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9

10 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA

13 Plaintiff,

14 v.

14 MOTORSCIENCE ENTERPRISE, INC.,
15 MOTORSCIENCE, INC., and
CHI ZHENG,

16 Defendants.
17

CV11-08023 GHK (VBRX)

Civil Action No.

COMPLAINT FOR CIVIL
PENALTIES AND
INJUNCTIVE RELIEF
UNDER THE CLEAN AIR ACT

FILED
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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: _____

1 **COMPLAINT**

2 The United States of America, by authority of the Attorney General of the United
3 States and at the request of the Administrator of the United States Environmental
4 Protection Agency ("EPA"), files this complaint and alleges as follows:
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6 **I. NATURE OF ACTION**

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8 1. This is a civil action brought under Sections 204, 205, and 213 of the
9 Clean Air Act ("the CAA"), 42 U.S.C. §§ 7523, 7524 and 7547, and the regulations
10 (the "Applicable Nonroad Rules") promulgated pursuant to Section 213 of the
11 CAA and codified at 40 C.F.R. Part 1051 (Control of Emissions from Recreational
12 Engines and Vehicles) and Part 1068 (General Compliance Provisions for Engine
13 Programs). This action seeks injunctive relief and the assessment of civil penalties
14 against Defendants MotorScience, Inc., MotorScience Enterprise, Inc., and Chi
15 Zheng (collectively "the Defendants").
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17

18 2. Defendants provide consulting services to enable their clients to
19 obtain "certificates of conformity" ("COCs") from EPA with respect to compliance
20 with U.S. emissions standards for air pollutants, and to comply with associated
21 record-keeping requirements imposed on COC holders by the CAA and the
22 Applicable Nonroad Rules. COCs are a precondition to the lawful importation and
23 sale by Defendants' clients of vehicles or engines in the United States.
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26 3. Between 2006 and 2007, Defendants violated the CAA and the
27 Applicable Nonroad Rules by causing four of their clients—Hensim, USA, Inc.,
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1 Longting (or Loncin) USA, LLC, Peace Industry Group (USA), Inc., and Seaseng,
2 Inc. (“the Four Clients”): to import recreational vehicles not covered by valid
3 COCs; to fail to maintain copies of the applications for certificates of conformity
4 submitted to EPA, to fail to maintain records of how mileage was accumulated for
5 each emission data vehicle (“EDV”), and to fail to maintain all information on all
6 maintenance performed on the EDVs, all in violation of the CAA and the Rules.
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9 4. Each of the Four Clients is a “manufacturer” within the meaning of
10 Section 216(1) of the Act, 42 U.S.C. § 7550(1), and 40 C.F.R. §§1051.801 and
11 1068.30.
12

13 **II. JURISDICTION AND VENUE**

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15 5. This Court has jurisdiction over the subject matter of and the parties to
16 this action under Sections 203, 204, 205 and 213 of the CAA, 42 U.S.C. §§ 7522,
17 7523, 7524, and 7547 and 28 U.S.C. §§ 1331, 1345, and 1355.
18

19 6. Venue is proper in this jurisdiction pursuant to Sections 204, 205, and
20 213 of the CAA, 42 U.S.C. §§ 7523, 7524, and 7547, because the Defendants’
21 principal place of business is in this jurisdiction.
22

23 **III. THE DEFENDANTS**

24 7. Defendant Chi Zheng is an individual who commenced doing
25 business in the United States in 2006 under the trade name “MotorScience
26 Enterprise.” Zheng is a “person” under CAA Section 302(e), 42 U.S.C. § 7602(e).
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1 8. Defendant MotorScience Enterprise, Inc. is a California corporation
2 organized by Zheng on September 26, 2006. In its first "Statement of Information"
3 filed on October 3, 2007, with the California Secretary of State, MotorScience
4 Enterprise, Inc. (with its principal business office listed as 719 Nogales Street, City
5 of Industry, California 91748) identified Zheng as the Chief Executive Officer,
6 Chief Financial Officer, Secretary, sole Director, and agent for service of process.
7
8 No other individuals were identified as officers or directors of the corporation.
9
10 MotorScience Enterprise, Inc. is a "person" under CAA Section 302(e), 42 U.S.C.
11 § 7602(e).
12

13 9. MotorScience, Inc. is a California corporation organized by Zheng on
14 October 14, 2008. In its first "Statement of Information" filed on November 7,
15 2008, with the California Secretary of State, MotorScience, Inc. (with its principal
16 business office listed as 719 Nogales Street, City of Industry, California 91748)
17 identified Zheng as the Chief Executive Officer, Chief Financial Officer, Secretary,
18 sole Director, and agent for service of process. No other individuals were
19
20 identified as officers or directors of this corporation. MotorScience, Inc. is a
21
22 "person" under CAA Section 302(e), 42 U.S.C. § 7602(e).
23

24 10. On November 19, 2009, Zheng filed a "certificate of election to wind
25 up and dissolve" MotorScience Enterprise, Inc. with the California Secretary of
26 State. Although the Articles of Incorporation for MotorScience Enterprise, Inc.
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1 authorized the issuance of common stock, no common stock had been issued as
2 November 19, 2009.

3
4 11. Even after November 19, 2009, and through at least May 2011,
5 Defendants continued to use the name "MotorScience Enterprise, Inc." on their
6 website as their business name. Defendants also continue to use the MotorScience
7 Enterprise, Inc. name after its dissolution on company letterhead.

8
9 12. Subject to a reasonable opportunity for further investigation and
10 discovery, MotorScience, Inc., is the corporate successor to MotorScience
11 Enterprise, Inc.

12
13 13. At all times relevant to this action, the Defendants were engaged in
14 the business of assisting manufacturers or importers of recreational vehicles
15 produced in the People's Republic of China (and elsewhere) to obtain COCs from
16 EPA and to comply with associated recordkeeping requirements under the CAA
17 and the Applicable Nonroad Rules.
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20 **IV. STATUTORY AND REGULATORY BACKGROUND**

21 14. This action arises under Title II of the CAA, as amended, 42 U.S.C.
22 §§ 7521- 7590, and the Applicable Nonroad Rules, the purpose of which is to
23 control air pollution from recreational vehicles in the United States.

24
25 15. Section 213(a)(1) and (a)(2) of the CAA, 42 U.S.C. § 7524(a)(1) and
26 (a)(2) required EPA to conduct a study of emissions from "nonroad" engines and
27 vehicles, and to determine whether emissions of certain pollutants from nonroad
28

1 engines and vehicles are significant contributors to ozone or carbon monoxide
2 (“CO”) in more than one area which failed to attain the National Ambient Air
3 Quality Standards for these pollutants. A “nonroad engine” is defined in CAA
4 Sections 216(10), 42 U.S.C. §§ 7550(10), as an internal combustion engine that is
5 not used in a “motor vehicle” (*i.e.*, a vehicle designed for use on streets or
6 highways, CAA Section 216(2), 42 U.S.C. § 7550(2)). A “nonroad vehicle” is
7 defined as a vehicle that is powered by a nonroad engine and that is not a motor
8 vehicle. CAA Sections 216(11), 42 U.S.C. §§ 7550(11).

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12 16. Section 213(a)(3) and (a)(4) of the CAA, 42 U.S.C. § 7524(a)(3) and
13 (a)(4), required EPA to promulgate regulations to reduce emissions from those
14 categories of classes of nonroad engines and vehicles that cause or contribute to
15 ozone or CO air pollution if nonroad emissions are determined to be significant,
16 and authorized EPA to regulate other emissions from nonroad engines or vehicles
17 if the agency determines that they contribute to other forms of air pollution which
18 may reasonably be anticipated to endanger public health or welfare.
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21 17. On June 17, 1994, EPA determined that nonroad engines are
22 significant contributors to ambient ozone or CO levels in more than one
23 nonattainment area and emissions from these engines cause or contribute to air
24 pollution that may reasonably be anticipated to endanger public health or welfare.
25
26 59 Fed. Reg. 31306 (June 17, 1994).
27
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1 **A. The Applicable Nonroad Rules**

2 18. On November 8, 2002, EPA promulgated regulations (including the
3 Applicable Nonroad Rules) to control emissions from several groups of nonroad
4 engines, including “recreational” vehicles using spark-ignition engines. 67 Fed.
5 Reg. 68242-1. “Recreational” includes snowmobiles, all-terrain vehicles (“ATVs”),
6 off-road motorcycles, and other similar vehicles. 40 C.F.R. §1051.801. These new
7 regulations, including the Applicable Nonroad Rules, became effective January 7,
8 2003, *Id.*

9 **a. Certificates of Conformity – Application, Issuance, Suspension,
10 Revocation, Voiding**

11 19. Pursuant to these new regulations, starting with the 2006 model year,
12 the requirement for an EPA-issued COC became applicable to new recreational
13 vehicles. 40 C.F.R. §§ 1051.105 (off-highway motorcycles) and 1051.107
14 (ATVs). From model year 2006 onward, for a manufacturer or importer of
15 recreational vehicles to introduce such vehicles into commerce in the United
16 States, it must have an EPA-issued COC. 40 C.F.R. §1051.201.

17 20. 40 C.F.R. § 1051.201(b) provides “the application [for a COC] must
18 contain all the information required by this part and must not include false or
19 incomplete statements or information.” A separate COC, and thus a separate COC
20 application, is required for engine family and each model year. 40 C.F.R. §§
21 1051.201(a), 1051.230.

1 21. 40 C.F.R. § 1051.205 specifies the information that must be contained
2 in the COC application, including: (a) a list of the model names included in the
3 engine family; (b) a description of the specifications and basic parameters of the
4 engine family tested, and its emission control system; (c) a description of the
5 vehicles or engines selected for testing, and (d) all required emission data from
6 emission tests conducted on the vehicles or engines.
7

9 22. Once issued, a COC covers only those vehicles that: are within the
10 specified category of vehicles; are within the specified engine family; are marked
11 with the specified model name; were produced during the specified model year;
12 were imported after the COC's effective date; and conform in all material respects
13 to the specifications in COC application and the COC. 40 C.F.R. §§ 1051.201(a),
14 1051.205, 1068.101(a)(1)(i), and 1068.103(a),(c)(2).
15

17 23. Each COC application must be approved and signed by an authorized
18 representative of the company submitting the application. 40 C.F.R. §
19 1051.201(e). The certificate applicant must certify that the vehicles in question
20 comply with all applicable regulations. 40 C.F.R. § 1051.205(s).
21

22 24. In issuing COCs for recreational vehicles, EPA relies on the
23 truthfulness of information supplied in the applications.
24

25 25. EPA may decline to issue, or may suspend or revoke, a COC if false
26 or incomplete information is submitted in COC application. 40 C.F.R. §
27 1051.255(c).
28

1 26. Once issued, EPA may void a COC if the COC holder does not keep
2 records required by the Applicable Nonroad Rules, or if the COC holder does not
3 give EPA required information. 40 C.F.R. § 1051.255(d).
4

5 27. EPA may also void a COC if it finds that there was an intentional
6 submission of false or incomplete information in the COC application. 40 C.F.R. §
7 1051.255(e). “Void” is defined as “to invalidate a certificate . . . *ab initio*.” 40
8 C.F.R. § 1068.30. The definition of “void” further explains: “If we void a
9 certificate, all the engines/equipment introduced into U.S. commerce under that
10 family for that model year are considered noncompliant This applies equally
11 to all engines/equipment in the family, including engines/equipment introduced
12 into U.S. commerce before we voided the certificate.” 40 C.F.R. § 1068.30.
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16 **b. Exhaust Emission Standards**

17 28. Starting in model year 2006, all ATVs imported into the United States
18 must meet the exhaust emission standards for hydrocarbons and oxides of nitrogen,
19 (HC + NO_x) and for carbon monoxide (CO).
20

21 29. The standard for HC+ NO_x is 1.5 g/km.
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23 30. The standard for CO is 35 g/km. 40 C.F.R. § 1051.107.
24

25 **c. Recordkeeping**

26 31. COC holders must obtain and keep certain records, and must make
27 them available to EPA upon request, including a copy of all applications for
28

1 certificates of conformity and any summary information sent to EPA and a detailed
2 history of each emission data vehicle (“EDV”) tested for a COC, including: (i) the
3 EDV’s construction and steps taken to ensure it represents production vehicles; (ii)
4 how vehicle or engine operating hours were accumulated, including the dates and
5 number of hours accumulated; (iii) all maintenance on EDVs, including
6 modifications, parts changes, and other services performed on the EDV, and the
7 dates and reasons for the maintenance; and (iv) all emission tests performed on the
8 EDV. 40 C.F.R. § 1051.250(b).

11 **B. Enforcement Provisions**

12 32. Section 213(d) of the CAA, 42 U.S.C. § 7547(d), provides that the
13 nonroad regulations shall be enforced in the same manner as the standards for new
14 motor vehicles and new motor vehicle engines. The standards for new motor
15 vehicles and new motor vehicle engines are enforced pursuant to CAA Sections
16 203 (Prohibited Acts), 204 (Actions to Restrain Violations), and 205 (Civil
17 Penalties), 42 U.S.C. §§ 7522, 7523, and 7524.

18 33. Section 213(d) of the CAA, 42 U.S.C. § 7547(d), further provides that
19 EPA “shall promulgate regulations as may be necessary to . . . enforce standards in
20 effect under this section.” Pursuant to this authority, EPA issued the compliance
21 and enforcement provisions in 40 C.F.R. Part 1068.
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1 **C. Prohibited Acts**

2 34. Under CAA Sections 203(a)(1) and 213(d), 42 U.S.C. §§ 7522(a)(1)
3 and 7547(d), and 40 C.F.R. § 1068.101(a)(1), the following acts, and the causing
4 thereof, are prohibited: in the case of a manufacturer of new recreational vehicles
5 or new recreational vehicle engines, the sale, or the offering for sale, or the
6 introduction, or the delivery for introduction, into commerce such vehicles or
7 engines after the effective date of applicable regulations, unless the vehicles or
8 engines are covered by EPA-issued COCs.
9

10 35. Under 203(a)(1) and 213(d), 42 U.S.C. §§ 7522(a)(1) and 7547(d),
11 and 40 C.F.R. § 1068.101(a)(1), the following acts, and the causing thereof, are
12 also prohibited: the importation into the United States of any new recreational
13 vehicle or new recreational vehicle engine, manufactured after the effective date of
14 applicable regulations, unless the vehicle or engine is covered by an EPA-issued
15 COC.
16

17 36. Under CAA Sections 203(a) (2)(A) and 213(d), 42 U.S.C. §
18 7522(a)(2)(A) and 7547(d), and 40 C.F.R. § 1068.101(a)(2), the following acts,
19 and the causing thereof, are prohibited: failing to make and maintain the records
20 required by the Applicable Nonroad Rules, denying EPA access to or the ability to
21 copy the records, failure to give EPA reports or information required by the
22 Applicable Nonroad Rules without delay, and failing to perform, or to have
23 performed, tests required by EPA.
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1 **D. Civil Penalties**

2 37. Under CAA Section 205(a), 42 U.S.C. § 7524(a), and C.F.R. §
3
4 1068.101(a)(1), any person who violates CAA Sections 203(a)(1) and 213(d), 42
5 U.S.C. § 7522(a)(1), and 7547(d), and 40 C.F.R. § 1068.101(a)(1), shall be subject
6 to a civil penalty, and each vehicle counts as a separate violation.
7

8 38. Under CAA Section 205(a), 42 U.S.C. § 7524(a), and 40 C.F.R. §
9 1068.101(a)(2), any person who violates CAA Section 203(a)(2)(A) and 213(d), 42
10 U.S.C. § 7522(a)(2)(A) and 7547(d), and 40 C.F.R. § 1068.101(a)(2), shall be
11 subject to a civil penalty that accrues on a per day of violation basis.
12

13 39. Under the Federal Civil Penalties Inflation Adjustment Act of 1990
14 (28 U.S.C. § 2461 note; Pub. L. No. 101-410, enacted October 5, 1990; 104 Stat.
15 890), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. §
16 3701 note; Pub. L. No. 104-134, enacted April 26, 1996; 110 Stat. 1321) and
17 EPA's latest Civil Monetary Penalty Inflation Adjustment Rule, finalized on
18 January 7, 2009, the maximum civil penalty for violations of CAA Sections 203(a)
19 (2)(A) and 213(d) and the Applicable Nonroad Rules occurring between March 16,
20 2004 and January 12, 2009, is \$32,500 for each violation. 74 Fed. Reg. 626 (Jan. 7,
21 2009), 40 C.F.R. Part 19. The violations specifically alleged in this Complaint
22 occurred after March 16, 2004 and before January 12, 2009.
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27 **V. GENERAL ALLEGATIONS**

1 40. In or around February 2006, Zheng began doing business in the
2 United States assisting manufacturers and importers of vehicles and engines,
3 including the Four Clients, to obtain from EPA COCs that are necessary to import,
4 and to offer for sale or sell, vehicles and engines in the United States. On behalf of
5 the Four Clients, Defendants have arranged for emissions testing of EDVs, made
6 modifications to EDVs to reduce emissions, and completed and submitted COC
7 applications to EPA.
8

9
10 41. Using the name "MotorScience Enterprise," Zheng submitted at least
11 three applications for COCs to EPA prior to September 26, 2006, on behalf of
12 Peace Industry Group and Seaseng. A table summarizing the engine families, the
13 COC holder/importer, and the date Zheng submitted the application, appears in
14 Attachment A to this Complaint.
15

16
17 42. Since September 26, 2006, Defendants have submitted applications
18 for at least nine COCs to EPA on behalf of the Four Clients. A table summarizing
19 the engine families, the COC holder/importer, and the date Defendants submitted
20 the application, appears in Attachment A to this Complaint.
21

22 43. Of the twelve COCs identified in Attachment A (the "Subject
23 COCs"), recreational vehicles were actually imported into the United States under
24 at least nine of these COCs. A table summarizing the engine families, the COC
25 holder/importer, the date Defendants submitted the application, and the quantity of
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1 vehicles imported under the nine COCs, appears in Attachment B to this
2 Complaint.

3
4 44. Each application for the Subject COCs, prepared by Defendants, was
5 accompanied by a cover letter addressed to EPA, signed by the applicant (*i.e.* one
6 of the Four Clients), stating that one or more of Defendants' employees was (were)
7 designated as the applicant's authorized representative(s) "on all subject matters
8 related to our application for certification and the certification process." These
9 letters also state that all communications regarding the application should be
10 directed to the authorized representative(s).
11

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13 45. Each of the applications for the Subject COCs was also accompanied
14 by a cover letter which contained the following "Statement of Compliance": "the
15 vehicles described herein have been tested in accordance with the provisions of
16 Subpart E, Part 86, Title 40, of the Code of Federal Regulations [the emission
17 testing procedures applicable to recreational vehicles, See 40 C.F.R. §
18 1051.501(b)] and on the basis of these tests are in conformity with the subpart. All
19 data records required by that subpart are on file and are available for inspection by
20 the administrator."
21

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23
24 46. Further, the cover letter accompanying each of the applications for the
25 Subject COCs also stated "the tested and compliant vehicles, with respect to which
26 data are submitted, have been completely tested in accordance with applicable
27 testing procedures set forth by EPA guidelines. They meet or exceed the minimum
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1 requirements of such tests, and on the basis of such tests, they conform and exceed
2 the requirements of the regulations in this part (Ref. 40 C.F.R. [Parts] 86, 1051).”

3
4 47. Based on the assumed veracity of the information and the statements
5 contained in these applications, EPA issued twelve COCs, in total, to the Four
6 Clients. More specifically, Hensim USA received two, Longting USA received
7 three, Peace Industry Group USA received five, and Seaseng received two COCs,
8 as listed in Attachment A.

9
10 48. Under CAA Sections 208(a) and 213(d), 42 U.S.C. § 7542(a) and
11 7547(d), and 40 C.F.R. § 1068(25), on June 5, 2008, EPA issued an information
12 request to Zheng seeking information regarding applications for COCs and
13 supporting documentation that Defendants had submitted to EPA.

14
15 49. In response to the information request, Zheng invited EPA inspectors
16 to come to Defendants’ offices to gather information.

17
18 50. Between June 30 and July 2, 2008, EPA inspectors reviewed records
19 at the Defendants’ offices at 719 Nogales Street, City of Industry, California, and
20 interviewed Zheng and others regarding their business practices.

21
22 51. As a result of information obtained during that inspection, and a
23 subsequent investigation, EPA determined that certain information contained in the
24 applications for the Subject COCs, prepared by Defendants, was incomplete or
25 false.
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1 52. Notwithstanding the fact that EPA regulations require manufacturers
2 (including importers) to maintain copies of the applications for COCs that they
3 submitted to EPA, 40 C.F.R. §§ 1051.250(b)(1) and 1051.2, Defendants never
4 provided the Four Clients with copies of the applications for the Subject COCs that
5 Defendants submitted to EPA on their behalf.
6

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8 53. Notwithstanding the fact that EPA regulations require importers to
9 maintain “a detailed history of each EDV including “[h]ow you accumulated
10 vehicle or engine operating hours, including the dates and the number of hours
11 accumulated,” 40 C.F.R. § 1051.250(b)(3)(ii)), and that Defendants were
12 responsible for preparing their client’s EDVs for emissions testing in accordance
13 with EPA regulations, Defendants failed to generate, record, maintain or obtain
14 such data for the EDVs underlying the Subject COCs, and failed to provide the
15 Four Clients with copies of the required records or data.
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19 54. Notwithstanding the fact that EPA regulations require importers to
20 maintain “[a] detailed history of each emission data vehicle, [including] . . . [a]ll
21 maintenance, including modifications, parts changes, and other service, and the
22 dates and reasons for the maintenance,” 40 C.F.R. § 1051.250(b)(3)(iii), and that
23 Defendants were responsible for preparing their clients’ EDVs to pass emissions
24 tests, Defendants failed to generate, record, maintain or obtain information on the
25 maintenance, modifications, parts changes and other services performed on the
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1 EDVs prior to emissions tests, and failed to provide the Four Clients with copies of
2 the required records or information, or data.

3
4 55. Unless enjoined by Court order, Defendants may continue to violate
5 the CAA and the Recreational Vehicle Regulations in the manner described in the
6 preceding paragraphs.

7
8 56. One 2007 model year ATV imported by Longting USA under the
9 COC for engine family 7LGGX.250AM5 (for which Defendants prepared and
10 submitted the application) was seized upon importation. EPA had this ATV tested
11 for emissions and it failed to meet an applicable emission standard. The HC +
12 NOx emission standard applicable to this ATV was 1.5 g/km (or 2.4 grams per
13 mile). The HC + NOx measured from this new ATV ranged from a low of 3.5 to a
14 high of 5.28 grams per mile. Additionally, the catalyst on this ATV was found to
15 be materially different from the design specified in the application for the COC at
16 issue.

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20 57. Further, one 2007 model year ATV imported by Longting USA under
21 the COC for engine family 7LGGX.150AA (for which Defendants also prepared
22 and submitted the application) was also seized on importation. This new ATV was
23 tested for emissions and failed to meet an applicable emission standard. The HC +
24 NOx emission standard applicable to this ATV was 1.5 g/km. The HC + NOx
25 measured from the new ATV ranged from a low of 1.57 g/km to a high of 2.1
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1 g/km. The catalyst on this ATV was also found to be materially different from the
2 design specified in the application for the COC at issue.

3
4 58. Additionally, one 2007 model year ATV imported by Peace Industry
5 Group USA, under the COC for engine family 7PCGX.110AM3 (for which
6 Defendants prepared and submitted the application) was seized on importation.
7 This new ATV was tested for emissions and it failed to meet an applicable
8 emission standard. HC + NO_x was measured at 2.6 g/km, while the applicable
9 standard for HC + NO_x is 1.5 g/km. The catalyst on this vehicle was also found to
10 be materially different from the design specified in the application for the COC
11 under which this ATV was imported.

12
13
14 59. EPA sent each of the Four Clients an information request under CAA
15 Section 208(a), 42 U.S.C. § 7542(a), requesting, among other things, the emissions
16 testing that was (or should have been) performed on the EDVs upon which each of
17 the Subject COCs was based. In response, none of the Four Clients produced any
18 emissions testing information.

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21 60. In July 2009, EPA notified Hensim USA, Loncin USA, and Peace
22 Industry Group USA, and in March 2010 EPA notified Seaseng, that it had serious
23 concerns about the veracity of information contained in their applications for the
24 Subject COCs. In these notice letters EPA provided each company with an
25 opportunity to demonstrate compliance by producing copies of the durability
26 mileage accumulation and maintenance records for the EDVs underlying each of
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1 their Subject COCs. (See Attachment A). EPA also notified each company that
2 their COCs would be voided (and all vehicles imported under such certificates
3 would be considered non-compliant), if the company did not demonstrate
4 compliance. In their responses to these “notice letters,” however, none of the Four
5 Clients produced durability mileage accumulation records or maintenance records
6 for the EDVs, as requested.
7

8
9 61. On June 29, 2010, after reviewing the Four Clients’ responses to the
10 notice letters, EPA sent each company a letter notifying them that it had concluded
11 that false or incomplete information had been intentionally included in each
12 application for a Subject COC, and that the Four Clients had also failed to maintain
13 required records, and on those grounds EPA was voiding *ab initio* the Subject
14 COCs, under 40 C.F.R. § 1051.255(d) & (e).
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17 VI. CLAIMS FOR RELIEF

18 FIRST CLAIM FOR RELIEF 19 (Causing the Importation of Recreational Vehicles Not Covered by 20 Valid Certificates of Conformity)

21 62. Plaintiff realleges paragraphs 1 through 61, as if fully set forth herein.

22 63. One or more of the Defendants violated CAA Sections 203(a)(1) and
23 213(d), 42 U.S.C. §§ 7522(a)(1) and 7547(d), and 40 C.F.R. §§ 1068.101(a)(1) by
24 causing the Four Clients to deliver into commerce in the United States, or import
25 into the United States, recreational vehicles that were not covered by valid COCs,
26 after emission standards took effect for these vehicles. As set forth in Attachment
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1 B, Defendants caused, at a minimum, 24,478 recreational vehicles to be introduced
2 into commerce, or imported into the United States under the Subject COCs that
3 were invalid.
4

5 64. Each recreational vehicle that Defendants caused to be imported or
6 introduced into commerce without a valid COC is a separate violation of CAA
7 Sections 203(a)(1) and 213(d), 42 U.S.C. §§ 7522(a)(1) and 7547(d), and 40
8 C.F.R. §§ 1068.101(a)(1).
9

10 65. Under CAA Sections 204(a), 205(a), and 213(d), 42 U.S.C.
11 §§ 7523(a), 7524(a), 7547(d), and 40 C.F.R. §§ 1068.101(a)(1), Defendants are
12 liable for injunctive relief and for civil penalties of up to \$32,500 for each
13 recreational vehicle not covered by a valid COC that they caused to be imported or
14 introduced into United States' commerce.
15
16

17 **SECOND CLAIM FOR RELIEF**
18 **(Causing Violations of the Requirement to Maintain Copies of the**
19 **Applications for Certificates of Conformity Submitted to EPA)**

20 66. Plaintiff realleges paragraphs 1 through 61, as if fully set forth herein.

21 67. One or more of the Defendants violated CAA Section 203(a)(2)(A)
22 and 213(d), 42 U.S.C. §§ 7522(a)(2)(A) and 7547(d), and 40 C.F.R. §§
23 1068.101(a)(2), by causing the Four Clients to fail to comply with 40 C.F.R. §
24 1051.250(b)(1) by failing to provide each client with a copy of the applications for
25 COCs that they submitted to EPA on the client's behalf. (See Attachment A).
26
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1 or vehicles that exceed emission standards or, for any reason, are not covered by
2 valid certificates of conformity;

3
4 b. Ordering Defendants to take appropriate action to cease causing
5 importers and/or holders of COCs to violate the recordkeeping requirements
6 contained in 40 C.F.R. § 1051.250(b);
7

8 c. Ordering Defendants to implement a compliance plan to come into
9 permanent and consistent compliance with the CAA, and take appropriate actions
10 to remedy the violations of the CAA alleged in this Complaint, including action to
11 mitigate excess emissions that have or will occur as a result of the alleged
12 violations;
13

14 d. Assessing civil penalties against the Defendants of not more than
15 \$32,500 for each violation or each day of violation, as applicable, alleged in this
16 Complaint;
17

18 e. Awarding the United States its costs and disbursements in this action,
19 and
20

21 f. Granting such other and further relief as the Court deems just and
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1 proper.

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Respectfully Submitted,

4



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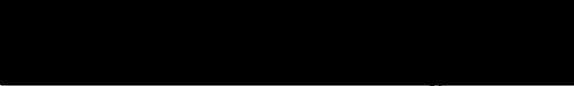
IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources
Division
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OF COUNSEL:
CHRISTOPHER A. THOMPSON
EVAN M. BELSER
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

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ATTACHMENT A-

Table of COCs Subject to Second, Third and Fourth Claims

Engine Family for which COC Application Was Filed	Certificate Holder/ Importer	Date Application Submitted
6PCGX.150APX	Peace Industry Group (USA), Inc.	6/09/2006
6PCGX.110APX	Peace Industry Group (USA), Inc.	6/09/2006
6SSGX.125ACH	Seaseng, Inc.	6/19/2006
7LGGX.150AA1	Longting USA, LLC	11/07/2006
7LGGX.250AM5	Longting USA, LLC	11/07/2006
7LGGX.110AM3	Longting USA, LLC	11/07/2006
7CGQX.110AA1	Hensim USA, Inc.	11/10/2006
7PCGX.150AA1	Peace Industry Group (USA), Inc.	1/09/2007
7PCGX.110AM3	Peace Industry Group (USA), Inc.	1/17/2007
7CGQX.2000DM5	Hensim USA, Inc.	1/25/2007
7PCGX.250AM5	Peace Industry Group (USA), Inc.	2/02/2007
7SSGX.125AM3	Seaseng, Inc	3/09/2007

ATTACHMENT B-

Table of COCs Subject to First Claim for Relief

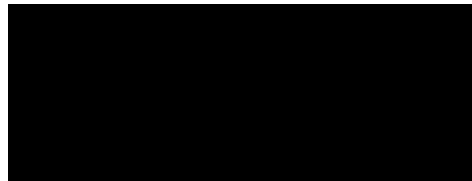
Engine Family for which COC Application Was Filed	Certificate Holder/Importer	Date Application Submitted	Quantity of ATVs Imported under Invalid COC
6SSGX.125ACH	Seaseng, Inc.	6/19/2006	263
7LGGX.150AA1	Longting USA, LLC	11/07/2006	1,588
7LGGX.250AM5	Longting USA, LLC	11/07/2006	1,326
7LGGX.110AM3	Longting USA, LLC	11/07/2006	844
7CGQX.110AA1	Hensim USA, Inc.	11/10/2006	3,417
7PCGX.150AA1	Peace Industry Group (USA), Inc.	1/09/2007	1,164
7PCGX.110AM3	Peace Industry Group (USA), Inc.	1/17/2007	14,542
7PCGX.250AM5	Peace Industry Group (USA), Inc.	2/02/2007	204
7SSGX.125AM3	Seaseng, Inc	3/09/2007	1,130
TOTAL:			24,478 vehicles

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint was served on this date, September 27, 2011, by express mail, postage prepaid, upon the following individual:

Counsel for MotorScience Enterprises, Inc., MotorScience, Inc. and Chi Zheng

Adam Braun
1880 Century Park East
Suite 710
Los Angeles, CA 90067



Lisa A. Cherup
Trial Attorney

A handwritten signature in black ink, appearing to be a stylized 'L' or 'C' shape, located to the right of the typed name.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George King and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

CV11- 8023 GHK (VBKx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) United States of America	DEFENDANTS MotorScience Enterprises, Inc., MotorScience, Inc. and Chi Zheng
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Lisa A. Cherup, Environment & Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611 (202) 514-2802	Attorneys (If Known) Adam Braun 1880 Century Park East, Suite 710 Los Angeles, CA 90067

II. BASIS OF JURISDICTION (Place an X in one box only.) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify): _____
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ appropriate civil penalty

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Clean Air Act, 42 U.S.C. 7523, 7524, 7547

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: CV11-08023

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s) : _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s) : _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County (for all three defendants)	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date

9/27/11

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))