the CMIA and Business and Professions Code 28 sections 17204, 17206, and 17207 to bring actions to enforce the Unfair Competition Law (UCL).

Complaint for Injunction, Civil Penalties, and other Equitable Relief

1	DEFENDANTS		
2	6. Defendant COTTAGE HEALTH is a California nonprofit corporation and the		
3	parent corporation of GOLETA VALLEY COTTAGE HOSPITAL, SANTA BARBARA		
4	COTTAGE HOSPITAL, and SANTA YNEZ VALLEY COTTAGE HOSPITAL. Its principal		
5	place of business is located at 400 West Pueblo Street, Santa Barbara, California.		
6	7. Defendant GOLETA VALLEY COTTAGE HOSPITAL is licensed by the State of		
7	California as a general acute care facility providing medical care and services with its principal		
8	place of business located at 351 S. Patterson Avenue, Santa Barbara, California.		
9	8. Defendant SANTA BARBARA COTTAGE HOSPITAL is licensed by the State		
10	of California as a general acute care facility providing medical care and services with its principal		
11	place of business located at 400 West Pueblo Street, Santa Barbara, California.		
12	9. Defendant SANTA YNEZ VALLEY COTTAGE HOSPITAL is licensed by the		
13	State of California as a critical access hospital / general acute care facility providing medical care		
14	and services with its principal place of business located at 2050 Viborg Road, Solvang,		
15	California.		
16	10. The defendants identified in Paragraphs 6-9 above are hereafter referred to		
17	collectively in this Complaint as "COTTAGE" or "DEFENDANTS." Whenever reference is		
18	made in this Complaint to any act of or by COTTAGE, the allegation shall mean that COTTAGE		
19	did the acts alleged in this Complaint through COTTAGE's officers, directors, employees, agents		
20	and/or representatives acting within the actual or ostensible scope of their authority.		
21	JURISDICTION AND VENUE		
22	11. This Court has jurisdiction over DEFENDANTS because each DEFENDANT, by		
23	maintaining its principal place of business in the state of California, and by providing medical		
24	care and services in California, intentionally availed itself of the California market so as to render		
25	the exercise of jurisdiction over DEFENDANTS by the California courts consistent with		
26	traditional notions of fair play and substantial justice.		
27	12. The violations of law alleged in this Complaint occurred in the County of Santa		
28	Barbara and elsewhere throughout California.		
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1 13. Venue is proper in this Court pursuant to Code of Civil Procedure section 395.5 2 because DEFENDANTS' principal places of business are situated in the County of Santa 3 Barbara. 4

DEFENDANTS' BUSINESS ACTS AND PRACTICES

5 14. COTTAGE is a provider of medical treatment and services licensed in the State of 6 California who, in the regular course of business, collects personal health and medical 7 information from its patients and stores and transmits said information in electronic form. 8 Accordingly, COTTAGE must comply with the CMIA, the Health Information Portability and 9 Accountability Act of 1996 (HIPAA), and the California Health and Safety Code. 10 15 Pursuant to the CMIA, HIPAA, and the California Health and Safety Code, 11 COTTAGE is required to safeguard the confidentiality of medical information they create, 12 maintain, preserve, store, abandon, destroy, or dispose. 13 COTTAGE'S FIRST DATA BREACH 14 16. COTTAGE owned and operated a File Transfer Protocol server that stored 15 aggregated data on all of its surgical patients. On this server, COTTAGE stored records that

contained the following information for its surgical patients: Name; Address; Gender; Date of 17 Birth; Medical Record Number; Hospital Account Number; Medical Information (such as 18 operative procedure and associated clinical information); and internal tracking codes.

19 17. From at least December 10, 2011 to around December 2, 2013, the medical 20 records stored on this internet-connected FTP server were not encrypted, not protected by a 21 password, not secured behind a firewall, and did not have file access permissions configured to 22 prevent unauthorized access. This server also allowed access via an anonymous username, 23 meaning the files could be accessed without a verified username and password.

24 18 Because anonymous access was enabled on COTTAGE's server and it lacked 25 other basic security safeguards, the data was exfiltrated off the server hundreds of times. The 26 medical records on the server were also accessed and indexed by Google. The records, including 27 all of the data on its surgical patients, were available to anyone with an Internet connection and

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presented as a returned Google search result. The files, including the PII and PHI, could be
 accessed and viewed by clicking on a hyperlink.

3 19. On December 2, 2013, an individual in Arizona notified COTTAGE that he had
4 discovered and accessed the medical records from this server when he was doing an internet
5 search via Google.

6 20. COTTAGE determined the identity of its patients who had their PII and ePHI
7 exposed on this FTP server. COTTAGE found that over 50,000 individuals had their medical
8 information on the unprotected server.

9 21. Subsequent security assessments found that both COTTAGE's external and
10 internal information and systems were significantly compromised. COTTAGE was running
11 outdated software, failing to apply software patches, not resetting default configurations, not
12 using strong passwords, failing to limit access to sensitive PII, and failing to conduct regular risk
13 assessments, among other things.

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COTTAGE'S SECOND DATA BREACH

15 22. On or about November 8, 2015, COTTAGE discovered that another server that it
16 owned and operated was accessible on the internet and had been indexed by search engines.

This second server was also unprotected by a firewall, even though it contained
sensitive personal health information of COTTAGE patients. From October 26, 2015 until
November 8, 2015, misconfigured server settings allowed the server to be accessed and indexed
by known search engines, including Google, and by a limited number of other unidentified
parties.

22 24. This data breach exposed the PII and/or the ePHI of another 4,596 COTTAGE
23 patients. External parties could access patients' medical record number, account number, name,
24 address, Social Security Number, employment information, admission and discharge dates, and
25 other personal information.

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> 5 Complaint for Injunction, Civil Penalties, and other Equitable Relief

1	FIRST CAUSE OF ACTION				
2	VIOLATIONS OF THE CONFIDENTIALITY OF MEDICAL INFORMATION ACT				
3	CIVIL CODE SECTION 56.101				
4	(Failure to Preserve Confidentiality of Medical Information)				
5	25. The People reallege and incorporate by reference each of the paragraphs above as				
6	though fully set forth herein.				
7	26. COTTAGE is obligated to preserve the confidentiality of medical information it				
8	creates, maintains, preserves, stores, abandons, destroys, or disposes. [Civ. Code § 56.101(a).]				
9	27. COTTAGE failed to maintain, preserve, and store medical information in a				
10	manner that preserves the confidentiality of the information. Among other things, COTTAGE				
11	stored PII and ePHI on its servers in a manner where it could be, and was accessed by				
12	unauthorized individuals.				
13	28. Because of COTTAGE's failures, COTTAGE negligently maintained, preserved,				
14	and stored medical information in violation of Civil Code section 56.101(a).				
15	29. COTTAGE also negligently disclosed medical information in violation of Civil				
16	Code section 56.36(c)(1). COTTAGE's failure to implement reasonable security safeguards on at				
17	least two servers that allowed internet search engines, such as Google, to publicly index and				
18	collect confidential medical information and make it available to anyone with internet access.				
19	COTTAGE's actions caused confidential medical information to be released to and accessed by				
20	the public.				
21	SECOND CAUSE OF ACTION				
22	VIOLATIONS OF BUSINESS AND PROFESSIONS CODE				
23	SECTION 17200, <i>ET SEQ</i> .				
24	(Unlawful, Unfair, and Fraudulent Business Practices)				
25	30. The People reallege and incorporate by reference each of the paragraphs above as				
26	though fully set forth herein.				
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1	31. COTTAGE has engaged in unlawful, unfair, or fraudulent acts or practices, which			
2	constitute unfair competition within the meaning of Section 17200 of the Business and			
3	Professions Code.			
4	32. Specifically, COTTAGE has violated the following laws:			
5	(a) Civil Code section 56.101(a), which requires COTTAGE to create, maintain,			
6	preserve, and store medical information in a manner that preserves the			
7	confidentiality of the information contained therein;			
8	(b) Health & Safety Code § 123149(g), which requires COTTAGE to develop and			
9	implement policies and procedures to include safeguards for confidentiality			
10	and unauthorized access to electronically stored patient health records,			
11	authentication by electronic signature keys, and systems maintenance; and			
12	(c) 42 U.S.C.A. § 1320d-2(d)(2), which requires COTTAGE to maintain			
13	reasonable and appropriate administrative, technical, and physical safeguards			
14	to ensure the integrity and confidentiality of medical information and to protect			
15	against reasonably anticipated threats or hazards to the security or integrity of			
16	the information; and unauthorized uses or disclosures of the information.			
17	33. The above-referenced laws apply to COTTAGE because it is a health care			
18	provider licensed in the State of California who creates, maintains, receives, and transmits			
19	protected health information electronically.			
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21	<u>PRAYER FOR RELIEF</u>			
22	WHEREFORE, Plaintiff prays for judgment as follows:			
23	1. Pursuant to Business and Professions Code section 17203, that the Court enter all			
24	orders necessary to prevent Cottage, its successors, agents, representatives, employees, and all			
25	persons who act in concert with Cottage from engaging in any act or practice that constitutes			
26	unfair competition in violation of Business and Professions Code section 17200, including as			
27	alleged in this Complaint;			
28	7			
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1	2.	2. Pursuant to Civil Code section 56.36(c)(1), that the Court assess a civil penalty of				
2	Two Thousand Five Hundred Dollars (\$2,500) for each violation of Civil Code section 56.101, as					
3	proved at trial;					
4	3.	3. Pursuant to Business and Professions Code section 17536, that the Court assess a				
5	civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each violation of Business and					
6	Professions C	Professions Code section 17200, as proved at trial;				
7	4.	That Plaintiff recovers its cost of suit herein, including costs of investigation.				
8	5.	For such other and further relief as the Court deems just and proper.				
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10	Dated: Nove	mber 21, 2017		Respectfully Submitted,		
11				XAVIER BECERRA Attorney General of California		
12				NICKLAS A. AKERS Senior Assistant Attorney General		
13				DANIEL A. OLIVAS STACEY SCHESSER		
14				Supervising Deputy Attorneys General		
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16				SNO PAM-		
17				LISA B. KIM Deputy Attorney General		
18				Attorneys for Plaintiff, The People of the State of California		
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