

40012
A6013

1 **SPIRO MOORE LLP**
2 J. Mark Moore (180473)
3 mark@spiro.moore.com
4 11377 West Olympic Boulevard, 5th Floor
5 Los Angeles, CA 90064
6 Tel.: (310) 235-2468; Fax: (310) 235-2456

7 Attorneys for Plaintiff/Relator
8 Susie Kaplar

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAY 02 2012
John A. Clarke, Executive Officer/Clerk
BY *[Signature]*, Deputy
Kamber La-Pear-Clayton

D50 John Segal

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

BC483914

9 STATE OF CALIFORNIA,
10 *Ex rel.*, SUSIE KAPLAR,

11 Plaintiff,

12 v.

13 CALIFORNIA VIRTUAL ACADEMY @ LOS
14 ANGELES, K12 INC. D/B/A DELAWARE K12
15 INC., and DOES 1 through 100, inclusive,

16 Defendants

Case No. _____

Filed Under Seal

COMPLAINT FOR:

1. VIOLATIONS OF THE CALIFORNIA FALSE CLAIMS ACT (Cal. Gov't Code §§ 12650, *et seq.*)
2. VIOLATIONS OF THE CALIFORNIA FALSE CLAIMS ACT'S ANTI-RETALIATION PROVISIONS (Cal. Gov't Code § 12653)

JURY TRIAL DEMANDED

60 days in camera

CIT/CASE: K0883914 LEA/SEFN
 RECEIPT #: 004503057087
 DATE PAID: 05/02/12 03:55:28 PM
 PAYMENT: 4945.00
 RECEIVED: 0315
 CHECK: 945.00
 CASH:
 CHANGE:
 CARD:

1 Plaintiff and Relator Susie Kaplar for her Complaint against Defendants California Virtual
2 Academy @ Los Angeles ("CAVA-LA"), K12 Inc. d/b/a Delaware K12 Inc. ("K12," and collectively
3 with CAVA-LA, "Defendants"), and Does 1 through 100, alleges as follows:
4

5 **I.**

6 **INTRODUCTION**

7 1. This is an action to recover damages and civil penalties on behalf of the State of
8 California arising from false statements and claims made and presented by Defendants and/or their
9 agents, employees and co-conspirators in violation of the California False Claims Act, Cal. Gov't Code
10 §§ 12650, *et seq.*, ("CFCA"), along with a claim for damages resulting from CAVA-LA's retaliatory
11 termination of Plaintiff for raising the subject violations. Defendants violated the CFCA by falsely
12 making claims to the State of California for education funding based on inflated attendance records and
13 the resulting inflated average daily attendance ("ADA") for students at Defendants' "virtual" charter
14 school campuses in the State of California. Defendants, as a matter of practice, claimed, and continue to
15 claim, ADA in instances when ADA has not been earned under the law and under Defendants' own
16 written policies, and thereby fraudulently claim and obtain excess compensation from the State to which
17 they are not entitled.

18 2. The CFCA provides that any person who knowingly makes, uses, presents, or causes to
19 be made, used or presented, a false or fraudulent claim for payment or approval to an officer or
20 employee of the State is liable for a civil penalty of up to \$10,000.00 for each claim submitted or paid,
21 plus three times the amount of damages sustained by the State. The CFCA allows any person having
22 information regarding a false or fraudulent claim against the State to bring an action for herself (the
23 "Relator") and for the State, and for her to share in any recovery. The Complaint is filed under seal for
24 60 days (without service on the defendants during the period) to enable the State: (a) to conduct its own
25 investigation without the defendants' knowledge, and (b) to determine whether to join the action.

26 3. Based on those provisions of the CFCA, Plaintiff seeks to recover damages and civil
27 penalties arising from Defendants' presentation of false and fraudulent records, claims, and statements
28 to the State and its agents in connection with the State's payment of education funds for inflated ADA.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.
THE PARTIES

4. Plaintiff and Relator Susie Kaplar is an individual and a resident and citizen of the State of California. Plaintiff was a teacher employed by CAVA@Sonoma for the 2008-2009 and 2009-2010 school years and CAVA-LA for the 2010-2011 school year, both of which are virtual online charter schools. During the period of her employment at CAVA-LA, Plaintiff learned, as more fully detailed below, that Defendants were defrauding the State of California by having CAVA-LA submit inflated ADA records in order to claim excess educational funds from the State. There have been no public disclosures of the information or transactions alleged herein. In any event, Plaintiff is an original source of the information, since (1) Plaintiff has direct and independent knowledge of the information on which the allegations herein are based, (2) Plaintiff voluntarily communicated with the State's Department of Education regarding the matters herein and was told that, based on Plaintiff's statements about CAVA-LA's ADA practices, CAVA-LA was acting improperly, and (3) to the extent any public disclosure regarding the allegations or transactions at issue herein has been made, Plaintiff's communications with the Department of Education, on information and belief, provided the basis or catalyst for the investigation or report that led to any such public disclosure.

5. The State of California is a sovereign State and has suffered damages as a result of paying the inflated ADA claims submitted by CAVA-LA.

6. Defendant CAVA-LA is a California corporation headquartered in Simi Valley, California, with a charter from the West Covina Unified School District (charter number 0838). CAVA-LA, which opened on September 5, 2006, is a "virtual" online charter school, providing non-classroom based independent study education to pupils from grades Kindergarten through 12.

7. CAVA-LA is a "person" subject to suit under the CFCA, as defined in Cal. Gov. Code § 12650(b)(5), and as determined by the California Supreme Court in *Wells v. One2One Learning Foundation*, 39 Cal.4th 1164 (2006).

8. CAVA-LA is one of eleven California Virtual Academies (which are often referred to collectively as "CAVA"), which, together, have more than 11,000 students. The eleven CAVA schools

1 share the cost of a 10,000 square-foot office and storage space in Simi Valley. CAVA-LA, like all of
2 the California Virtual Academies, is closely affiliated with and operated by Defendant K12.

3 9. CAVA-LA is governed by an autonomous board, separate and distinct from the West
4 Covina Unified School District's board, its chartering entity.

5 10. For the 2009-2010 school year, CAVA-LA had an enrollment of 4,222 students, along
6 with 276 teachers and 152.6 full-time equivalent teachers, according to data maintained by the
7 California Department of Education. On information and belief, the enrollment and teacher figures were
8 greater for the 2010-2011 school year. CAVA-LA, like the other CAVA schools, obtains "direct
9 funding" from the State, in lieu of having the State disburse funds directly to its chartering entity, the
10 West Covina Unified School District. In 2010, CAVA-LA received more than \$18.7 million in state
11 revenue, or approximately \$4,636 in state aid per student. The state portion of its revenue made up the
12 vast majority of its total revenue of approximately \$22.4 million.

13 11. Defendant K12 is a publicly traded Delaware corporation with its principal place of
14 business in Herndon, Virginia. K12 operates virtual schools in 27 states, including CAVA-LA and the
15 other eight CAVA schools in California. K12 was started in 2000 by Ron Packard, an economist and
16 engineer, and Bill Bennett, the Secretary of Education under President Ronald Reagan, "Drug Czar"
17 under President George H.W. Bush, and author of "The Book of Virtues." Michael Milken, the
18 financier who served prison time in the early 1990s for securities violations, provided initial financing
19 for K12.

20 12. CAVA-LA and K12 are a joint venture, operating in large part to benefit K12. The
21 "Head of Schools" for all of the CAVA schools, including CAVA-LA, is Katrina Abston, who is
22 employed by K12, not CAVA or CAVA-LA. Ms. Abston is also the agent for service of process for
23 CAVA-LA and several other CAVA schools. K12 recruits students for CAVA-LA and the other CAVA
24 schools. All student applications are submitted to, and evaluated by, K12. K12 describes its operations
25 with respect to virtual public schools such as CAVA-LA in its 2010 annual report in part as follows:
26 "We derive most of our revenues from virtual public schools to which we provide access to our course
27 catalogue, student computers and a variety of management, technology and academic support services...
28 Students receive assignments, complete lessons, and obtain instruction from certified teachers with

1 whom they interact on-line, telephonically, in virtual classroom environments, and sometimes face-to
2 face... For these schools, **we take responsibility for all aspects of the management of the schools,**
3 **including monitoring academic achievement, teacher recruitment and training, compensation of**
4 **school personnel, financial management, enrollment processing and procurement of curriculum,**
5 **equipment and other required services.”** (Emphasis added.) Elsewhere in its annual report, K12
6 states: “Although we receive state funds indirectly, according to the terms of each service agreement
7 with the local public school entity, our receipt of state funds subjects us to extensive state regulation and
8 scrutiny.” K12 further states: “Funding regulations for virtual schools can take a variety of forms.
9 These regulations include: (i) attendance – some state daily attendance rules were designed for
10 traditional classroom procedures and applying them to track daily attendance and truancy in an online
11 setting can cause disputes to arise over interpretation and funding...” K12 recognizes in its 2010
12 annual report that factors affecting its revenues include, among other things, “state or district per
13 funding levels and attendance requirements.”

14 13. According to K12’s 2010 annual report, “Our progress tracking tool allows students,
15 parents and teachers to monitor student progress. In addition, information collected by our progress
16 tracking tool regarding student performance, attendance and other data is transferred to our proprietary
17 management system for use in providing administrative support services.” K12 further states that “we
18 collect enrollment information, monitor attendance and administer proctored state tests. As we have
19 expanded into new states, our processes have grown increasingly robust, and we believe our compliance
20 and tracing processes provide us with a distinct competitive advantage.”

21 14. Defendants have at all time transacted business in the County of Los Angeles. The
22 violations of law alleged herein have been and are being carried out within the County of Los Angeles
23 and elsewhere in California.

24 15. Plaintiff is unaware of the true names of defendants DOES 1 through 100. Said
25 Defendants are sued by fictitious names, and the pleadings will be amended as necessary to show the
26 true names and capacities of the DOE Defendants when they are ascertained. Plaintiff alleges on
27 information and belief that each Defendant designated as a “DOE” is legally responsible in some
28 manner for the acts and omissions alleged in this Complaint.

1
2 **III.**
3 **VENUE**

4 16. Venue is proper in this county because Defendants transact business in this county, and
5 because some of the violations of the CFCA described herein occurred within this county. Specifically,
6 pursuant to Plaintiff's agreement with CAVA-LA, Plaintiff was to perform her duties in this county.
7

8 **IV.**
9 **DEFENDANTS' FRAUDULENT SCHEME**

10 **A. The Charter School System and Relevant Laws, Regulations and Rules Governing CAVA-**
11 **LA and the Other CAVA Charter Schools**

12 17. Authorizing districts, such as West Covina Unified School District in CAVA-LA's case,
13 are supposed to oversee California charter schools, but in reality only do so to a limited degree. While
14 authorizing districts may review charter schools' curriculum and budgets, they lack the manpower and
15 resources to verify all of the schools' day-to-day records. Thus, charter schools have little
16 accountability and the charter schools, including CAVA-LA, are well aware of this. The lack of
17 accountability is exacerbated for independent study/virtual schools such as CAVA-LA. CAVA-LA and
18 K12 have taken, and continue to take, full advantage of this lack of accountability and oversight by the
19 authorizing district to perpetrate the ADA inflation scheme described herein.

20 **1. Charter School Independent Study Programs**

21 18. All non-classroom-based charter schools, including CAVA-LA, must request and obtain
22 a determination of funding from the State Board of Education in order to receive an apportionment of
23 funds from the State for their students. A determination of funding is a percentage approved by the
24 State Board of Education for each affected charter school by which the charter school's reported non-
25 classroom based ADA must be fixed by the Superintendent of Public Instruction prior to the
26 apportioning of funds based on that ADA. The default determination of funding for non-classroom-
27 based instruction at charter schools is 70%, unless a greater or lesser percentage is determined to be
28 appropriate by the State Board of Education in accordance with 5 CCR § 11963.4. (Cal. Educ. Code §

1 47612.5; 5 CCR § 11963.2.) CAVA-LA is approved for greater funding than some other charter
2 schools.

3 19. Pursuant to 5 CCR §11963, charter schools must submit a wealth of information in
4 seeking a determination of funding. That information includes, *inter alia*, information about total
5 resources and total expenditures, and, *inter alia*: (1) a certification of the following signed by the charter
6 school's director, principal or governing board chairperson: (A) that the information provided is true and
7 correct to the best of the ability and knowledge of the individual; (B) that the charter school's non-
8 classroom-based instruction is conducted for and substantially dedicated to the instructional benefit of
9 the school's students; (C) that the governing board of the charter school has adopted and implemented
10 conflict of interest policies; and (D) that all of the charter school's transactions, contracts, and
11 agreements are in the best interest of the school and reflect a reasonable market rate for all goods,
12 services, and considerations rendered for or supplied to the school; (2) the charter school's pupil-teacher
13 ratio as calculated pursuant to 5 CCR § 11704; (3) a listing of entities (such as K12) that received in the
14 previous fiscal year (or will receive in the current fiscal year) \$50,000 or more (or 10% or more) of the
15 charter school's total expenditures; the amount received by each entity; whether each of the contract
16 payments is based on specific services rendered or upon an amount per unit of ADA or some other
17 percentage; and an identification of which entities, if any, have contract payments based on a per unit
18 ADA amount or some other percentage; and (4) identification of the members comprising the charter
19 school's governing board and a description of how they were selected; whether the governing board has
20 adopted and implemented conflict of interest policies and procedures; and whether any of the governing
21 board members are affiliated in any way with any of the entities reported pursuant to paragraph (3)
22 above (including, e.g., K12), and if so, how.

23 20. A charter school is not eligible to receive apportionment for pupils' independent study
24 unless it has adopted policies that include the following:

- 25 a. the maximum length of time, by grade level and type of program, that may elapse
26 between the time an independent study assignment is made and the date by which
27 the pupil must complete the assigned work;

- 1 b. the number of missed assignments that will be allowed before an evaluation is
2 conducted to determine whether it is in the best interests of the pupil to remain in
3 independent study; and
- 4 c. a requirement that a current written agreement for each independent study pupil
5 shall be maintained on file including all legal requirements.

6 (Cal. Educ. Code § 51747.)

7 21. The legal requirements for the written agreement for each independent study pupil
8 include, but are not limited to, the following:

- 9 1) The manner, time, frequency, and place for submitting a pupil's assignments and
10 for reporting his or her progress.
- 11 2) The objectives and methods of study for the pupil's work, and the methods
12 utilized to evaluate that work.
- 13 3) The specific resources, including materials and personnel that will be made
14 available to the pupil.
- 15 4) A statement of the policies adopted pursuant to Cal. Educ. Code § 51747(a) and
16 (b) regarding the maximum length of time allowed between the assignment and
17 the completion of a pupil's assigned work, and the number of missed assignments
18 allowed prior to an evaluation of whether or not the pupil should be allowed to
19 continue in independent study.
- 20 5) The duration of the independent study agreement, including the beginning and
21 ending dates for the pupil's participation in independent study under the
22 agreement. No independent study agreement shall be valid for any period longer
23 than one semester, or one half year for a school on a year-round calendar.
- 24 6) A statement of the number of course credits or, for the elementary grades, other
25 measures of academic accomplishment appropriate to the agreement, to be earned
26 by the pupil upon completion.

1 7) The inclusion of a statement in each independent study agreement that
2 independent study is an optional educational alternative in which no pupil may be
3 required to participate.

4 8) Each written agreement shall be signed, prior to the commencement of
5 independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if
6 the pupil is less than 18 years of age, the certificated employee who has been
7 designated as having responsibility for the general supervision of independent
8 study, and all persons who have direct responsibility for providing assistance to
9 the pupil. For purposes of this paragraph "caregiver" means a person who has
10 met the requirements of Part 1.5 (commencing with Section 6550) of the Family
11 Code.

12 (Cal. Educ. Code § 51747.)

13 22. Each signature required for an independent study agreement shall be dated. An agreement
14 is not in effect until it is complete as to all terms, signed and dated. The curriculum and methods of
15 study specified in the independent study must be consistent with the charter. (5 CCR § 11702.)

16 23. The independent study by each student shall be coordinated, evaluated, and shall be
17 under the general supervision of an employee of the school district or county office of education who
18 possesses a valid certification document pursuant to Cal. Educ. Code § 44865 or an emergency
19 credential pursuant to Cal. Educ. Code § 44300, registered as required by law. (Cal. Educ. Code §
20 51747.5.)

21 24. All independent study charter schools are required to maintain certain records of
22 independent study. Namely, a master agreement, *daily attendance credit register*, representative work
23 samples, regular work assignments, student work records, teacher records, and school apportionment
24 records must be maintained for 3 years. Student transcripts must be permanently maintained. (5 CCR
25 §§ 16023, 16026 and 11703.)

26 25. Samples of original student work must be maintained that *reasonably reflect the total*
27 *scope of work assignments*. (5 CCR § 11700(b)(2).) Specifically, representative samples of each
28 independent study pupil's work products bearing signed or initialed and dated notations by the

1 supervising teacher indicating that he or she has personally evaluated the work, or personally reviewed
2 the evaluations made by another certificated teacher, must be maintained by the teacher. (5 CCR §
3 11703(b)(3).)

4 2. **Statutes and Regulations Governing Attendance**

5 26. Like other charter schools, CAVA-LA is required to maintain *written contemporaneous*
6 *records that document pupil attendance* and to make these records available for audit and inspection.
7 (Cal. Educ. Code § 47612.5.) In practice, these records are maintained, at least in part, by K12 in
8 electronic form.

9 27. Pursuant to 5 CCR § 11960(a), Regular Average Daily Attendance (ADA) in a charter
10 school is computed “by dividing a charter school’s total number of pupil-days of attendance by the
11 number of calendar days on which school was actually taught in the charter school.”

12 28. The California Department of Education considers attendance to have both “daily
13 engagement” and “time value” components. The “daily engagement” component is set forth in 5 CCR §
14 11960(a), which provides that attendance means the attendance of charter school pupils *while engaged*
15 *in educational activities required of them by their charter school on days when the school is in session.*
16 The “time value” component of attendance is governed by Cal. Educ. Code § 51747.5(b), which applies
17 to charter schools, and provides that schools may claim apportionment credit for independent study only
18 to the extent of the time value of pupil work product, as personally judged in each instance by a properly
19 licensed teacher. In practice, this means that *a charter school can only collect apportionment for any*
20 *daily engagement of a student on work assigned by the teacher on days the school is in session.*
21 Assuming that requirement is met, the credentialed teacher is also obligated to judge the time value of
22 the work product of the pupil.

23 29. According to the California Department of Education, the amount of work necessary to
24 constitute a day of non-classroom-based independent study attendance must be done on the scheduled
25 school day for which it is claimed as attendance for ADA purposes. For purposes of ADA audits,
26 charter schools must maintain (1) a calendar “clearly showing which days are school days, and (2)
27 contemporaneous attendance records for each student identifying clearly each school day in that
28 calendar on which the student engaged in [required] educational activities, to an extent sufficient to

1 constitute at least one day of time value.” (Marta Reyes, Director of Charter School Division, and Scott
2 Hannan, Director of School Fiscal Services Division, California Department of Education, Letter to
3 Charter School Administrators and Authorizers (December 2004), *available at*
4 <http://www.cde.ca.gov/sp/cs/as/csncbadaltr04.asp>.) No more than one day of attendance may be earned
5 in a calendar day. (5 CCR § 11960.)

6 30. *The daily attendance credit register must be maintained on a current basis as time values*
7 *of pupil work products are personally judged by a licensed teacher, and also reviewed by a supervising*
8 *teacher, if the licensed teacher is not a supervising teacher. (5 CCR § 11703(b)(4).)*

9 31. Independent study programs are required to be substantially equivalent in quality and in
10 quantity to classroom instruction. (5 CCR §§ 11701.5, 11960.) Thus, in terms of quantity, this means
11 that CAVA-LA must meet the minimum amount of school days for charter schools, 175, and the
12 minimum instructional minutes on an annual basis. While there is no minimum number of *hours per*
13 *day* applicable to charter schools, on an annual basis the minimum instructional minutes are 36,000 for
14 kindergarten, 50,400 for grades 1-3, 54,000 for grades 4-8, and 64,800 for grades 9-12. (Cal. Educ.
15 Code §§ 51746, 47612.5.) Thus, for example, with respect to substantial equivalence as to quantity, the
16 Education Code contemplates that a third grader will be offered, on average, independent study
17 substantially equivalent to 288 minutes (or 4.8 hours) of classroom instruction daily, based on a 175-day
18 school year.

19 32. Defendants publicly represent that students spend 4-6 hours daily on schoolwork, though
20 in reality Defendants have no enforced policy or practice to ensure that students do so, instead often
21 crediting students for attendance on days when they perform *any* amount of assigned schoolwork, or
22 sometimes when they perform *no* amount of assigned schoolwork. This disconnect can be shown by
23 comparing the attendance figures and attendance registers utilized in claiming apportionment funding
24 with the daily progress, if any, shown in Defendants’ electronic databases (and, in at least, Plaintiff’s
25 case, in Plaintiff’s own contemporaneous written records of progress and attendance).

26 33. ADA is the total number of days of student attendance divided by the total number of
27 days in the regular school year. A student attending every day would equal one ADA. CAVA-LA’s
28 reported ADA for 2010 was 4,052.2.

1 34. Education Code § 47610 provides that with limited exceptions not relevant here, charter
2 schools including CAVA-LA “shall comply” with “this part” (Part 26.8 of Title 1, governing “Charter
3 Schools”) “and all of the provisions set forth in its charter”.

4 35. In their regular ADA-based requests for apportionment funding, charter schools
5 (including CAVA-LA) are required to expressly certify, and do certify, that their ADA figures are
6 accurate and that they are in compliance with their charter and relevant provisions of the Education
7 Code and associated regulations.

8 **B. K12 Controls CAVA’s Operations**

9 36. K12 is the curriculum provider for CAVA-LA and the other CAVA schools. K12 lends
10 students computers, printers, software and books, and pays part of their internet costs. Its instructional
11 materials, used by the CAVA schools, including CAVA-LA, include print as well as interactive, on-line
12 learning materials. According to the CAVA web site (<http://www.k12.com/cava/how-it-works>):

13 The California Virtual Academies use curriculum and services provided by K¹².

14 Learning can happen at home, on the road, or wherever an Internet connection can be
15 found. While attendance, teacher interaction, and daily lessons are conducted online, our
16 lessons use physical materials and offline tools as well. For high school, CAVA uses the
17 K¹² high school program from K¹². Whether targeting a top-tier, 4-year university, a
18 local community college, or an immediate career, CAVA prepares students to maximize
19 their post-high school success through K¹² high school.

20 California Virtual AcademiesSM How it Works, <https://www.k12.com/cava/how-it-works> (last
21 visited March 5, 2012). As alleged above, in its annual report K12 makes clear that it manages
22 all important aspects of the operations of virtual public schools like CAVA-LA.

23 37. CAVA-LA, like other K12-operated schools, pays millions of dollars to K12 (the annual
24 revenues of which are approximately half a billion dollars), for management fees and instructional
25 materials and technology. Much of this money comes from state funding, based on ADA, provided to
26 charter schools such as CAVA-LA, which is paid to K12 pursuant to multi-year management contracts
27 between the charter schools and K12. According to K12's annual reports, these contracts provide the
28

1 basis for a recurring revenue stream as students progress through successive grades. K12 has teachers
2 and students sign confidentiality agreements, allegedly to protect its “intellectual property.”

3 38. K12 provides much of the necessary infrastructure for the CAVA schools. Among other
4 things, one of the electronic systems that is utilized in perpetrating the ADA fraud alleged herein is a
5 proprietary K12 system (sometimes referred to as the “OLS” for On-Line School) accessed by CAVA
6 teachers and administrators, as well as by K12 officers, agents and employees.

7 39. Many key employees of CAVA appear to actually be employed by K12. For example,
8 Renee Dodd, a Regional Program Coordinator for CAVA-LA, as well as for CAVA schools in King and
9 Kern, California, listed her email address as rdodd@caliva.org. However, there is no separate web page
10 for caliva.org. Instead, if an Internet user seeks to access that site, the user is automatically redirected to
11 the CAVA page on the K12 web site (K12.com). The California Department of Education web site lists
12 www.caliva.org as the web address for all of the CAVA schools. Similarly, as discussed above, the
13 Head of Schools for CAVA is a K12 employee.

14 **C. Defendants’ ADA Inflation**

15 **1. The ADA-Based Principal Apportionment Claims Process**

16 40. CAVA-LA submits its claims for principal apportionment to the West Covina Unified
17 School District. Such claims, including attendance data and alleged supporting records in the form of
18 certified attendance registers, are submitted using principal apportionment software (e.g., the Fiscal Year
19 2011-12 Principal Apportionment Attendance, Revenue and Tax Software, Version 10.00). Direct
20 funding charter schools, including CAVA-LA, must, and do, submit their attendance data, including
21 supporting data such as certified attendance registers, using this software. In doing so, they must, and
22 do, certify to the accuracy of their attendance-related submissions. (The certification requires the
23 charter school administrator/designee to certify as an official responsible for reporting attendance in
24 accordance with 5 Cal. Code of Regs. § 11966 that the data being submitted is “true and correct.”)
25 Absent the certification, the data export will not proceed. CAVA-LA has thus, in claiming entitlement
26 to ADA-based principal apportionment, expressly certified that its ADA data are accurate. In seeking
27 apportionment monies, CAVA-LA has also certified, expressly and/or impliedly, that it is in compliance
28 with its charter and relevant provisions of the Education Code and associated regulations. In CAVA-

1 LA's case, these certifications have been false on a regular basis, for years, including at regular intervals
2 during at least the last several years.

3 41. After CAVA-LA's software-based, certified submission of its ADA/attendance data to
4 the District, the District has calculated CAVA-LA's apportionment, based on those ADA figures, and
5 submitted same to the County Office of Education, which in turn submits the files to the State. The
6 State then pays, and has paid, apportionment monies to CAVA-LA three times per year. Due to the
7 nature of the CAVA-LA/K12 symbiotic relationship, large chunks of the State-paid apportionment
8 monies are and have regularly been redirected to K12 as compensation. On information and belief, the
9 District has been unaware of the inflated nature of CAVA-LA's ADA figures and has been an unwitting
10 pawn in Defendants' scheme, passing along CAVA-LA's requests for apportionment to the State, via the
11 County Office of Education, without knowing that CAVA-LA's payment requests and the attendance
12 registers and statements on which they were based were false.

13 2. Defendants' CFCA Violations

14 42. On its CAVA website (<http://www.k12.com/cava/how-it-works/myths>), in seeking to
15 market itself to prospective students and their parents, K12 states:

16 **"MYTH: Attending the California Virtual Academies is a part-time job.**

17 **FACT:** Students will need to spend about four to six hours on schoolwork each day,
18 depending on grade level."

19 California Virtual AcademiesSM Myths about Online Schools, <http://www.k12.com/cava/how-it-works/myths>
20 (last visited March 5, 2012).

21 43. In fact, as discussed below, CAVA students are frequently credited with attendance
22 despite providing no evidence that they spent any time, let alone four to six hours, on schoolwork on
23 particular days. Despite K12's website assertions, CAVA-LA has had no genuine policy or practice of
24 requiring that students actually demonstrate that they have actually spent four to six hours per day on
25 school work in order to earn attendance. At CAVA-LA, *any* amount of purported "progress" -- whether
26 or not progress assigned and scheduled by the school, using the approved curriculum -- can be and
27 regularly is asserted by CAVA as "attendance" for purposes of obtaining State funds. Indeed,
28 "attendance" is claimed when *no progress* at all has in fact been recorded, as discussed herein. As stated

1 in the “Frequently Asked Questions” section of CAVA’s website,
2 <http://www.k12.com/cava/faqs/enrollment-attendance>, CAVA “works with” families “toward a positive
3 attendance record to meet their 180 days of required instruction during the school year.” In reality,
4 Defendants seek and submit claims for payment from the State for attendance that, in fact, has not been
5 earned, using records that falsely and fraudulently inflate student attendance.

6 44. CAVA also fails to have its teachers maintain the necessary samples of students’ work
7 that would demonstrate whether students are actually performing the necessary schoolwork. Teachers,
8 who work from home, do not have the time, resources or storage space to maintain voluminous work
9 samples and to sign/initial and date the work samples indicating their personal evaluation of all such
10 samples and neither CAVA nor K12 make any effort to provide resources for teachers to maintain and
11 review these samples.

12 45. CAVA and K12 also regularly violate the “substantial equivalence” requirement set forth
13 above. They know, or are deliberately indifferent, that students are in many instances not in fact
14 engaging in independent study that is substantially equivalent in *quantity* to class room instruction.¹
15 They do not ensure that students are, in fact, making progress, or even recording “progress,” that would
16 be substantially equivalent to the State-mandated yearly minutes of instruction. To the contrary, CAVA-
17 LA encourages and pressures teachers to reward “attendance” if, for example, on a particular day, a
18 student or her parent inputs “progress” (in the proprietary system created and maintained by K12 that is
19 accessed by students and/or teachers from home) equivalent to only a single lesson in a single subject
20 that should take only a half hour to complete. Teachers, subject to pressure and cognizant that
21 attendance is the basis for the funding that provides them with their jobs, regularly succumb to CAVA-
22 LA’s urging. For example, at the beginning of the 2010-2011 school year, another CAVA-LA teacher
23 expressly advised Plaintiff, when Plaintiff raised concerns about CAVA-LA’s attendance practices, that
24 the attendance records were how teachers “get our money” and “keep us employed.”

25 46. Further, to the extent that some teachers, like Plaintiff, do not register *any* attendance for
26 a pupil on a particular day (because the pupil has entered no progress whatsoever), CAVA-LA either
27

28 ¹ This complaint does not challenge the quality of education provided by CAVA-LA.

1 urges them to be “flexible” and to find a way to enter *some* progress so as to achieve attendance, or
2 simply unilaterally alters their attendance registers -- which later are submitted as supporting data to the
3 State when claiming apportionment funding -- to fraudulently suggest that attendance was earned when
4 in fact none was legally earned.

5 47. After altering teachers’ attendance records, CAVA-LA returns them to the teachers and
6 pushes them to sign the doctored records. For example, in the first month of the 2010-11 school year
7 (August 30, 2010, to September 27, 2010), Plaintiff’s “Student Attendance Register Month 1” contained
8 at least three irregularities. In her personal gradebook, on September 14, Plaintiff entered “NP” and “0”
9 for student J.E., on September 15, Plaintiff entered “NP” and “0” for student L.A, and on September 23,
10 Plaintiff entered “NP” and “0” for student D.C. The “NP” and “0” notations reflect that no progress was
11 made by a student on a particular date and therefore attendance should not be credited for that date.
12 Plaintiff also input the same information (or zeroed out attendance to the extent it had been claimed by
13 the students’ parents) electronically into Defendants’ electronic system. Upon reviewing “Student
14 Attendance Register Month 1,” sent to her from CAVA-LA, Plaintiff noticed that all three students had
15 received a “1” (indicating attendance) on the dates on which Plaintiff had entered “NP,” instead of a “0”
16 (indicating no attendance). In other words, Defendants simply altered the raw electronic data Plaintiff
17 had input for these students on these illustrative days and sent the altered data back to her on the
18 attendance register used for ADA purposes, asking her to sign the register.

19 48. In October 2010, Plaintiff discussed attendance issues with Renee Dodd, the Regional
20 Program Coordinator for CAVA-LA and two other CAVA schools. Ms. Dodd explained to Plaintiff,
21 and then confirmed in an email to Plaintiff, that even if progress was not properly logged in the K12
22 computer system for a student by his or her parent, attendance could still be counted if the student “does
23 some type of educational activity ...” She then instructed Plaintiff to contact families who were not
24 reporting attendance to find out if the students had engaged in some “educational activity” on dates on
25 which they had not logged into the computer system and reported progress. Ms. Dodd further informed
26 Plaintiff that independent study was flexible, such that students could do extra work on a particular day
27 that could be reported as attendance on another day where they “are at an outing or sick.” Plaintiff was
28 also told, for example, that watching an educational “video” – even though not assigned as coursework

1 by the school – could constitute attendance. The foregoing practices violate the California Education
2 Code requirements for apportionment for independent study, which provide, in pertinent part, that “[n]o
3 ADA is earned unless (i.e., “to the extent that”) the supervising teacher’s judgments of the time value of
4 pupil or student work have been made personally in each instance (i.e., assignment) for each student
5 engaged in independent study.” Cal. Dep’t of Educ., Independent Study Operations Manual 4-2 (2000),
6 <http://www.cde.ca.gov/sp/eo/is/documents/chapter4.pdf>. Despite CAVA-LA’s “flexible” independent
7 policy and related ADA policies and practices, CAVA-LA was not permitted to award attendance to a
8 pupil simply because a pupil engaged in *any* type of purported “educational activity,” but rather only if
9 the pupil engaged in “an educational activity or activities required of him or her by the charter school.”
10 5 Cal. Code Regs. § 19852(d).

11 49. Thereafter, in October 2010, in a conversation with Jack Pierce, the CAVA-LA registrar,
12 Plaintiff raised her concerns about CAVA-LA’s practice of logging attendance when there was no
13 evidence of progress with respect to the work assigned. Mr. Pierce responded, in substance, that he
14 agreed with Plaintiff’s position and that attendance should not be logged without any evidence of
15 progress. He also stated that he would follow up with Plaintiff about this issue, but he never did.

16 50. Despite the issues raised by Plaintiff with her supervisors at CAVA-LA, after she was
17 terminated, Plaintiff reviewed her attendance records and noticed that multiple alterations had been
18 made. For example:

- 19 a) “Student Attendance Register Month 5” for Plaintiff indicated a “1” for student A.B. on
20 February 7, which was inconsistent with her grade book, which had a “0” for attendance
21 and a “NP” for no progress for this student on that day, and with what Plaintiff would
22 have submitted in the system herself.
- 23 b) “Student Attendance Register Month 7” for Plaintiff indicated a “1” for student T.M. on
24 March 31, which was inconsistent with her grade book and with what Plaintiff would
25 have submitted in the system herself, and with what her raw electronic attendance data
26 therefore would have reflected.

27 51. Finally, in June 2011, despite the fact that she had been teaching at CAVA for three
28 school years, and the contacts of many teachers with less seniority were renewed by CAVA, Plaintiff

1 was informed that CAVA-LA was terminating her by not renewing her contract for the following school
2 year. This termination, upon information and belief, was due to Plaintiff raising issues about CAVA-
3 LA's improper attendance logs. Thereafter, Plaintiff submitted the attendance records of her students for
4 "Month 9" (May 17 to June 14, 2011), in which she had recorded 66 total days of "nonattendance" or a
5 "0" from the 28 students who made up her class at that time.

6 52. Thereafter, on the evening of June 15, 2011, CAVA-LA attendance coordinator, Shauna
7 Smith, emailed Plaintiff a Student Attendance Register for Month 9 with a request that she sign and
8 return it by no later than June 17, 2011. While reviewing the register forwarded to her by Ms. Smith,
9 Plaintiff determined that CAVA-LA had *deleted all 66 of the "0" marks recorded by Plaintiff for non-*
10 *attendance and replaced them with a "1" reflecting attendance.* For example, one student, E.S., had
11 received 14 "0" marks over the 20-day Month 9 time period, including a "0" for 13 consecutive days, on
12 the register Plaintiff had provided to CAVA-LA. Yet, when the register was returned to Plaintiff by Ms.
13 Smith, every "0" for E.S. had been changed to a "1," reflecting perfect attendance. In addition, the
14 attendance records for another student, G.P., were similarly altered. In Month 9, G.P. had received 11
15 "0" marks from Plaintiff. When the attendance register for Month 9 was returned to Plaintiff, every "0"
16 for G.P. had been changed to a "1," reflecting perfect attendance.

17 53. Plaintiff was unwilling to go along with this false attendance scheme. When Plaintiff
18 notified CAVA-LA of the alterations and errors, Ms. Smith emailed Plaintiff a "corrected" version of
19 the register and again requested that she sign it. The supposedly corrected register changed a limited
20 number of the "1" marks back to the correct "0" marks. However, many of the phony "1" markings
21 remained, including 9 for E.S. and 6 for G.P. Thus, Plaintiff elected not to sign the fraudulent attendance
22 register and did not respond to Ms. Smith's email. As Ms. Smith never followed up, it is clear that this
23 false record, and the earlier record with even more fraudulent attendance information, was made by
24 Defendants in an effort to claim education funds from the State to which CAVA-LA knew it was not
25 entitled. Consistent with CAVA-LA's usual practices, one of these two false records was submitted to
26 the State, via the State's agent the West Covina School District, shortly thereafter.

27 54. After learning of her termination, Plaintiff spoke to fellow CAVA-LA teacher, Jennifer
28 Neil. Plaintiff and Ms. Neil discussed the fact that Plaintiff was being terminated, and that Plaintiff

1 believed it to be related to the fact that she would not record attendance when there was no basis for
2 doing so. During the conversation, Ms. Neil stated that she believed there had been times in the past
3 when someone also had altered her attendance register (before asking her to certify its correctness). She
4 stated that she believed this to be the case because she had students who she knew did not make progress
5 on particular days and who she therefore had not credited with attendance (by placing "0"s on those days
6 in her electronic attendance log), yet on the attendance register provided to her for her to sign there were
7 "1"s for attendance on those days, rather than "0"s for no attendance.

8 55. California law does not permit administrators or other third parties without knowledge of
9 students' actual attendance and progress to retroactively credit attendance to students whose actual
10 teachers have declined to credit them with attendance after concluding that the students have not met the
11 requirements for attendance. Yet CAVA-LA, using K12's proprietary system, does this anyway.

12 56. CAVA-LA's ADA-based apportionment claims to the State are and have been, during at
13 least the last several years, false and fraudulent. The attendance data CAVA-LA submits to the State
14 from its Simi Valley headquarters has been false and inaccurate, as it has been predicated on inflated
15 attendance figures. CAVA-LA has knowingly presented, or caused to be presented, numerous false or
16 fraudulent claims. In so doing, CAVA-LA has sought, and received, principal apportionment from State
17 education funds based on inflated ADA attendance figures contained in signed certifications that falsely
18 certified the accuracy of CAVA-LA's attendance data. CAVA-LA has done so with actual knowledge
19 of the falsity of its claims, or in deliberate ignorance of the truth or falsity of its claims, or with reckless
20 disregard for the truth or falsity of its claims. Such conduct violates Cal. Gov't Code § 12651(a)(1).

21 57. In violation of Cal. Gov't Code § 12651(a)(2), CAVA-LA and K12, whose system
22 generates the attendance registers at issue, also have made or used, or caused to be made or used, false
23 records or statements that were material to the false or fraudulent claims: namely, the attendance
24 registers that are submitted with claims for apportionment funds and that are, as alleged above, based
25 upon inflated attendance. Large numbers, if not the vast majority, of those attendance registers have
26 contained inflated attendance data, often with the intention of representing to the State that teachers'
27 students had perfect or nearly perfect attendance under the standards for attendance set by the State
28 when in fact that was not the case and Defendants knew, deliberately ignored, or recklessly disregarded

1 that it in fact was not the case based on their possession, custody and control of documents, data and
2 information demonstrating the truth.

3
4 **V.**

5 **FIRST CAUSE OF ACTION**

6 **Violations of the California False Claims Act**

7 **[Liability for Violating CAL. GOV'T CODE §§ 12651(a)(1), (2) and (8), and for False Certifications]**

8 **[Against All Defendants]**

9 58. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as though fully
10 set forth herein.

11 59. This is a claim for treble damages and penalties under the California False Claims Act,
12 Cal. Gov't Code §§ 12650-56.

13 60. Through the acts above, Defendants and their agents and employees knowingly presented
14 and caused to be presented to officers and employees of the State false or fraudulent inflated claims for
15 ADA in order to obtain excess ADA-based apportionment. Defendants did so on a regular basis
16 throughout the year during at least the last several years. These claims were paid.

17 61. Through the acts above, Defendants and their agents and employees knowingly made,
18 used, or caused to be made or used, false records or statements, including inaccurate attendance registers
19 as alleged above, to get such false or fraudulent claims paid by the State. Defendants did so on a
20 regular periodic basis throughout the year during at least the last several years. Claims made on the
21 basis of these false records or statements were paid. Defendants made, used, or caused to be made or
22 used these false records and statements knowing the falsity of the ADA information or in deliberate
23 ignorance or reckless disregard of its truth or falsity.

24 62. Separate and apart from its role as a joint venturer in the fraudulent attendance inflation
25 scheme from which it benefits financially, K12 is separately liable as a beneficiary of CAVA-LA's false
26 claims. In view of her dual role as head of schools for CAVA-LA (and all CAVA schools) and as
27 managing agent for K12's CAVA operations in California, Ms. Abston's knowledge of the fraudulent
28 scheme and false claims is imputed to K12. Additionally, K12 maintains the teacher-input attendance

1 data, the related progress data, and other documents central to the fraudulent scheme, on its own
2 proprietary database. Its employees assist CAVA-LA in using this system to perpetrate the ADA-related
3 fraud herein. It thus is fully knowledgeable of the fraudulent scheme, and yet has not disclosed it to the
4 State at all, let alone within a reasonable time.

5 63. In its regular requests for apportionment funding made to the California Department of
6 Education, CAVA-LA, like other charter schools, is required to certify, and has expressly certified, that
7 its ADA figures are accurate. It has also certified, expressly and/or impliedly, that it is in compliance
8 with its charter and relevant provisions of the Education Code and associated regulations. CAVA-LA's
9 certifications of ADA constituted claims for money based on factual representations that the ADA
10 figures were accurate and that CAVA-LA was in compliance with its charter and the law. In CAVA-
11 LA's case, these certifications have been false on a regular basis, for years, including at regular intervals
12 during at least the last several years.

13 64. CAVA-LA's false certifications, made from its Simi Valley headquarters, were made
14 knowingly, i.e., with actual knowledge of the falsity of the certifications, in deliberate ignorance of the
15 truth or falsity of the certifications, or in reckless disregard of the truth or falsity of the certifications.

16 65. CAVA-LA's certifications were material to the State's decision to pay funds to CAVA-
17 LA; i.e., they had a natural tendency to influence the State's payment of the monies in question.
18 Indeed, the State conditions its funding and payment of ADA-based claims upon the truthful
19 certification of CAVA-LA's ADA figures and upon CAVA-LA's compliance with its charter and the
20 laws governing its educational activities. Had the State known of that CAVA-LA's certifications were
21 regularly untruthful, the State would not have provided CAVA-LA with apportionment funding for its
22 operations.

23 66. The limitations provisions of Cal. Gov't Code § 12654(a) make this Complaint timely
24 with respect to all violations occurring within a ten-year period preceding the date of the filing of this
25 Complaint.

26 67. The State, unaware of the falsity of the records, statements, and claims made or submitted
27 by Defendants and their agents and employees, paid and continues to pay Defendants for claims that
28 would not be paid if the truth were known.

1 68. As a direct result of Defendants' false records, statements, claims, and omissions, the
2 State has been damaged by providing apportionment funds to CAVA-LA to which it was not entitled, as
3 a result of CAVA-LA's false and inflated ADA figures. The State would not have paid or apportioned
4 these funds to CAVA-LA had it been aware of the truth regarding Defendants' improper ADA practices.
5 Moreover, setting aside the particular ADA inflation that CAVA-LA has utilized to inflate its
6 apportionment entitlement on a regular basis (thereby taking monies which would otherwise have been
7 apportioned to other deserving schools given the nature of the "zero sum game" at issue), CAVA-LA's
8 false certifications have in fact led directly to apportionments of tens of millions of dollars to CAVA-LA
9 that would not have been paid or apportioned to CAVA-LA at all had the State been aware that CAVA-
10 LA was falsely certifying the accuracy of its ADA figures and its compliance with its charter and the
11 law. Certifications of the accuracy of the ADA figures were required in order to obtain any
12 apportionment monies from the State. Absent CAVA-LA's certifications, which were false, CAVA-
13 LA would have received no apportionment monies.

14
15 VI.

16 SECOND CAUSE OF ACTION

17 Violations of the California False Claims Act's Anti-Retaliation Provisions

18 [CAL. GOV'T CODE § 12653]

19 [Against CAVA-LA]

20 69. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as though fully
21 set forth herein.

22 70. Plaintiff was engaged in protected activity under the CFCA prior to her discharge. She
23 reasonably believed that CAVA-LA was committing fraud against the State by submitting inflated ADA
24 records in claiming ADA-based funds from the State. Plaintiff investigated the potential fraud and
25 gathered evidence.

26 71. CAVA-LA was aware that Plaintiff was engaging in protected activity, including
27 investigating a potential action based on its ADA-related fraud. Plaintiff complained to her supervisor,
28 Stacy Henderson, about her belief that CAVA-LA was not following its own written attendance policies

1 because it was recording attendance on days when students did not actually complete any "progress" as
2 required. Plaintiff also spoke to the California Department of Education regarding the situation and was
3 told that her concerns were valid. To Plaintiffs' knowledge, the Department of Education did not,
4 however, undertake any investigation of its own. Due to her communications about her concerns with
5 her supervisor and other co-workers, and her investigation, CAVA-LA was well-informed that Plaintiff
6 was engaging in protected activity.

7 72. Plaintiff was informed in early June 2011 that her contract was not going to be renewed.
8 Ultimately, the termination was effective June 17, 2011. On information and belief, CAVA-LA
9 terminated her because of her complaints and investigation into facts regarding its ADA-related fraud,
10 and because she would not remain silent and complicit in the fraud.

11 73. In mid-June, Plaintiff went to the home of her immediate supervisor, "regional head
12 teacher" Stacy Henderson, to finish up her remaining work records. While they were discussing
13 Plaintiff's termination, Ms. Henderson stated, in substance, that Plaintiff had been terminated because
14 she was not being "flexible" about attendance and had been zeroing out attendance, which CAVA-LA
15 did not want. Ms. Henderson further stated that Plaintiff had previously been told the school's position
16 regarding recording of progress and attendance. Plaintiff responded that the school's manual, the Book
17 of Knowledge, stated that no progress recorded on a day equaled no attendance on that day. Ms.
18 Henderson's response was that exceptions had to be made at times. In fact, because she did not give in
19 to pressure from her superiors at CAVA-LA, Plaintiff's recorded pupil attendance days were regularly
20 lower than those of her teacher peers.

21 74. The wrongful conduct of CAVA-LA, as alleged herein, including CAVA-LA's placing
22 its interests over the rights of Plaintiff by terminating her for raising issues regarding Defendants'
23 improper reporting of ADA to the State, was willful, oppressive, immoral, unethical, unscrupulous,
24 substantially injurious, malicious and in conscious disregard for the well-being of Plaintiff. CAVA-LA
25 thereby acted with malice and complete indifference to and/or conscious disregard for the rights and
26 safety of Plaintiff. Accordingly, Plaintiff is entitled to an award of punitive damages against CAVA-LA
27 in an amount to deter it from similar conduct in the future.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VII.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Relator Susie Kaplar, on behalf of herself and the State of California, hereby prays for judgment as follows:

On the First Cause of Action Against All Defendants

(Violation of the California False Claims Act):

1. That Defendants cease and desist from violating Cal. Gov't Code §§ 12650-12656.
2. That this Court enter judgment against Defendants in an amount equal to three times the amount of damages the State has sustained as a result of Defendants' actions, as well as a civil penalty against each defendant of \$10,000 for each violation of Cal. Gov't Code §§ 12651(a)(1), (2) and (8);
3. That Plaintiff/Relator be awarded the maximum amount allowed pursuant to § 12651(a) of the California False Claims Act;
4. That Plaintiff/Relator recover all costs of this action, with interest, including attorneys' fees and the costs to the State of California for its expenses related to this action;
5. For pre-judgment interest on all damages awarded;
6. That the State and Plaintiff/Relator recover such further and additional relief as the Court deems just and proper.

On the Second Cause of Action Against Defendant CAVA-LA

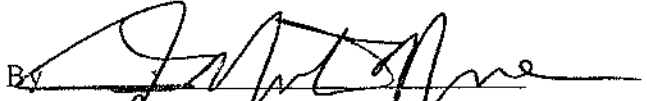
(Violation of the California False Claims Act's Anti-Retaliation Provisions):

In addition, Plaintiff/Relator Susie Kaplar, on her own behalf, prays for judgment against Defendant CAVA-LA under the Second Cause of Action, as follows:

1. Reinstatement with the same seniority status that Plaintiff would have had but for her discharge;
2. Compensation at two times the amount of back pay;
3. Interest on the back pay;
4. Punitive damages as permitted by law;
5. Reasonable attorneys' fees and costs; and

1 6. Such further and additional relief as the Court deems just and proper.

2
3 DATED: May 1, 2012

By 

4 **SPIRO MOORE LLP**

J. Mark Moore (180473)

11377 West Olympic Boulevard, 5th Floor

Los Angeles, CA 90064

Telephone: (310) 235-2468

7 Fax: (310) 235-2456

8 Attorneys for Plaintiff/Relator

9 Susie Kaplar

10
11 **DEMAND FOR TRIAL BY JURY**

12 Plaintiff hereby demands a trial by jury for all claims that are so triable.

13
14 DATED: May 1, 2012

15 By 

16 **SPIRO MOORE LLP**

J. Mark Moore (180473)

11377 West Olympic Boulevard, 5th Floor

Los Angeles, CA 90064

Telephone: (310) 235-2468

19 Fax: (310) 235-2456

20 Attorneys for Plaintiff/Relator

21 Susie Kaplar