

**ORIGINAL**

**FILED**

2013 MAY -9 P 3:33

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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*[Handwritten signature]*

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**BY FAX**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JCS

**CV 13 2142**

NICHOLAS CAUTHEN, on behalf of  
himself and all others similarly situated,

CASE NO.:

**CLASS COMPLAINT FOR DAMAGES**

Plaintiff,

- 1. NEGLIGENCE
- 2. BREACH OF CONTRACT

vs.

**DEMAND FOR JURY TRIAL**

H&R BLOCK, INC., a Missouri  
Corporation; HRB TAX GROUP, INC.,  
a Missouri Corporation, and; HRB  
TECHNOLOGY LLC,

Defendants.

**CLASS ACTION COMPLAINT**

Plaintiff Nicholas Cauthen, by and through undersigned counsel, on behalf of himself and all other persons similarly situated, sues Defendants, H&R Block, Inc., HRB Tax Group, Inc. and HRB Technology, LLC (hereinafter collectively referred to as "Defendants" or "H&R Block") and for their Class Action Complaint alleges, upon

1 information and belief and based on the investigation to date of their counsel, as  
2 follows:

3  
4 **INTRODUCTION**

5 1. This is a nationwide class action on behalf of all persons in the United  
6 States against H&R Block Inc., and their subsidiaries in breach of contractual  
7 obligations, resulting in their erroneous and negligent preparation of 600,000 tax  
8 returns, with the result that tax refunds were delayed up to six weeks beyond the time  
9 when they would have been paid.

10  
11 **JURISDICTION AND VENUE**

12 2. This Court has jurisdiction over the subject matter of this action pursuant  
13 to 28 U.S.C. § 1332(d) (diversity jurisdiction) and the Class Action Fairness Act, in  
14 that (i) there is complete diversity (Plaintiff is a citizen of California and Defendants  
15 are domiciled and incorporated in a state other than these four states), (ii) the amount  
16 in controversy exceeds \$5,000,000.00 (Five Million Dollars) exclusive of interests and  
17 costs, and (iii) there are 100 or more members of the proposed Class.

18 3. Defendants conduct substantial business in California, including the sale,  
19 marketing and distribution of H&R Block tax services, and have sufficient contacts  
20 with California or otherwise intentionally avails themselves of the laws and markets of  
21 California, so as to sustain this Court's jurisdiction over Defendants.

22 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391, *et seq.*  
23 because a substantial part of the events or omissions giving rise to this claim occurred  
24 in the state of California and in this District, and Defendants are subject to personal  
25 jurisdiction in this District.

26 5. As a result of Defendants' commerce throughout California, either  
27 directly or indirectly through third parties or related entities, the Defendants have  
28 benefitted from the laws of California and profited from California commerce.



1 services and software with a “100% Satisfaction Money Back Guarantee.”<sup>1</sup> The  
2 guarantee states “[i]f you are dissatisfied with the software for any reason within 60  
3 days, H&R Block will refund the full purchase price you paid for H&R Block or its  
4 authorized reseller for the software.”

5 14. Plaintiff and all other putative Class Members were the direct  
6 beneficiaries of the guarantee and received and relied upon such guarantee made by  
7 Defendants.

8 15. H&R Block Technology improperly filled out, improperly transmitted (or  
9 both) IRS Form 8863 used to claim educational credits. Form 8863 is used to claim  
10 tax credits for qualified expenses paid to postsecondary education institutions. There  
11 are two education credits: The American Opportunity credit, as well as the lifetime  
12 learning credit.

13 16. The IRS requires that Form 8863 be completely filled out. H&R Block  
14 left mandatory fields blank, resulting in widespread errors.

15 17. On information and belief, H&R Block failed to answer IRS form 8863  
16 questions #22-26 with a “yes” or “no” response.

17 18. The error affected returns prepared by Defendants which included filing  
18 form 8863 before February 22, 2013.

19 19. The error affecting returns has delayed the tax return of Plaintiff and  
20 putative members beyond the 21 day turnaround represented by Defendants.<sup>2</sup>

21 20. H&R Block has confirmed its negligence in the preparation of forms  
22 filed before February 22, citing a change in the way the IRS processes certain yes or  
23 no questions on the form. It used to be an acceptable to leave a field blank to indicate  
24 “no,” but now preparers must enter an “N.”<sup>3</sup>

25  
26 <sup>1</sup> <http://www.hrblock.com/why-hr-block/our-guarantees.html> Last Retrieved 3/28/13.

27 <sup>2</sup> <http://blogs.hrblock.com/2013/01/21/faq-when-can-i-file-my-2012-taxes-what-factors-affect-how-quickly-ill-receive-my-refund/> Last Retrieved 3/29/13.

28 <sup>3</sup> <http://consumerist.com/2013/03/12/irs-hr-block-causing-refund-delays-after-bungling-600000-tax-returns/> Last Retrieved 3/28/13.

1           21. The IRS has stated that Defendants' tax-preparation software defect  
2 caused more than 600,000 returns prepared by Defendants to be filed incorrectly.

3           22. On information and belief, the tax software defect is limited to H&R  
4 Block.

5           23. On March 22, 2013, Bill Cobb, President and CEO of H&R Block issued  
6 the following statement pertaining to the faulty tax returns:

7                           Let me set the record straight about the Form 8863  
8 issue that has affected you, our valued clients: we  
9 made a mistake when the tax return was sent to the  
10 IRS. And you deserve an apology, an explanation, and  
to know what we're doing about it.

11                          Here's what happened: this year's tax season started  
12 later than any in history (January 30<sup>th</sup>), followed by a  
13 further delay in form 8863 not being accepted until  
14 February 14. Not good for everyone. When the IRS  
15 began accepting the form, we immediately sent your  
16 returns, with the intention of getting you your refund  
17 as quickly as possible. In our zeal to move so quickly,  
18 we missed a step. Specifically there was a disconnect  
19 in the transmission of form 8863 from our delivery  
20 system to the IRS E-file system, and this caused the  
21 delay many of you are experiencing. We fixed the  
22 transmission issue right away, but couldn't undo it for  
23 those that had already been sent.

24                          I want to make it clear that this was absolutely not the  
25 fault of your tax professional; your return was  
26 prepared accurately. This was an issue with the form  
27 transmission. This was our mistake — and I sincerely  
28 apologize. I want you to know that we hear the  
frustration of those impacted by this issue loud and  
clear, and we're working every avenue we can to get  
your refund to you as fast as possible.

We have been and remain in daily communication  
with the IRS, who are doing everything they can to  
speedily process all returns. We know that clients are  
beginning to see progress, funding dates are being

1                   communicated and refunds are definitely being  
2 funded. But we also recognize that in an already  
3 delayed season, it's still not as fast as we want, and  
4 we're not letting up until every client has his or her  
5 refund.

6                   We are also committing to more frequent and regular  
7 updates with you as we have news to share, and we  
8 know we can do a better job here too.

9                   Finally, I know an apology won't put your tax refund  
10 in your hands right away, and many of you still have  
11 questions. But right now, our singular focus is to get  
12 you that refund, and we have all hands on deck to help  
13 make this right.<sup>4</sup>

14                   24. Defendants did not offer compensation to Plaintiff or any putative class  
15 members for the tax preparation errors solely caused by the conduct of H&R Block  
16 and its subsidiaries.

17                   25. All persons affected by this error suffered harm as a result, including, but  
18 not limited to: a delay in receiving tax return refunds, with the consequential loss of  
19 time value of money.

20                   26. In reliance on the representation that Plaintiff's tax return would be  
21 accurately prepared and filed, Plaintiff used H&R Block software and had his tax  
22 return filed on January 25, 2013.

23                   27. Plaintiff and putative class members' returns required IRS Form 8863.

24                   28. Plaintiff and the putative class members were entitled to a refund, which  
25 included the tax credit claimed on Form 8863.

26                   29. Plaintiff and putative class members' returns were filed and transmitted  
27 prior to February 22, 2013.

28                   30. Plaintiff and putative class members paid for the tax preparation services

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<sup>4</sup> <http://blogs.hrblock.com/2013/03/22/a-message-from-ceo-bill-cobb-on-form-8863-delay/> Last Retrieved 3/28/13.

1 of H&R Block and received incorrectly prepared tax returns as a result.

2 31. As a result of the errors and omissions set forth above, Plaintiff's and  
3 putative class members' returns were improperly filed, transmitted, and subsequently  
4 any tax refunds were delayed.

5  
6 **CLASS ACTION ALLEGATIONS**

7 32. Plaintiff bring this class action pursuant to Federal Rule of Civil  
8 Procedure 23, and case law thereunder on behalf of themselves and all others similarly  
9 situated, with the Class defined as follows:

10  
11 All individuals in the United States who have opted-  
12 out of H&R Block arbitration, who had returns  
13 prepared for them by H&R Block Inc. or its  
14 subsidiaries and franchisees, for the year 2012, which  
15 included Form 8863, which was filed before February  
16 22, 2013, and where H&R Block Inc. determined that  
17 the taxpayer was entitled to a refund.

18 Excluded from the Class are: (a) any Judge or Magistrate presiding over this action  
19 and members of their families; and (b) all persons who properly execute and file a  
20 timely request for exclusion from the Class.

21 33. *Numerosity*: The Class is composed of thousands of persons  
22 geographically dispersed throughout the State of California and the United States, the  
23 joinder of whom in one action is impractical. Moreover, upon information and belief,  
24 the Class is ascertainable and identifiable from Defendants' records.

25 34. *Commonality*: The critical question of law and fact common to the  
26 Plaintiff and the Class that will materially advance the litigation is whether  
27 Defendants erroneously and negligently prepared Form 8863 included with 600,000  
28 tax returns prepared by Defendants, with the result that tax refunds were delayed up to  
six weeks beyond the time when they would have been paid.

1           35. Furthermore, other questions of law and fact common to the Class that  
2 exist as to all members of the Class and predominate over any questions affecting only  
3 individual members of the Class include the following:

4           a. Whether Defendants erroneously and negligently prepared Form 8863  
5 included with 600,000 tax returns;

6           b. Whether Defendants breached their contract with Plaintiff and the  
7 members of the class;

8           c. Whether the failure to accurately, correctly and completely fill out Form  
9 8863 constituted a breach of contract;

10          d. Whether the failure to accurately, correctly and completely fill out Form  
11 8863 was negligent; and

12          e. The appropriate relief.  
13

14           36. *Typicality*: Plaintiff's claims are typical of the claims of the members of  
15 the Class, as all such claims arise out of Defendants' erroneous and negligent conduct  
16 with 600,000 tax returns, with the result that tax refunds were delayed up to six weeks  
17 beyond the time when they would have been paid. All of the claims are based on the  
18 same facts and legal theories.

19           37. *Adequate Representation*: Plaintiff will fairly and adequately protect the  
20 interests of the members of the Class and has no interests antagonistic to those of the  
21 Class. Plaintiff retained counsel experienced in the prosecution of complex class  
22 actions, including but not limited to consumer class actions.

23           38. *Predominance and Superiority*: This class action is appropriate for  
24 certification because questions of law and fact common to the members of the Class  
25 predominate over questions affecting only individual members, and a Class action is  
26 superior to other available methods for the fair and efficient adjudication of this  
27 controversy, since individual joinder of all members of the Class is impracticable.  
28 Should individual class members be required to bring separate actions, this Court



1 and/or courts throughout California and throughout the United States would be  
2 confronted with a multiplicity of lawsuits burdening the court system while also  
3 creating the risk of inconsistent rulings and contradictory judgments. In contrast to  
4 proceeding on a case-by-case basis, in which inconsistent results will magnify the  
5 delay and expense to all parties and the court system, this class action presents far  
6 fewer management difficulties while providing unitary adjudication, economies of  
7 scale and comprehensive supervision by a single court.

8  
9 **FIRST CAUSE OF ACTION**  
10 **NEGLIGENCE**

11 39. Plaintiffs, individually, and on behalf of all others similarly situated, adopt  
12 and incorporate by reference all allegations contained above as if fully rewritten herein.

13 40. Defendants owed Plaintiffs and the members of the Class the duty to  
14 accurately and correctly prepare tax returns for Plaintiffs and the members of the Class  
15 including Form 8863.

16 41. Defendants erroneously and negligently completed and filed Form 8863  
17 for the tax returns of putative class members throughout the United States.

18 42. Defendants owed Plaintiffs and the members of the Class the duty to  
19 accurately and correctly prepare tax returns for Plaintiffs and the members of the  
20 Class including Form 8863.

21 43. As a direct and proximate result of Defendants' negligence, Plaintiffs and  
22 putative class members are not receiving their tax refunds before the 21 day  
23 turnaround as represented by Defendants.

24 44. As a direct and proximate result of Defendants' negligence, Plaintiffs and  
25 the Class have sustained damages, including the costs of suit, appropriate damages,  
26 and further relief that this Court deems proper.

1 **SECOND CAUSE OF ACTION**

2 **BREACH OF CONTRACT**

3 45. Plaintiffs, individually, and on behalf of all others similarly situated,  
4 adopts and incorporates by reference all allegations contained above as if fully  
5 rewritten herein.

6 46. Defendants breached their contracts for the preparation of tax returns by  
7 making the error described herein.

8 47. Plaintiffs and putative class members contracted with Defendants for the  
9 preparation of tax returns, so that any refunds available would be paid within 21 days  
10 of the IRS' acceptance of the tax returns.

11 48. All Plaintiffs and putative class members have been damaged similarly, if  
12 not identically, in that they have not received the value of the contract they bargained  
13 for as provided in the Client Service Agreement, they have not received refunds owed  
14 them as result of the faulty tax returns, and they have not received any interest on the  
15 delayed refund monies.

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims so triable.

DATED: May 9, 2013

GERAGOS & GERAGOS, APC

By: 

MARK J. GERAGOS  
Attorneys for Plaintiff  
NICHOLAS CAUTHEN

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# CIVIL COVER SHEET ORIGINAL

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.)

**I. (a) PLAINTIFFS**  
NICHOLAS CAUTHEN, on behalf of himself and all others similarly situated,

**DEFENDANTS**  
H&R BLOCK, INC., a Missouri Corporation; HRB TAX GROUP, INC., a Missouri Corporation, and; HRB TECHNOLOGY LLC,

**(b) County of Residence of First Listed Plaintiff** \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

**County of Residence of First Listed Defendant** \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
Mark J. Geragos SBN 108325  
GERAGOS & GERAGOS, APC  
644 South Figueroa Street  
Los Angeles, California 90017

**NOTE:** IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**Attorneys (If Known)**

① 13-2142 JCF

BY FAX

**BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         |                                       |                                       |                                                               |                            |                            |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| 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 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

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

**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):  
Pursuant to 28 U.S.C. § 1332(d)(2) (diversity jurisdiction)  
Brief description of cause:  
Breach Of Contract and Negligence.

**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 \_\_\_\_\_

**IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)**

(Place an "X" in One Box Only) (X) SAN FRANCISCO/OAKLAND ( ) SAN JOSE ( ) EUREKA

DATE May 8, 2013

SIGNATURE OF ATTORNEY OF RECORD

# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.