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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4694

13 **WILLIAM JOHN CHENG KANG CHEN**
P.O. Box 2082
San Gabriel, CA 91778

A C C U S A T I O N

14 Pharmacist License No. PRH 51985

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about September 5, 2000, the Board of Pharmacy (Board) issued Pharmacist
22 License No. PRH 51985 to William John Cheng Kang Chen (Respondent). The Pharmacist
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on September 30, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

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2 4. Section 490 states, in pertinent part:

3 "(a) In addition to any other action that a board is permitted to take against a licensee, a
4 board may suspend or revoke a license on the ground that the licensee has been convicted of a
5 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
6 or profession for which the license was issued.

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
8 discipline a licensee for conviction of a crime that is independent of the authority granted under
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
10 of the business or profession for which the licensee's license was issued.

11 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
12 conviction following a plea of nolo contendere. Any action that a board is permitted to take
13 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
15 made suspending the imposition of sentence, irrespective of a subsequent order under the
16 provisions of Section 1203.4 of the Penal Code."

17 5. Section 4059 states, in pertinent part:

18 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
19 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
20 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
21 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
22 3640.7."

23 6. Section 4060 states:

24 "No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
28 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,

1 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
2 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
3 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
4 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
5 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
6 labeled with the name and address of the supplier or producer.

7 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
8 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
9 and devices."

10 7. Section 4300 provides in pertinent part, that every license issued by the Boards is
11 subject to discipline, including suspension or revocation.

12 8. Section 4300.1 states:

13 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
14 operation of law or by order or decision of the board or a court of law, the placement of a license
15 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
16 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
17 proceeding against, the licensee or to render a decision suspending or revoking the license."

18 9. Section 4301 states, in pertinent part:

19 "The board shall take action against any holder of a license who is guilty of unprofessional
20 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
21 Unprofessional conduct shall include, but is not limited to, any of the following:

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23 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
24 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
25 whether the act is a felony or misdemeanor or not.

26 "(g) Knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts.

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1 "(j) The violation of any of the statutes of this state, or any other state, or of the United
2 States regulating controlled substances and dangerous drugs.

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4 "(l) The conviction of a crime substantially related to the qualifications, functions, and
5 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
6 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
7 substances or of a violation of the statutes of this state regulating controlled substances or
8 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
9 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
10 The board may inquire into the circumstances surrounding the commission of the crime, in order
11 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
12 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
13 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
14 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
15 of this provision. The board may take action when the time for appeal has elapsed, or the
16 judgment of conviction has been affirmed on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
18 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
19 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
20 indictment.

21

22 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
23 violation of or conspiring to violate any provision or term of this chapter or of the applicable
24 federal and state laws and regulations governing pharmacy, including regulations established by
25 the board or by any other state or federal regulatory agency."

26 10. Section 4324 states:

27 "(a) Every person who signs the name of another, or of a fictitious person, or falsely
28 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription

1 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
2 in the state prison, or by imprisonment in the county jail for not more than one year.

3 "(b) Every person who has in his or her possession any drugs secured by a forged
4 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
5 county jail for not more than one year."

6 11. Health and Safety Code section 11173 states, in pertinent part:

7 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or
8 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
9 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

10 "(b) No person shall make a false statement in any prescription, order, report, or record,
11 required by this division."

12 REGULATORY PROVISIONS

13 12. California Code of Regulations, title 16, section 1770 states, in pertinent part:

14 "For the purpose of denial, suspension, or revocation of a personal or facility license
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
18 licensee or registrant to perform the functions authorized by his license or registration in a manner
19 consistent with the public health, safety, or welfare."

20 COST RECOVERY

21 13. Section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

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14. CONTROLLED SUBSTANCES/DANGEROUS DRUGS

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B & PC 4022	CONTROLLED SUBSTANCE PER H & SC	INDICATIONS FOR USE
Actos	Poglitazone	Yes	No	Diabetes
Ambien, Edluar, Zolpimist	Zolpidem Tartarate	Yes	Yes per 11057 (d)(32)	Sleep
Antara, Lipofen	Fenofibrate	Yes	No	High Cholesterol
	Amoxicillin	Yes	No	Antibiotic
Aristocort	Triamcinolone	Yes	No	Anti-Inflammatory
Ativan	Lorazepam	Yes	Yes per HSC 11057 (d)(16)	Anxiety, Pre-Op Adjunct
Buspar	Buspirone	Yes	No	Management of Anxiety Disorders
Chantix	Verinicline	Yes	No	Cessation of Smoking
Cozaar	Losartan	Yes	No	Hypertension
Effexor	Venlafaxine	Yes	No	Treatment of Major Depressive Disorder
Glucotrol	Glipizide	Yes	No	Diabetes
Klonopin	Clonazepam	Yes	Yes per HSB 11057 (d)(7)	Seizures, Panic Disorder
Lexapro	Escitalopram Oxalate	Yes	No	Treatment of Major Depressive Disorder
Lorcet, Vicodin, Vidocin ES, Norco, etc.	Hydrocodone/APAP 2	Yes	Yes per HSC 11056(e)(4)	Pain
Lotrisone	Clotrimazole/ Betamethazone	Yes	No	Topical Anti-Inflammatory
Lovaza	Omega-3-Ethyl Acid Esters	Yes	No	Treatment for high cholesterol
Motrin	Ibuprofen	Yes-400mg	No	Non-Steroidal Anti-Inflammatory
Megace	Megestrol	Yes	No	Synthetic Progesterone

1	NitroStat, etc.	Nitroglycerin	Yes	No	Angina due to Coronary Artery Disease
2	Norvasc	Amlodipine	Yes	No	Hypertension
3	Prilosec	Omeprazole	Yes=40mg	No	Short Term Treatment of Acute Duodenal Ulcer
4					
5	Tamiflu	Oseltamivir	Yes	No	Influenza
6	Valium	Diazepam	Yes	Yes per HSC 11057 (d)(9)	Anxiety, Seizures
7	Xanax	Alprazolam	Yes	Yes Per HSC 11057 (d)(1)	Panic Disorder, Anxiety
8	Zitromax	Azithromycin	Yes	No	Antibiotic

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10 **FACTS COMMON TO ALL CAUSES FOR DISCIPLINE**

11 15. The following allegations are common to all causes for discipline in this matter:

12 a. Between approximately September 11, 2009 and October 29, 2010, Respondent
13 was employed as a pharmacist for Wal-Mart Pharmacy # 10-2886 in the city of Pico Rivera, CA.

14 b. Between November 23, 2009 and October 16, 2010, Respondent was involved in a
15 fraudulent prescription writing scheme by which he wrote falsified prescriptions in order to
16 furnish controlled substances and/or dangerous drugs to two "family friends" (LS and JL).

17 c. By his own admission, Respondent pretended to take telephone orders for
18 prescriptions, would prepare paperwork for these prescriptions using different prescriber names,
19 then "pick up" and pay for the prescriptions himself.

20 d. Dr. Lalezari and Dr. Peart are two practicing physicians whose names appear
21 frequently on prescriptions falsified by Respondent.

22 e. Subsequent investigation disclosed that neither Dr. Lalezari nor Dr. Peart had
23 ever treated patient LS, and that the following prescriptions for LS written by Respondent
24 approximately between November 23, 2009 and October 16, 2010 were *not authorized* by the
25 purported prescribing physician:

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Date Filled	RX No.	Patient	Prescriber	Drug	Amt	Ex#	MD Authorize?
11/23/09	4416179	LS	Lalezari	Zolpidem 10mg	90	29	NO
11/23/09	6727224	LS	Lalezari	Nitroglycerin 0.4mg	33	31	NO
11/23/09	6727225	LS	Lalezari	Tamiflu 75mg	5	32	NO
11/23/09	6727226	LS	Lalezari	Azithromycin 250mg	5	33	NO
11/23/09	4416188	LS	Lalezari	Xanax 2mg	90	34	NO
11/24/09	6727365	LS	Lalezari	Lovaza 1gm	120	14	NO
11/24/09	4416188	LS	Bahmani	Alprazolam 2mg	30	34	
11/24/09	6727223	LS	Lalezari	Chantix 1mg	56	35	NO
12/01/09	6696494	LS	Lalezari	Lotrisone Cream	60G	12	NO
12/01/09	6696493	LS	Lalezari	Triamcinolone 0.1% cream	80G	22	NO
12/01/09	6727222	LS	Lalezari	Megestrol Ac 40mg	25	30	NO
12/08/09	6728987	LS	Lalezari	Effexor 150mg XR	200	13	NO
02/02/10	6735909	LS	Peart	Lexapro 10mg	100	14	NO
02/02/10	6735909	LS	Peart	Lexapro 10mg	200	15	NO
03/09/10	6735910	LS	Peart	Busprione 10mg	500	15	NO
03/09/10	6727605	LS	Lalezari	Lexapro 10mg	100	16	NO
07/04/10	6699630	LS	Peart	Prilosec 20mg cr	100	17	NO
07/04/10	6702367	LS	Mungcal	Norvasc 10mg	100	18	
09/16/10	6728987	LS	Lalezari	Effexor 150mg xr	90	19	NO
09/24/10	6766185	LS	Peart	Amoxicilin 500mg	30	20	NO
09/24/10	6766186	LS	Peart	Ibuprofn 800mg	30	21	NO
10/10/10	6765155	LS	Mungcal	Amlodipine 10mg	100	23	
10/10/10	8811454	LS	Peart	Prilosec 20mg cr	100	24	NO
10/10/10	6768065	LS	Peart	Effexor 150mg xr	100	25	NO
10/10/10	6745989	LS	Peart	Busprione 10mg	67	26	NO
10/10/10	6768064	LS	Peart	Actos 15mg	90	27	NO
10/11/10	6768063	LS	Mungcal	Cozaar 50mg	100	28	

f. Investigation further disclosed that the following prescriptions for JL, written by Respondent approximately between November 23, 2009 and October 16, 2010 were unauthorized by the purported prescribing physician:

DATE FILLED	RX NO	PATIENT	PRESCRIBER	DRUG	AMOUNT
09/26/10	67662785	JL	Lalezari	Glipizide 5mg	90
09/30/10	6766792	JL	Mungcal	Losartan 50mg	90
09/30/10	6766793	JL	Mungcal	Amlodipine 10mg	90
10/06/10	6768788	JL	Mungcal	Busprione 10mg	30
10/16/10	6768791	JL	Mungcal	Tobra/Dexa Opth SOL	30ml
10/16/10	6768792	JL	Mungcal	Fenofibrate 134mg	30

g. On or about September 10, 2010, Respondent was arrested by Los Angeles County Sheriffs Department officers pursuant to a complaint by his employer, that Respondent had falsified multiple prescriptions transactions. Arresting officers noted in their report that Respondent admitted the misconduct, and stated "he knew what he was doing was wrong" but that he didn't think it was "that big of a deal."

h. Respondent was terminated from his position at Wal-Mart Pharmacy # 10-2886 on September 10, 2010 due to these events.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

16. Respondent is subject to disciplinary action under sections 4301, subdivision (I) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacist, as follows:

FORGERY OF PRESCRIPTION (2012)

a. On or about April 16, 2012, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Business and Professions Code section 4324, subdivision (a) [forging a prescription] in the criminal proceeding entitled *The People of the State of California v. William John Cheng Kang Chen* (Super. Ct. Los Angeles County, 2012, No. 0WW06802). The Court placed Respondent on 36 months probation, with terms and conditions.

1 b. The circumstances surrounding the conviction are that approximately between
2 November 23, 2009 and October 16, 2010, Respondent - while working as a Pharmacist for Wal-
3 Mart Pharmacy # 10-2886 in the city of Pico Rivera, CA - made false and fraudulent
4 prescriptions in order to furnish controlled substances and/or dangerous drugs to "family friends"
5 LS and JL as described more fully in paragraph 15 above.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Forged Prescriptions)**

8 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) and
9 (g), for violating section 4324, subdivision (a) and Health and Safety Code section 11173,
10 subdivision (b), in that while employed as a pharmacist Respondent created false prescriptions for
11 patients that he knew had not been authorized by a doctor. Specifically :

12 a. In at least 10 instances between November 23, 2009 and October 16, 2010,
13 Respondent created false prescriptions for patient LS , showing Dr. Peart as the prescriber,
14 though he knew the prescription had not been authorized by Dr. Peart:

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Date filled	RX No.	Patient	Prescriber	Drug	Amount
2/2/10	6735909	LS	Peart	Lexapro 10mg	100
2/2/10	6753909	LS	Peart	Lexapro 10mg	200
03/09/10	6735910	LS	Peart	Busprione 10mg	500
07/04/10	6699630	LS	Peart	Prilosec 20mg CR	100
09/24/10	6766185	LS	Peart	Amoxicillin500mg	30
09/24/10	6766186	LS	Peart	Ibuprofen 800mg	30
10/10/10	8811454	LS	Peart	Prilosec 20mg CR	100
10/10/10	6768065	LS	Peart	Effexor 150mg XR	100
10/10/10	6745989	LS	Peart	Busprione 10mg	67
10/10/10	6768064	LS	Peart	Actos 15mg	90

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b. In at least 14 instances between November 23, 2009 and October 16, 2010, Respondent created false prescriptions for patient LS, showing Dr. Lalezari as the prescriber, though he knew the prescription had not been authorized by Dr. Lalezari:

Date filled	RX No.	Patient	Prescriber	Drug	Amount
11/23/09	4416179	LS	Lalezari.	Zolpidem 10mg	90
11/23/09	6727224	LS	Lalezari.	Nitroglycerin 0.4mg	33
11/23/09	6727225	LS	Lalezari	Tamiflu 75mg	5
11/23/09	6727226	LS	Lalezari	Azithromycin 250mg	5
11/24/09	6727365	LS	Lalezari	Lovaza 1gm	120
11/24/09	4416188	LS	Lalezari	Xanax 2mg	90
11/24/09	6727223	LS	Lalezari	Chantix 1mg	56
12/01/09	6696494	LS	Lalezari	Lotrisone Cream	60G
12/01/09	6696493	LS	Lalezari	Triamcinolone 0.1% Crm	80G
12/01/09	6727222	LS	Lalezari	Megestrol AC 40mg	25
12/08/09	6728987	LS	Lalezari	Effexor 150mg XR	200
3/9/10	6727605	LS	Lalezari	Lexapro 10mg	100
09/16/10	6728987	LS	Lalezari	Effexor 150mg XR	90
9/26/10	67662785	JL	Lalezari	Glipizide 5mg	30

FIFTH CAUSE FOR DISCIPLINE

(Furnished Dangerous Drugs without a Valid Prescription)

19. Respondent is subject to disciplinary action under section 4301, subdivision (j) and (o), for violating section 4059, subdivision (a), in that on at least 24 instances between November 23, 2009 and October 16, 2010, while employed as a pharmacist, Respondent furnished dangerous drugs without valid prescriptions to LS and LT by use of false prescriptions that he knew had not been authorized by a physician. Complainant refers to, and by this reference

1 incorporates, the allegations set forth above in paragraphs 14,15,16 and 17 as though set forth
2 fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Obtained Drugs by Use of Fraudulent Prescription)**

5 20. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
6 (o), for violating sections 4060, 4324, subdivision (b), and Health and Safety Code section 11173,
7 subdivision (a), in that on at least 24 instances between November 23, 2009 and October 16,
8 2010, Respondent obtained controlled substances by fraud, deceit, misrepresentation and
9 subterfuge and/or by the concealment of a material fact, as more fully set forth in paragraphs 14,
10 15,16 and 17 above.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(False Statements in a Prescription for Controlled Substances)**

13 21. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
14 (o), for violating sections 4060, 4324, subdivision (b), Health and Safety Code section 11173,
15 subdivision (b), in that Respondent made a false statement in a prescription order and/or
16 prescription records as required by state law, in order to obtain or possess controlled substances,
17 as follows:

18 a. On 11/23/2009, Respondent created a false prescription record #4416179 which
19 stated that Dr. Lalezari prescribed #90 Zolpidem 10mg, a controlled substance under Health
20 and Safety Code section 11057 (d)(32), for patient LS, whom the prescriber had never seen,
21 treated or authorized any prescription for.

22 b. On 11/24/2009, Respondent created a false prescription record which stated that
23 Dr. Lalezari prescribed #90 Xanax 2 mg, a controlled substance under Health and Safety
24 Code section 11057 (d)(1), for patient LS, whom the prescriber had never seen, treated or
25 authorized any prescription for.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

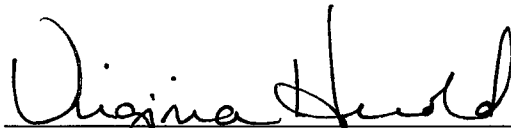
3 15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that was employed as a pharmacist for Wal-Mart Pharmacy # 10-2886 in the city of Pico Rivera,
5 CA, Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
6 substantially benefit himself, or substantially injure another. Complainant refers to, and by this
7 reference incorporates, the allegations set forth above in paragraphs 14,15,16 and 17 as though set
8 forth fully.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Pharmacist License No. PRH 51985, issued to William John
13 Cheng Kang Chen;
- 14 2. Ordering William John Cheng Kang Chen to pay the Board the reasonable costs of
15 the investigation and enforcement of this case, pursuant to section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

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18
19 DATED: 3/27/14



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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