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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]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

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, *et seq.*)

**[VERIFIED ANSWER REQUIRED
PURSUANT TO CALIFORNIA CODE
OF CIVIL PROCEDURE SECTION 446]**

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:

4 **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.

15 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.

24 **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).

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.

1 presented as a returned Google search result. The files, including the PII and PHI, could be
2 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.

14 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.

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

**VIOLATIONS OF THE CONFIDENTIALITY OF MEDICAL INFORMATION ACT
CIVIL CODE SECTION 56.101**

(Failure to Preserve Confidentiality of Medical Information)

25. The People reallege and incorporate by reference each of the paragraphs above as though fully set forth herein.

26. COTTAGE is obligated to preserve the confidentiality of medical information it creates, maintains, preserves, stores, abandons, destroys, or disposes. [Civ. Code § 56.101(a).]

27. COTTAGE failed to maintain, preserve, and store medical information in a manner that preserves the confidentiality of the information. Among other things, COTTAGE stored PII and ePHI on its servers in a manner where it could be, and was accessed by unauthorized individuals.

28. Because of COTTAGE’s failures, COTTAGE negligently maintained, preserved, and stored medical information in violation of Civil Code section 56.101(a).

29. COTTAGE also negligently disclosed medical information in violation of Civil Code section 56.36(c)(1). COTTAGE’s failure to implement reasonable security safeguards on at least two servers that allowed internet search engines, such as Google, to publicly index and collect confidential medical information and make it available to anyone with internet access. COTTAGE’s actions caused confidential medical information to be released to and accessed by the public.

SECOND CAUSE OF ACTION

**VIOLATIONS OF BUSINESS AND PROFESSIONS CODE
SECTION 17200, ET SEQ.**

(Unlawful, Unfair, and Fraudulent Business Practices)

30. The People reallege and incorporate by reference each of the paragraphs above as though fully set forth herein.

1 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. 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 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.

9
10 Dated: November 21, 2017

Respectfully Submitted,

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