

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Danielle Pooley,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Gloucester</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, Email and Telephone Number)</i> Sander D. Friedman/Wesley Hanna, Law Office of Sander D. Friedman, 125 North Route 73, West Berlin, NJ 08091, (856) 988-7777; fax; (856) 988-7744; sdf@sanderfriedmanlaw.com wgh@sanderfriedmanlaw.com</p>	<p>DEFENDANT'S H&R Block, Inc.</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i> unknown</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i></p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p>Other:</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>		

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation

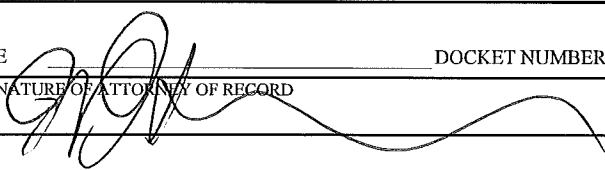
VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
28 USC SS 1332, 1441, 1442

Brief description of cause:

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE: 03/13/2013 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

LAW OFFICE OF SANDER D. FRIEDMAN
 Sander D. Friedman, Esquire
 Wesley G. Hanna, Esquire
 125 North Route 73
 West Berlin, New Jersey 08091
 (856) 988-7777
 Attorneys for Plaintiff Danielle Pooley

Danielle Pooley, on behalf of herself, and all others similarly situated,	:	Civil Case No.
	:	
<i>Plaintiff,</i>	:	Class Action
v.	:	
	:	Civil Action
H&R Block, Inc., on behalf of themselves and all others similarly situated,	:	
<i>Defendant.</i>	:	COMPLAINT
	:	

Danielle Pooley (hereinafter referred to as “Plaintiff”), on behalf of herself, and all others similarly situated, by and through her attorney, brings this class action seeking damages, declaratory judgment, injunctive relief, and disgorgement against Defendant H&R Block, Inc., and upon information and belief, and in connection therewith, allege as follows:

THE PARTIES

1. Plaintiff Danielle Pooley resides at 220 Orange Street, Gloucester City, New Jersey.
2. Defendant H&R Block, Inc., is a tax preparation company that is based in Kansas City, Missouri.

JURISDICTION AND VENUE

3. This Court has jurisdiction because the party’s citizenship is diverse, Plaintiff is demanding class relief, and the aggregate amount in controversy exceeds five million (\$5,000,000.00) dollars. 28 U.S.C. §§ 1332, 1441, and 1446.

BACKGROUND

1. Defendant advertised and promoted free preparation and filing of individual federal tax returns. Defendant's advertisements promise to "get it right" and that the "maximum refund [is] guaranteed".
2. Plaintiff saw Defendant's advertisements and/or learned of Defendant's promotions, and promises.
3. Plaintiff sought to take advantage of Defendant's promotions and promises.
4. To that end, she allowed Defendant and/or an employee and/or representative of defendant to prepare her taxes.
5. After going through a lengthy multi-day process and providing Defendants with detailed personal information, Defendant told plaintiff that they would not file a tax return in a manner that would provide her with all the benefits she would be entitled to in her circumstances unless she paid more than \$300 in fees.
6. Specifically, Plaintiff was entitled to education tax credits and defendant advised that they would not provide her with a purported additional service of applying for those credits unless she paid a fee, notwithstanding the representations of free tax preparation/filing that lured Plaintiff into using Defendant's services.
7. Under the duress of the circumstances at hand and under protest, Plaintiff paid the fee demanded.
8. Notwithstanding Plaintiff's payment, Defendant filed the tax return without providing Plaintiff with the extra service (completing the form necessary to apply for the education tax credit).
9. Defendant advised Plaintiff that the tax refund that she was owed would be effectuated within 21 days of processing.
10. Using tools available on Defendant's web-site Plaintiff ascertained the processing date.
11. Twenty-one days later Plaintiff had still yet to receive a refund.
12. Plaintiff called Defendant to inquire about the delay and was advised that Defendant had done nothing wrong, that the source of the delay was the fault of the IRS, and that Defendant did not know what could be done about the problem.
13. Plaintiff then learned through a news report that the true cause of the problem was Defendant's company wide failure to fill out form 8863 in its entirety - the very service Defendant charged Plaintiff more than \$300 to perform notwithstanding their advertisements promising to prepare and file a return for

free, get it right, and provide her with a guaranteed maximum refund.

14. Since then Plaintiff has learned that she has to engage in some affirmative steps to rectify the situation and has spent money securing the services of a tax preparer that hasn't proved themselves to be untrustworthy the way Defendants have proven themselves to be.

CLASS ALLEGATIONS

15. The proposed nationwide plaintiff class consists of all customers of Defendant who (1) paid for tax services notwithstanding Defendant's promise to prepare a tax return for free; (2) paid for unreliable tax services notwithstanding Defendant's promise to get it right; (3) paid for tax services that were never rendered or inadequately rendered; and/or (4) were subject to unnecessary delay, misinformation, and expense flowing from Defendant's untruthful communications about the nature of the problem. The members of the prospective plaintiff class are so numerous that joinder of all class members is impractical. Plaintiff's good faith belief is that there are several thousand plaintiff class members as Defendant is a nation wide tax preparation chain with offices throughout the United States. The exact number and identities of the plaintiff class members are currently unknown and can only be ascertained from the books and records of the Defendant and/or appropriate discovery.
16. Common questions of law and fact exist as to all members of the class that predominate over any questions affecting any individual member of the classes.
17. Common questions of fact and law include, but may not be limited to:
 - (a) Does Defendant engage in a bait and switch and/or unconscionable practice by promising free tax services only to refuse to file the return in a manner most beneficial for the Plaintiff's circumstances unless the Plaintiff agrees to pay a previously undisclosed fee.
 - (b) Did Defendant engage in a bait and switch, misrepresentation, and/or unconscionable practice when it charged a fee to complete a form for a tax credit and never completed the form.
 - (c) Did Defendant breach its contract by promising to "get it right" only to fail to properly file Plaintiff's tax forms.
 - (d) Did Defendant engage in misrepresentations and knowing non disclosures in an effort to placate and delay when presented with consumer questions about the cause and nature of the refund delay.
18. Plaintiff's claims are typical of the claims of the class. Plaintiff has the same interest as all other members of the class - all Plaintiffs are consumers with an

identical interest in good faith and fair dealing in consumer contracts, to the proper enforcement of their contracts, and to avoid merchants being unjustly enriched at their expense.

19. Plaintiff will fairly and adequately represent and protect the interest of the plaintiff class. Plaintiff is an individual who was victimized by Defendant's unlawful practices and has a vested interest in not being a victim to such practices. Plaintiff has retained counsel with experience in class action litigation, as well as other complex litigation. The interest of the Plaintiff is coincident to, and not antagonistic to, the interest of other class members.
20. The questions of law and fact common to members of the plaintiff class predominate over any questions affecting individual plaintiff class members. The prosecution of separate actions by individual members of the class would result in duplicitous litigation over the same issues and possibly create a risk of inconsistent or varying adjudications that could result in establishing inconsistent standards of conduct, policies, and/or procedures for the Defendant. Defendant's policies affect all class members identically.
21. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual class members with respect to each alleged violation are relatively small, the expense and burdens of individual litigation make it difficult for members of the class to individually seek redress of the wrongs imposed upon them.

COUNT I

Violation of New Jersey Consumer Fraud Act and Complementary State Law Consumer Protections Throughout the Nation

22. The above allegations are herein incorporated by reference.
23. Defendant engaged in material misrepresentations, non disclosures and unconscionable practices as set forth above.
24. Defendant engaged in a bait and switch scheme and/or unconscionable practice by promising Plaintiff to provide her with free tax services, extracting a substantial time investment from Plaintiff, and then refusing to file her taxes in the manner most beneficial in her circumstances unless she agreed to pay a previously undisclosed fee that was unreasonable and excessive.
25. Defendant engaged in a misrepresentation, bait and switch, and/or unconscionable practice when it demanded payment from the Plaintiff as compensation for additional tax services only to fail to completely perform those services.
26. Defendant engaged in misrepresentations, knowing non disclosures and/or an unconscionable practice when it misrepresented the nature and cause of the delay

Plaintiff was experiencing in an effort to placate her.

27. Plaintiff has sustained an ascertainable loss in the amount of the fee she paid notwithstanding Defendant's promise to provide services for free, the fee she paid for services that were never rendered, the time value of her money, and expenses she has suffered in an effort to rectify the situation.

Wherefore, Plaintiff Danielle Pooley and the putative plaintiff class, request judgment against Defendant as follows:

- a. Awarding actual and treble damages;
- b. Awarding counsel fees and costs;
- c. Compelling a refund and disgorgement;
- e. Awarding other such relief that the Court deems fair and necessary.

COUNT II
Breach of Contract

28. The above allegations are herein incorporated by reference.
29. Defendant breached its contract as set forth above.
30. Defendant breached its contract with Plaintiff by offering to provide free services only to later demand a fee, failing to provide the services Plaintiff paid for, and failing to live up to its maximum refund guarantee.
31. Plaintiff was damaged as a result of Defendant's breach in the amount she paid to Defendants, the time value of her money, and the expenses she suffered in an effort to rectify the situation.

Wherefore, Plaintiff Danielle Pooley and the putative plaintiff class, request judgment against Defendant as follows:

- a. Awarding actual and punitive damages;
- b. Awarding counsel fees and costs;
- c. Compelling a refund and disgorgement;
- e. Awarding other such relief that the Court deems fair and necessary.

COUNT III
Unjust Enrichment

32. The above allegations are herein incorporated by reference.
33. Defendant has been unjustly enriched by the amount it collected from Plaintiff for services that it never or inadequately performed.

Wherefore, Plaintiff, Danielle Pooley and the putative plaintiff class, request judgment against Defendants as follows:

- a. Compelling a disgorgement and refund;
- b. Awarding actual and consequential damages;
- c. Awarding counsel fees and costs; and
- e. Awarding other such relief that the Court deems fair and necessary.

LAW OFFICE OF SANDER D. FRIEDMAN

/s/Sander D. Friedman
SANDER D. FRIEDMAN

/s/Wesley Hanna
WESLEY HANNA

Date: March 13, 2013

Date: March 13, 2013

JURY DEMAND

Plaintiff asserts their rights under the Seventh Amendment to the United States Constitution and demand, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

LAW OFFICE OF SANDER D. FRIEDMAN

/s/Sander D. Friedman
SANDER D. FRIEDMAN

/s/Wesley Hanna
WESLEY HANNA

Date: March 13, 2013

Date: March 13, 2013