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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**

12 **PEOPLE OF THE STATE OF**  
13 **CALIFORNIA, ex rel. ANDREW**  
14 **NGUYEN, an individual,**  
15  
Plaintiff,  
16  
**v.**  
17 **U.S. HEALTHWORKS, INC., a Delaware**  
18 **corporation; and DOES 1-20,**  
19  
Defendant

Case No. BC 698811  
**COMPLAINT IN INTERVENTION OF**  
**THE PEOPLE OF THE STATE OF**  
**CALIFORNIA; DEMAND FOR JURY**  
**TRIAL**  
Dept: 12  
Judge: Hon. Carolyn B. Kuhl  
Trial Date: None set  
Action Filed: March 22, 2018

1 Plaintiff, the People of the State of California (“the People”), by and through Rob Bonta,  
2 Attorney General of the State of California, having filed a notice of intent to intervene pursuant to  
3 Government Code section 12652, subdivision (c)(8)(D)(i), based on information and belief,  
4 alleges for its complaint in intervention as follows:

### 5 INTRODUCTION

6 1. This action arises from Defendant U.S. HealthWorks, Inc.’s (USHW) persistent  
7 violations of California’s Unclaimed Property Law, Code of Civil Procedure sections 1500 *et seq.*  
8 (UPL), by holding millions of dollars of unclaimed property USHW was required to report and  
9 remit to the State of California (“State”) for over twenty years.

10 2. The UPL serves “to reunite owners with unclaimed funds or property,” and “to give  
11 the state, rather than the holder, the benefit of the use of unclaimed funds or property.” (*Bank of*  
12 *America v. Cory* (1985) 164 Cal.App.3d 66, 74.) Accordingly, the UPL requires businesses to  
13 self-report and then deliver such unclaimed property to the Controller of the State of California  
14 (“the Controller”) by prescribed deadlines, and pay the State interest for property not timely  
15 reported or delivered. The UPL also provides for the Controller to use all money received under  
16 the UPL for various payments or refunds related to administration of the UPL and for transfer to  
17 the General Fund.

18 3. USHW accrued tens of millions of dollars in overpayments, millions of dollars’ worth  
19 of which USHW let sit on its books for years, sometimes more than a decade, without issuing a  
20 refund. Of the overpayments for which USHW did issue a refund check, millions of dollars’  
21 worth of such checks were never successfully cashed and USHW also held those balances on its  
22 books indefinitely. Even when USHW did refund overpayments, it often did so several years after  
23 those refund amounts escheated to the State under the UPL, thereby wrongfully giving USHW the  
24 benefit of the use of those funds instead of the State.

25 4. USHW knew its business practices resulted in continual violations of the UPL and  
26 repeatedly choose not to comply with the law.

27 5. In 2018, after new management was installed and after being informed of the  
28 Attorney General’s investigation regarding USHW’s unclaimed property practices, USHW filed

1 its first report to the Controller identifying unclaimed property it held (a “holder report”).  
2 However, USHW’s holder report in 2018 omitted numerous unclaimed properties it holds and  
3 understated the age of the unclaimed properties reported. USHW filed holder reports each year  
4 after 2018, but those reports suffer from the same deficiencies as the 2018 report.

5 6. Accordingly, USHW still holds unreported unclaimed properties and owes the State  
6 interest under the UPL.

7 7. The California False Claims Act (CFCA) imposes liability on any person who  
8 “[k]nowingly makes, uses, or causes to be made or used a false record or statement material to an  
9 obligation to pay or transmit money or property to the state” or “knowingly conceals or  
10 knowingly and improperly avoids, or decreases an obligation to pay or transmit money or  
11 property to the state...” (Gov. Code § 12651, subd. (a)(7).)

12 8. The CFCA also imposes liability on any person who “[h]as possession, custody, or  
13 control of . . . money used or to be used by the state . . . and knowingly delivers or causes to be  
14 delivered less than all of that property.” (Gov. Code § 12651, subd. (a)(4).)

15 9. Defendants violated the CFCA by knowingly failing to file reports with the Controller  
16 any time before October 2018, thereby knowingly concealing and knowingly and improperly  
17 avoiding USHW’s obligations to deliver unclaimed property and to pay interest to the State.  
18 Defendants also violated the CFCA each year before October 2018, by knowingly failing to  
19 deliver to the Controller all of the unclaimed property in their possession, custody or control as  
20 required under the UPL. Defendants’ conduct harmed and continues to harm the State by  
21 depriving it of the interest owed under the UPL (i.e. the benefit of the use of unclaimed property).

## 22 **PARTIES**

23 10. Attorney General Rob Bonta is the chief law officer of the State of California. He  
24 brings this action on behalf of Plaintiff, the People of the State of California.

25 11. On information and belief, Defendant U.S. HealthWorks, Inc. (USHW) is a  
26 corporation organized under the laws of the State of Delaware with its principal place of business  
27 located at 5080 Spectrum Drive, Suite 1200, Addison, Texas 75001. At all times relevant herein,  
28 USHW transacted business throughout California.

1 12. Defendants DOES 1 through 100, inclusive, are sued herein under fictitious names.  
2 Their true names and capacities, whether individual, corporate, associate or otherwise, are  
3 unknown to the Plaintiff. When their true names and capacities are ascertained, Plaintiff will  
4 amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and  
5 believes and thereon alleges that each of the fictitiously named defendants is responsible in some  
6 manner or liable for the unlawful acts or omissions herein alleged and that Plaintiff's damages  
7 and injuries as herein alleged were proximately caused by such defendants.

8 13. Each defendant named herein, including all fictitiously named defendants, is and at  
9 all times mentioned was the agent or employee of the remaining defendants, and in doing or  
10 failing to do the things hereafter alleged, was acting in the course and scope of that agency or  
11 employment with the full consent, either express or implied, of each of the remaining defendants.

#### 12 JURISDICTION

13 14. This Court has jurisdiction to hear the claims alleged in this Complaint and is a court  
14 of competent jurisdiction to grant the relief requested.

#### 15 VENUE

16 15. At all relevant times alleged in this Complaint, Defendant did business in the County  
17 of Los Angeles.

18 16. Violations of law alleged in this Complaint occurred in the County of Los Angeles.

#### 19 FACTUAL ALLEGATIONS

20 17. Pursuant to the UPL, all intangible property that is held or owing in the ordinary  
21 course of the holder's business, and has remained unclaimed by the true owner for a prescribed  
22 period of time depending on the type of property (three years in most cases) after it has become  
23 payable or distributable, escheats to the State. (Code Civ. Proc., § 1520.) Title to unclaimed  
24 property vests in the State, subject to the right of the owners (or their descendants) to appear and  
25 claim the escheated property. (*Id.*, §§ 1300, subd. (c), 1540, subd. (d).) All money received under  
26 the UPL is appropriated for the State's use to make payments in connection with administering  
27 the UPL and to transfer to the General Fund. (*Id.* § 1564.)  
28

1           18. To effect the escheat of unclaimed property to the State, the UPL perpetually requires  
2 businesses and other holders of unclaimed property to: (1) notify the apparent true owners of  
3 unclaimed property of its impending transfer to the State; (2) self-report all the unclaimed  
4 property in the holder's possession to the Controller, pursuant to statutorily set deadlines and  
5 reporting formats; and, (3) remit the property still unclaimed by the true owner to the SCO,  
6 pursuant to statutorily set deadlines and transfer processes. (Code Civ. Proc., §§ 1520, subs. (b),  
7 (c), 1530, 1532.)

8           19. Holders that do not report property by the corresponding statutory deadlines are liable  
9 to the Controller for simple interest accruing on the principal unclaimed property at a rate of  
10 twelve percent (12%) per annum. (Code Civ. Proc., § 1577.)

11           20. Intangible property subject to escheat and the reporting and remittance obligations  
12 imposed by the UPL includes obligations to pay money and a payee's right to receive money.  
13 (*Blue Cross of Northern California v. Cory* (1981) 120 Cal.App.3d 723, 736).

14           21. Accounts payable balances and credit balances on accounts receivable credits are  
15 common and well recognized forms of intangible property subject to escheat and the reporting  
16 and remittance obligations imposed by the UPL. The National Association of Unclaimed Property  
17 Administrators' standard property codes that must be used when reporting unclaimed property to  
18 California provide individual codes specifically for those forms of intangible property: accounts  
19 payable = "MS08"; credit balance - accounts receivable = "MS09".

20           22. USHW's business operations resulted in the accumulation of various forms of  
21 unclaimed property subject to the UPL, including accounts receivable credit balances and  
22 accounts payable balances.

23           23. The primary source of unclaimed property at USHW were overpayments from  
24 patients, customers and insurers. USHW let millions of dollars' worth of these overpayments  
25 simply sit on its books for years and years, recorded as accounts receivable credit balances.  
26 Additionally, millions of dollars' worth of the overpayments USHW attempted to refund were  
27 never paid because the refund check was never cashed. In those instances, USHW simply  
28 continued to hold the accounts payable balance.

1           24. A significant portion of the unclaimed property USHW held and/or still holds belongs  
2 to California residents.

3           25. At all relevant times, USHW knew these forms of unclaimed property existed on its  
4 books from external auditors as well as its own accounting employees.

5           26. As early as 2004, USHW's auditors expressed concerns about the company's failure  
6 to timely process refunds for overpayments and the resulting accumulation of accounts receivable  
7 credits. In a letter dated June 15, 2004, USHW's auditors documented their concerns from their  
8 audit of USHW's financials for the year ending on March 31, 2004, including those concerns  
9 related to compliance with unclaimed property laws. The auditors recommended that  
10 management "monitor the Company's compliance with state unclaimed property requirements  
11 related to refunds due patients, employees and payers." USHW's management acknowledged the  
12 refund issue in responses it prepared for its September 16, 2004 Board of Directors meeting, in  
13 which it stated that "the Company has apprised itself of the various unclaimed property  
14 requirements and continues to monitor state laws and regulation in relation thereto."

15           27. Although USHW knew about unclaimed property requirements, a 2006 audit showed  
16 USHW was not tracking or reporting unclaimed property. In October 2006, USHW's  
17 management, including then Chief Executive Officer Dan Crowley and then Chief Financial  
18 Officer Robert Hutchison, received a due diligence report prepared by KPMG in connection with  
19 a potential acquisition stating that USHW "has not historically tracked any unclaimed property  
20 (i.e., such items as unclaimed payroll checks and uncashed vendor checks) nor has it reported  
21 unclaimed property to any state in which it had a physical presence."

22           28. A few months later in a report USHW's auditors prepared for the Board of Directors  
23 for the period ending December 31, 2006, USHW's auditors again noted the need to resolve aged  
24 accounts receivable credits and adopt procedures to bring USHW in compliance with state  
25 unclaimed property laws. USHW's management agreed and responded that "a process and  
26 reporting protocol needs to be developed to investigate and resolve" credit balances and  
27 unclaimed property "in a timely manner."  
28

1           29. In the report for the periods ending December 31, 2007 and December 31, 2008,  
2 USHW's auditors again noted issues with credit balances and compliance with unclaimed  
3 property laws.

4           30. In July 2009, USHW's management prepared responses to the auditor's report in  
5 which it stated that it was evaluating the implementation of an automatic escheatment tracking  
6 system.

7           31. Although USHW's Director of the Treasury Accounting unit sent an email in July  
8 2009 to USHW's management stating that USHW should "implement the escheatment process  
9 effectively immediately," the escheatment process was not implemented and the auditors again  
10 found internal control deficiencies with respect to USHW's non-compliance with escheatment  
11 laws in their audit for the year ending December 31, 2009. The auditors found over \$600,000 in  
12 checks outstanding for more than three years that potentially needed to be remitted to states. The  
13 auditors also found that USHW was not reviewing accounts receivable credit balances older than  
14 three years.

15           32. In April 2011, the auditors sent a letter to USHW's management setting forth internal  
16 control deficiencies found during their audit for the period ending December 31, 2010. Their  
17 findings again included USHW's non-compliance with escheatment laws and failure to review  
18 aged credit balances. The auditors found \$1.8 million in checks outstanding that were over three  
19 years old. They again recommended that management review all outstanding checks and accounts  
20 receivable credit balances to determine which amounts state escheat laws required be remitted to  
21 the states.

22           33. Despite repeated acknowledgements by USHW's management between 2004 and  
23 2011 that USHW needed to investigate and resolve unclaimed property holdings, and despite a  
24 number of actions USHW took regarding unclaimed property from at least 2007 through 2017  
25 demonstrating that USHW knew its obligations under the UPL, USHW did not report or remit  
26 unclaimed property as required.

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1           34. In 2007, USHW licensed software to help it track certain balances that were subject  
2 to or soon to be subject to reporting and remittance obligations under the UPL or other states'  
3 laws and calculate when each such balance should be reported and remitted.

4           35. At that time and at management's direction, USHW's Treasury Accounting unit  
5 identified approximately 4,500 accounts payable balances (uncashed checks) dating back to 2001  
6 that were then subject to escheat and reporting requirements, but management instructed the  
7 Treasury Accounting unit not to report or remit those balances.

8           36. By December 31, 2010 and using the aforementioned software , USHW had  
9 identified and was tracking as subject to or soon to be subject to escheat more than 8,000  
10 accounts payable balances totaling \$1,649,492.46 that USHW would have to report and remit.

11           37. On January 1, 2011, USHW created on its general ledger an account numbered  
12 90000001-240000 and titled "unclaimed property" (hereinafter "GL 240000") to which it  
13 transferred the \$1,649,492.46 million worth of accounts payable balances tracked as subject to or  
14 soon to be subject to escheat that USHW would have to report and remit.

15           38. From 2011 through at least 2017, USHW regularly transferred accounts payable  
16 balances and periodically reclassified patient refunds to the GL 240000 account on its general  
17 ledger. The account's balance grew each year, even though USHW made some efforts to resolve  
18 some of the balances in it, including by periodically sending letters to some of the rightful owners  
19 of the unclaimed balances.

20           39. In or about 2009, USHW sent letters to former shareholders regarding funds owed to  
21 those shareholders from various buyouts or recapitalizations of the company but which remained  
22 unclaimed, most all of which should have already been reported and remitted under applicable  
23 states' unclaimed property laws. Those letters expressly acknowledged that if the unclaimed  
24 funds were not collected by the former shareholders, USHW would have to transfer them to each  
25 former shareholder's state. The letters to former shareholders in California specifically  
26 acknowledged USHW's obligations under the UPL.

27           40. Despite this, some former shareholders failed to collect their funds but USHW did not  
28 report or remit those funds to the appropriate state, including California.



1           41. In March 2012, the Ohio Department of Commerce notified USHW’s wholly owned  
2 subsidiary US Health Works Medical Group that it had four months to file an annual report of  
3 unclaimed funds (a holder report).

4           42. In response and on August 7, 2012, USHW reported and remitted as unclaimed  
5 property 224 “other miscellaneous outstanding checks” worth \$11,891.78 to the Ohio Department  
6 of Commerce.

7           43. In December 2012, the Ohio Department of Commerce, Division of Unclaimed Funds  
8 commenced an involuntary examination of U.S. Health Works Medical Group regarding  
9 unclaimed property.

10           44. USHW participated in the examination, which continued through 2013 and into 2014.  
11 The exam specifically addressed USHW’s records regarding accounts receivable credit balances  
12 and patient refund balances, not merely “miscellaneous outstanding checks” like those USHW  
13 reported in 2012.

14           45. In 2013, while the Ohio exam was ongoing, USHW’s Director of Treasury  
15 Accounting, Ileana Calderon, asked USHW’s Chief Financial Officer, Robert Hutchison for  
16 approval to file unclaimed property reports in states other than Ohio. Hutchison responded no.

17           46. From 2013 through 2017, USHW reported unclaimed property to Ohio, but not to  
18 California or other states despite having identified property required to be reported in California  
19 and other states. On several occasions from 2013 to 2016, Calderon asked Hutchison for approval  
20 to report the unclaimed property USHW had identified for states other than Ohio and Hutchison  
21 told her not to do so because USHW did not want to trigger an audit.

22           47. After Hutchison left USHW in March 2016, Calderon and others raised concerns  
23 about USHW’s historical non-compliance with unclaimed property laws with Hutchison’s  
24 successor Chief Financial Officer, Wael Mohammed, who previously was USHW’s Senior Vice  
25 President of Finance. By December 2016, the balances subject to or soon to be subject to escheat  
26 that USHW had transferred to the GL 240000 account totaled approximately \$2.5 million.  
27 Additionally, the monthly accounts receivable credits report distributed to USHW’s management  
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1 showed that as of December 2016, USHW held approximately \$6.4 million worth of accounts  
2 receivable credits aged one year or more.

3 48. In 2017, Select Medical Holdings Corporation and its subsidiaries engaged in  
4 discussions and conducted due diligence regarding a potential acquisition of USHW. Through the  
5 due diligence process, USHW disclosed, inter alia, the GL 240000 account balance on its general  
6 ledger (more than \$2.5 million in August 2017) and its accounts receivable credit balances aged  
7 one year or more (over \$6.9 million in August 2017).

8 49. Despite the concerns raised internally in 2016 and the disclosures it made to Select  
9 Medical earlier in 2017, USHW chose not file a holder report in California by the November 1,  
10 2017 deadline as required by the UPL.

11 50. Select Medical proceeded to acquire USHW in February 2018.

12 51. The Attorney General's Office first contacted USHW about its investigation into  
13 USHW's unclaimed property holdings by letter dated May 2, 2018.

14 52. On October 23, 2018, USHW first reported unclaimed property to California, filing a  
15 holder report identifying 3,520 accounts payable balances identified as from 2011 through June  
16 30, 2015. The report did not include the accounts payable balances from prior to 2011 that  
17 USHW had tracked as subject to escheat and reporting/remitting requirements, nor did it include  
18 any accounts receivable credit balances.

19 53. USHW's October 23, 2018 holder report also misattributed the reported property as  
20 aging from the date a check had been issued for the accounts payable balance, despite most of  
21 those accounts payable balances representing refund balances that were first payable years before  
22 a check was ever issued. For example, USHW reported an accounts payable balance of \$55.15  
23 owed to PATIENT 1 under an account number 723926 as held from May 8, 2013. However,  
24 USHW's billing records show that USHW had held the \$55.15 balance owed to PATIENT 1  
25 since May 4, 2011, making the balance more than two years older than USHW reported.

26 54. USHW reported unclaimed property in 2019, 2020 and 2021, and each of those  
27 reports is defective in the same manners as its 2018 report. The 2019, 2020 and 2021 reports do  
28 not identify all unclaimed property USHW held at the time the reports were filed, and the vast

1 majority of the property reported is incorrectly dated based on a check issuance date instead of  
2 when the refund balance was first payable. For example, in its 2021 holder report, USHW  
3 reported an accounts payable balance of \$25.00 owed to PATIENT 2 under an account number  
4 962816 as held from February 27, 2018. However, USHW's billing records show that USHW had  
5 held the \$25.00 balance owed to PATIENT 2 since July 1, 2015, making the balance more than  
6 two years older than USHW reported.

7 55. USHW's failure to reunite property with its rightful owners deprived the owners of  
8 their money and any use to which they would put it.

9 56. USHW's failure to report and remit unclaimed property harmed the State by  
10 depriving it of the use of the funds that should have been reported and remitted, and the statutory  
11 interest USHW owed the State.

12 **FIRST CAUSE OF ACTION**  
13 **False Claims Act – Government Code § 12651, subd. (a)(7)**  
14 **(All Defendants)**

15 57. The People incorporate herein by reference the allegations in paragraphs 1-56 of this  
16 Complaint.

17 58. The terms "knowing" and "knowingly," as set forth in the CFCA, mean that a person,  
18 with respect to information, has actual knowledge of the information, acts in deliberate ignorance  
19 of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the  
20 information. Proof of specific intent to defraud is not required.

21 59. The term "obligation," as set forth in the CFCA in relevant part, means an established  
22 duty, whether or not fixed, arising from statute or regulation.

23 60. Defendants knowingly did not report or remit unclaimed property USHW held that it  
24 was obligated to report and remit pursuant to the UPL, from 2004 through at least 2017.

25 61. Defendants knowingly concealed and knowingly and improperly avoided USHW's  
26 obligations to pay interest pursuant to the UPL, Code of Civil Procedure § 1577, from 2005  
27 through at least 2017.

28 62. Defendants' conduct violated the CFCA.

1           63. The holder reports USHW filed in years 2018 through 2021 were incomplete and  
2 inaccurate, omitting property USHW was obligated to report and underreporting the age of the  
3 properties reported.

4           64. As a proximate result of the Defendants' actions, the People suffered and continue to  
5 suffer damages in a specific amount to be determined at trial.

6   **SECOND CAUSE OF ACTION**  
7   **False Claims Act – Government Code § 12651, subd. (a)(4)**  
8   **(All Defendants)**

9           65. The People incorporate herein by reference the allegations in paragraphs 1-64 of this  
10 Complaint.

11          66. Each year from 2005 to at least 2017, USHW held unclaimed property that was  
12 required to be remitted to the Controller under the UPL.

13          67. Each year from 2005 to at least 2017, Defendants knowingly delivered or caused to  
14 be delivered less than all the unclaimed property held by USHW that was required to be delivered  
15 to the Controller.

16          68. Each year from 2006 to at least 2017, USHW held sums of interest owed to the  
17 Controller pursuant to the UPL.

18          69. Each year from 2006 to at least 2017, Defendants knowingly delivered or caused to  
19 be delivered less than all the sums of interest owed to the Controller pursuant to the UPL.

20          70. Despite filing holder reports in years 2018 through 2021, Defendants continue to have  
21 possession, custody or control of unclaimed property that was and remains required to be remitted  
22 to the State and sums of interest owed to the Controller pursuant to the UPL.

23          71. Defendants' conduct violated the CFCA.

24          72. As a proximate result of the Defendants' actions, the People suffered and continue to  
25 suffer damages in a specific amount to be determined at trial.

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1 **THIRD CAUSE OF ACTION**  
2 **Determination of Escheat - Government Code § 12541**  
3 **(All Defendants)**

4 73. The People incorporate herein by reference the allegations in paragraphs 1-72 of this  
5 Complaint.

6 74. Defendants possess unclaimed property that escheated to the State under the UPL,  
7 thereby vesting in the State title to such property under the UPL. Such property includes, but is  
8 not limited to, accounts payable balances and accounts receivable credits balances on USHW's  
9 books and records that were never refunded to the rightful owners from as early as 2001.

10 75. Defendants have violated and continue to violate the UPL, by failing to identify and  
11 report such unclaimed property that escheated to the State under the UPL.

12 76. Pursuant to Government Code section 12541, the Attorney General is entitled to an  
13 order determining that the unclaimed property USHW held and remaining in Defendants'  
14 possession escheated under the UPL thereby vesting in the State title pursuant to the UPL.

15 **PRAYER FOR RELIEF**

16 Wherefore, Plaintiff, the People of the State of California, pray for relief against all  
17 Defendants as follows:

18 1. Pursuant to Government Code section 12541, a declaration that the unclaimed  
19 property held by Defendants escheated to and title to such property vested in the State of  
20 California pursuant to the UPL;

21 2. Pursuant to Government Code section 12651 subdivision (a), three times the damages  
22 that the People of the State of California have suffered as a result of Defendants' acts, in an  
23 amount to be determined;

24 3. Pursuant to Government Code section 12651, subdivision (a), the maximum  
25 allowable civil penalties for each violation of the CFCA;

26 4. Pursuant to Government Code section 12651, subdivision (a), and all other applicable  
27 provisions of law, the costs of this action;

28 5. Such further or additional relief as the Court deems proper.

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Dated: March 21, 2022

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
JACQUELINE DALE  
Supervising Deputy Attorney General

/s/ Brendan Ruddy  
BRENDAN RUDDY  
Deputy Attorney General  
*Attorneys for the People of the State of California*

**JURY DEMAND**

Plaintiff demands a jury trial on all issues so triable.

Dated: March 21, 2022

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
JACQUELINE DALE  
Supervising Deputy Attorney General

/s/ Brendan Ruddy  
BRENDAN RUDDY  
Deputy Attorney General  
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