

1 Robert E. Barnes, Cal. Bar# 235919  
2 Barnes Law  
3 22631 Pacific Coast Highway/Suite 362  
4 Malibu, CA 90265  
5 [Tel:\(310\)510-6211](tel:(310)510-6211)/[Fax:\(310\)510-6225](tel:(310)510-6225)  
6 E-mail: [robertbarnes@barneslawllp.com](mailto:robertbarnes@barneslawllp.com)  
7 Attorney for Plaintiffs, John Doe Company, et al.

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9  
10 **FOR SAN DIEGO**

11  
12  
13 John Doe Company, and on behalf of all  
14 similarly situated in the State of  
15 California,  
16  
17 Plaintiffs,  
18  
19 vs.  
20 John Does 1-15,  
21 Defendants

Case No.: 37-2013-00038750-CU-CR-CTL

**COMPLAINT UNDER THE  
CONSTITUTION ("BIVENS  
ACTION") TITLE 28 SECTION 1331  
FOR VIOLATION OF THE FOURTH  
AMENDMENT RIGHTS OF THE  
CLASS**

Judge:  
Department:  
Complaint Filed: March 11, 2013  
Trial Date: None Set

22 **CLASS ACTION COMPLAINT**

23 NOW COMES the above named Plaintiff, John Doe Company by and through its  
24 attorney and counsel of record, Attorney Robert Barnes, and on behalf of the company, and more  
25 than 10,000,000 citizens across the country, including the many of the Judges of the Superior  
26

27 1

28 Case No.

COMPLAINT UNDER THE CONSTITUTION ("BIVENS ACTION") TITLE 28 SECTION 1331 FOR  
VIOLATION OF THE FOURTH AMENDMENT RIGHTS OF THE CLASS

1 Court of California, their family, their clerks, their court employees, the members of the Screen  
2 Actors Guild, the members of the Directors Guild of America, and the players for Major League  
3 Baseball, as for its claims for relief against the above named defendants, allege and show the  
4 Court as follows:

5  
6 **I. INTRODUCTION**

7 This is an action involving the corruption and abuse of power by several Internal  
8 Revenue Service (“IRS”) agents (collectively referred to as “Defendants” herein) during a raid of  
9 John Doe Company, in the southern district of California, on March 11, 2011. In a case involving  
10 solely a tax matter involving a former employee of the company, these agents stole more than  
11 60,000,000 medical records of more than 10,000,000 Americans, including at least 1,000,000  
12 Californians.  
13

14 No search warrant authorized the seizure of these records; no subpoena authorized the  
15 seizure of these records; none of the 10,000,000 Americans were under any kind of known  
16 criminal or civil investigation and their medical records had no relevance whatsoever to the IRS  
17 search. IT personnel at the scene, a HIPPA facility warning on the building and the IT portion of  
18 the searched premises, and the company executives each warned the IRS agents of these  
19 privileged records. The IRS agents ignored and discarded each of these warnings, ignored their  
20 own published and public-reliant rules and governing ethical requirements, and ignored the  
21 limitations of the court’s search warrant authorization, seizing the records under threat of  
22 destroying company property.  
23  
24

1 These medical records contained intimate and private information of more than  
2 10,000,000 Americans, information that by its nature includes information about treatment for  
3 any kind of medical concern, including psychological counseling, gynecological counseling,  
4 sexual or drug treatment, and a wide range of medical matters covering the most intimate and  
5 private of concerns.  
6

7 Despite knowing that these medical records were not within the scope of the warrant,  
8 Defendants threatened to “rip” the servers containing the medical data out of the building if IT  
9 personnel would not voluntarily hand them over. Moreover, even though Defendants knew that  
10 the records they were seizing were not included within the scope of the search warrant, the  
11 Defendants nonetheless searched and seized the records without making any attempt to segregate  
12 the files from those that could possibly be related to the search warrant. In fact, no effort was  
13 made at all to even try maintaining the *illusion* of legitimacy and legality.  
14  
15

16 After being put on notice of the illicit seizure, the IRS agents refused to return the  
17 records, continued to keep the records for the prying eyes of IRS peeping toms, and keep the  
18 records to this very day. The records may concern the intimate medical records of every state  
19 judge in California, every state court employee in California, leading and politically  
20 controversial members of the Screen Actors Guild and the Directors Guild, and prominent  
21 citizens in the world of entertainment, business and government, from all walks of life.  
22

23 Adding insult to injury, after unlawfully seizing the records and searching their intimate  
24 parts, Defendants decided to use John Doe Company’s media system to watch basketball,  
25  
26

1 ordering pizza and Coca-Cola, to take in part of the NCAA tournament, illustrating their  
2 complete disregard of the court's order and the Plaintiffs' Fourth Amendment rights.

3 This complaint seeks justice for each and all of those individuals subjected to the invasive  
4 and unlawful search and seizure conducted on March 11, 2011.

## 6 II. CLASS ACTION COMPLAINT

7 John Doe Company brings this action individually and on behalf of similarly situated  
8 persons, pursuant to their right to seek collective action and joined relief given the commonality  
9 of the cause of injury and efficacy of a joined, singular action within the state, by and through  
10 their undersigned attorney, Robert E. Barnes, upon knowledge, information, and belief, allege as  
11 follows:  
12

## 13 III. NATURE OF THE ACTION

- 14 1. This is a class action lawsuit brought by, and on behalf of, similarly situated persons  
15 whose privacy interests in their medical records was offended, abridged and violated  
16 arising out of the unlawful search and seizure of those records during a raid at John Doe  
17 Company.  
18
- 19 2. John Doe Company is a Health Insurance Portability and Accountability Act (hereinafter,  
20 "HIPAA") secure facility, and this notice was publicly disclosed on John Doe's company  
21 website, informational documents, and the premises unlawfully searched by the IRS  
22 agents.  
23
- 24 3. Defendants seized records at John Doe Company that they knew were not included in the  
25 search warrant, that they knew were the private medical records of Americans, records  
26

1 they knew had no relevance to their investigation for individuals they knew were no  
2 under investigation, and did so under the pretext of a court's search warrant that  
3 authorized no such search or seizure. Indeed, the agents further knew of the internal rules  
4 and delegation orders limiting their rights to even request a search warrant for such  
5 records, records the agents routinely and regularly ignored and discarded in their search  
6 and seizure.  
7

8 4. The Defendants' willful and knowing actions violated the Fourth Amendment of the  
9 United States Constitution. The Defendants' seized the records after being warned of  
10 what the records contained, threatening to "rip out" the computer system of the business  
11 and take the records with them right there and then if the records were not transferred  
12 immediately to the custody and possession of the IRS.  
13

14 5. A special agent involved in the matter has a known and legally documented history of  
15 misconduct, ethical breaches, and criminal activity, including, but not limited to, making  
16 false statements to a grand jury, making false statements to prospective witnesses in his  
17 investigations, misleading prospective witnesses about their rights in his investigations,  
18 obstructing independent investigations into his conduct or the matter at hand, disclosing  
19 without authorization grand jury secret material in violation and contempt of federal court  
20 orders, invading and abusing search warrants and subpoenas for privileged information,  
21 including patient privileged information, attorney-client privileged records, and marital  
22 privileged information.  
23  
24  
25  
26  
27  
28

1 6. The Plaintiffs seek damages and injunctive relief on behalf of the entire Class for these  
2 violations.

3  
4 **IV. VENUE**

5 7. Venue is proper in this judicial district, pursuant to 28 U.S.C. 1391. Defendants reside,  
6 maintain an office, transact business, have an agent, or are found in this district, and are  
7 within the jurisdiction of this Court for purposes of service of process.

8 **V. THE PARTIES**

9  
10 8. This Court has subject matter jurisdiction over this action and Defendants pursuant to 28  
11 U.S.C. § 1331 because this action arises under federal law and the amount in controversy  
12 exceeds \$75,000.

13 9. This court has personal jurisdiction over the Defendants because all conduct business in  
14 this district.

15  
16 **VI. CLASS ACTION ALLEGATIONS**

17 10. Plaintiffs bring this action as a Class Action under Rules 23(a), 23(b)(1), 23(b)(2) and  
18 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a Class consisting of  
19 Plaintiffs and all individuals whose medical records were stored on the servers at John  
20 Doe Company. Excluded from the Class are the Defendants herein.

21  
22 11. The Class is so numerous that joinder of all members is impracticable. Approximately  
23 10,000,000 Americans were subjected to the unlawful search and seizure of at least six  
24 million identifiable medical records, including records of treatment for psychological  
25 concerns, familial concerns, sexual concerns, drug and alcohol concerns, and concerns  
26

1 related to the professional performance of prominent celebrities, athletes and executives.  
2 Plaintiff's claims are typical of the claims of the other members of the Class, as Plaintiff  
3 and all other members were injured in exactly the same way - by the unlawful and  
4 unauthorized search and seizure of identifiable medical information, violations performed  
5 by the Defendants.  
6

7 12. Plaintiff will fairly and adequately represent the interests of the Class and has retained  
8 counsel competent and experienced in Class Action litigation. Acknowledged law  
9 recognizes the right of the plaintiff to seek relief and remedy for the class as custodian of  
10 the patients' medical records at the time of the illegal search and seizure.  
11

12 13. A Class Action is superior to other available methods for the fair and efficient  
13 adjudication of this controversy. Since the damage suffered by individual Class members  
14 may be relatively small, the expense and burden of individual litigation make it virtually  
15 impossible for the Class members individually to seek redress for the unlawful conduct  
16 alleged.  
17

18 14. Plaintiff knows of no difficulty that will be encountered in the management of this  
19 litigation that would preclude its maintenance as a Class Action.  
20

21 15. Common questions of law and fact exist as to all members of the Class and predominate  
22 over any questions effecting solely individual members of the Class. Among the  
23 questions of law and fact, common to the Class:

24 a. Whether Defendants' acts as alleged herein violated the Fourth Amendment of the  
25 United States Constitution;  
26

- 1 b. Whether Defendants participated in and pursued the concerted action or common  
2 course of conduct complained of; and  
3  
4 c. Whether Plaintiff and members of the Class have sustained compensable damages  
5 and, if so, the proper measure of such damages.

6 **VII. FACTS**

- 7 16. On March 11, 2011, the Internal Revenue Service (hereinafter, "IRS") conducted a raid  
8 of the corporate headquarters of John Doe Company. The IRS raided John Doe Company  
9 even though the agents admitted the company was not under investigation, internal IRS  
10 records confirm the company was not under criminal investigation, and the search  
11 warrant showed the company was not under investigation.  
12  
13 17. The search warrant authorized the seizure of financial records related principally to a  
14 former employee of the company; it did not authorize any seizure of any health care or  
15 medical record of any persons, least of all third parties completely unrelated to the matter.  
16  
17 18. While executing the warrant, the Defendants seized personal mobile phones, including all  
18 the data and information on those phones, without any employing the proper and  
19 procedurally correct screening methods to protect private and privileged information, all  
20 of which was completely unapproved by the search warrant.  
21  
22 19. Prior to execution of the warrant, defendants were on notice, and did in fact know, that  
23 John Doe Company maintained medical records for other Americans on the premises and  
24 that the premises searched was a HIPPA secure facility possession such records. During  
25 execution of the warrant, defendants saw that John Doe Company was a HIPAA secure  
26



1 facility and were specifically told by company officials that the records they were  
2 searching and seizing were private medical records of other Americans.

3  
4 20. In spite of Defendants' knowledge that John Doe Company was a HIPAA secure facility,  
5 in spite of Defendants' knowledge that the records they demanded to be searched and  
6 seized were medical records of other Americans, Defendants told the company's IT  
7 personnel to transfer several servers of the medical records and patient records to the IRS  
8 for search and seizure, otherwise they would "rip" the servers out of the building entirely.

9  
10 21. The records seized from the servers at John Doe Company were the private and  
11 confidential HIPAA protected medical records of at least 10,000,000 Americans,  
12 including, the names and health records of prominent celebrities, sports personalities, and  
13 CEO's, ultimately affecting roughly one out of every twenty-five adult American  
14 citizens.

15  
16 22. Defendants, despite knowing the records they seized were confidential, have already  
17 searched, seized, and retained such records without any segregation of the records,  
18 without returning the records, and without controlling who has known access to the  
19 records.

20  
21 23. No appropriate IRS supervisory personnel never approved nor authorized this seizure of  
22 third parties' medical records.

23 24. No appropriate Department of Justice supervisory personnel ever approved nor  
24 authorized this seizure of third parties' medical records.

1 25. No federal magistrate ever approved or authorized this seizure of third parties' medical  
2 records.

3 26. No federal district court judge ever approved or authorized this seizure of third parties'  
4 medical records.  
5

6 27. To this date, the IRS refuses to return any of the records, identify the accurate names of  
7 the individuals who took the records, kept the records or reviewed the records, return the  
8 records, or take any remedial action of any kind for this extraordinary violation of  
9 established Fourth Amendment rights of more than 10,000,000 Americans and 1,000,000  
10 Californians in more than 60,000,000 different records stolen, searched and seized.  
11

12 **VIII. CAUSE OF ACTION:**

13  
14 **FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION:**

15 **UNLAWFUL SEARCH, SEIZURE AND INVASION OF PRIVACY**  
16  
17

18 28. Plaintiff incorporates in this paragraph each and every allegation set forth elsewhere in  
19 this complaint as if they were set forth in full in this part of the complaint.  
20

21 29. John Doe Company, as custodian of the patients' medical records, has legal standing to  
22 assert the Fourth Amendment Rights of the patients whose records they possessed at the  
23 time of the illegal search and seizure because they have the same interests and concerns.  
24 Namely, John Doe Company's obligation to maintain medical patient privacy and  
25 confidentiality.  
26

1 30. Defendants violated Plaintiffs' Fourth Amendment right against unreasonable searches,  
2 unwarranted seizures, and invasion of privacy when the Defendants seized, searched and  
3 kept the medical patient-doctor records in the then custody of the John Doe Company.  
4

5 31. John Doe Company and others similarly situated suffered real and calculable damages  
6 from this unlawful search and seizure, including, but not limited to compensatory  
7 damages, measurable under parallel law by each record seized, each record searched,  
8 and each record unlawfully retained.  
9

10 32. This case warrants, and requires, punitive damages, given this extraordinary violation of  
11 American's Fourth Amendment rights and liberties, and the precarious precedent it sets if  
12 unpunished. Justice is due, and it due from these Defendants in this case.  
13

14 **IX. REMEDIES SOUGHT**

15 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and separately, and each  
16 of them, as follows:  
17

18 A. Declaratory relief, to protect the proprietary and privileged information of the medical  
19 records seized;  
20

21 B. Injunctive relief, prohibiting and proscribing the sharing of such information or records  
22 with anyone;  
23

24 C. Specific relief, compelling the return of all such records and the purging of government  
25 databases of all such records, in whatever form kept or accessible, be it emails, IRS databases,  
26

1 copies of such records, computer servers, or any other digital, electronic or print copy of these  
2 records and the information possessed or contained therein;

3 D. Compensatory damages for the constitutional violation identified herein, including  
4 damages for each record searched, seized and retained for each American and each Californian,  
5 in amount of at least \$25,000 per violation per individual, as consonant to the standards  
6 articulated for comparable HIPPA violations by individuals;  
7

8 F. For such other and further relief as the Court may deem just and proper.  
9  
10  
11

12 Dated this 11th day of March, 2013.

13 By:



14 ROBERT E. BARNES  
15 California State Bar No. 235919  
16 Barnes Law  
17 22631 Pacific Coast Highway/Ste. 362  
18 Malibu, California 90265  
19 (310) 510-6211 telephone  
20 (310) 510-6225 facsimile  
21 robertbarnes@barneslawllp.com

22 Attorney for Plaintiff, John Doe Company  
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