

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No: _____

**GAVIN SCHNEIDER, JEFFREY
GONZALEZ, DAVID BORTNICK,
MICHAEL ODDO, CAMIL SADER,
TATIANA LEECHEE-SADER,
LINDA J. ARONS, individually, and
on behalf of all others similarly situated,**

Plaintiffs,

v.

**LUMBER LIQUIDATORS, INC.,
a Delaware Corporation,
LUMBER LIQUIDATORS LEASING, LLC,
a Delaware Limited Liability Corporation,
LUMBER LIQUIDATORS HOLDINGS, INC.;
a Delaware Corporation,
LUMBER LIQUIDATORS SERVICES, LLC,
a Delaware Limited Liability Corporation,**

Defendants.

_____/

CLASS ACTION COMPLAINT

Plaintiffs, Gavin Schneider, Jeffrey Gonzalez, David Bortnick, Michael Oddo, Camil Sader, Tatiana LeeChee-Sader, and Linda J. Arons, on behalf of themselves and all other similarly situated nationwide, hereby file this Class Action Complaint against Defendants, Lumber Liquidators, Inc. a Delaware corporation (“Lumber Liquidators”), Lumber Liquidators Leasing, LLC, a Delaware limited liability corporation (“Lumber Liquidators Leasing”), Lumber Liquidators Holdings, Inc., a Delaware corporation (“Lumber Liquidators Holdings”) and Lumber Liquidators Services, LLC, a Delaware limited liability corporation (“Lumber Liquidators Services”) (collectively referred to as “Defendants”) for the purchase of Chinese

wood veneer flooring (“Toxic Laminate Flooring”) containing toxic levels of formaldehyde, a known carcinogen.

PARTIES

1. Plaintiff, Gavin Schneider, is a resident of Broward County, Florida. He purchased and installed 12MM Nantucket Beach Dream Home Laminate from Lumber Liquidators in Davie, Florida on December 31, 2014.

2. Plaintiff, Jeffrey Gonzalez, is a resident of Miami-Dade County, Florida. On September 21, 2011, he purchased and installed St. James Collection African Mahogany 12AM laminate flooring from Lumber Liquidators Store No. 1236 in Miami Gardens, Florida.

3. Plaintiff, David Bortnick, is a resident of St. Lucie County, Florida. He purchased and installed from Lumber Liquidators 561 sq. ft of Kensington Manor Summer Retreat Teak laminate flooring on Aug 30, 2014.

4. Plaintiff, Michael Oddo, is a resident of Suffolk County, New York but owns a home in Martin County, Florida. For his Jensen Beach (Martin County) home, he purchased and installed from Lumber Liquidators in Port St. Lucie, Florida 10014950/12SS/1226IPS Slone Street Teak on March 16, 2013.

5. Plaintiffs, Dr. Camil Sader and Dr. Tatiana LeeChee-Sader, are residents of Broward County, Florida. December 27, 2011, they purchased and installed Dream Home ISPIRI Sloane Street Teak 12mm from Lumber Liquidators Store No. 1006 in Dania, Florida.

6. Plaintiff, Linda J. Arons, is a resident of Palm Beach County, Florida. On January 27, 2013, she purchased and installed STJ Brazilian Koa Laminate from Lumber Liquidators in West Palm Beach, Florida.

7. Defendant, Lumber Liquidators, Inc., is incorporated in Delaware and has its

principal place of business in Virginia.

8. Defendant, Lumber Liquidators Leasing, LLC, is incorporated in Delaware and has its principal place of business in Virginia. Plaintiff is informed and believes, and thereupon alleges, that Lumber Liquidators Leasing, LLC is a wholly-owned subsidiary of Lumber Liquidators, Inc. which is the sole member of Lumber Liquidators Leasing, LLC.

9. Defendant, Lumber Liquidators Holdings, Inc., is incorporated in Delaware and has its principal place of business in Virginia.

10. Defendant, Lumber Liquidators Services, LLC, is incorporated in Delaware and has its principal place of business in Virginia. Plaintiff is informed and believes, and thereupon alleges, that Lumber Liquidators Services, LLC is a wholly-owned subsidiary of Lumber Liquidators, Inc. which is the sole member of Lumber Liquidators Services, LLC.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because a member of Plaintiff class is a citizen of Florida and Defendants are citizens of Delaware and Virginia, there are certainly 100 or more class members, and the aggregate amount in controversy will exceed \$5,000,000.

12. The Court has personal jurisdiction over Defendants because a substantial portion of the alleged wrongdoing occurred in Florida. Defendants also have sufficient minimum contacts with Florida and have otherwise intentionally availed themselves of the markets in Florida through the promotion, marketing, and sale of products sufficient to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

13. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391(b)(2) and (3) because a substantial part of the events or omissions giving rise to the claims

at issue in this Complaint arose in this District, a substantial part of the property that is the subject of this action is situated in this District, and Defendants are subject to the Court's personal jurisdiction with respect to this action.

FACTUAL ALLEGATIONS

14. Defendants have manufactured, labeled and sold, during the Class Period, the Toxic Laminate Flooring as being compliant with "CARB regulations in the State of California." CARB is an acronym for California Air Resources Board, an entity which has promulgated safety standards for the emission of formaldehyde for products sold in California.

15. Defendants' laminate wood flooring is not what it purports to be. The laminated floor wood contains a dangerous level of formaldehyde gas which exceeds the "CARB regulations in the State of California" and the standards promulgated in the Toxic Substances Control Act, 15 U.S.C. 2601, *et. seq.* (Title VI- Formaldehyde Standards of Composite Wood Products) and is hazardous to human health.

16. Formaldehyde gas can cause cancer, asthma, chronic respiratory irritation and other ailments including skin and breathing problems. The risk of these health problems is significantly greater for children.

17. Formaldehyde is the sort of toxic substance to which people may be exposed without knowing they are at risk. Day after day, week after week, month after month, Plaintiffs live in their home, an enclosed place, where the Lumber Liquidators' flooring is emitting toxic cancer causing fumes.

18. As such, the Toxic Wood Flooring Defendants sold Plaintiffs and other customers poses great health risks.

19. Defendants' marketing materials for the Toxic Laminate Flooring contain false and misleading information relating to compliance with California standards and designed to increase sales of the products at issue.

20. Defendants deceptively manufactured, labeled, and sold the Toxic Laminate Flooring. The Toxic Laminate Flooring, having no monetary value, is worthless.

21. Plaintiffs and the Class have been damaged by Defendants' dangerous and deceptive Toxic Laminate Flooring. Plaintiffs and the Class are entitled to a return of the full purchase price paid for Toxic Laminate Flooring and other damages to be proven at trial.

22. Plaintiffs are entitled to be compensated for the cost of removing, replacing and installing a non-toxic floor.

23. Plaintiffs may now be or may be in the future suffering from formaldehyde related poisoning or other adverse health condition. The Defendants should establish a fund for medical monitoring of Plaintiffs and the Class.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action as a class action pursuant to the Federal Rule of Civil Procedure 23 on behalf of the following class:

All persons who purchased from Defendants laminated wood flooring in the United States that contains formaldehyde emissions that exceed the CARB California emissions standards, in the last four years, or depending upon discovery, an earlier date. (The "Class").

Collectively, all these persons will be referred to as "Plaintiffs" or "Plaintiff Class."

25. Excluded from the Plaintiff Class are:

A. Defendants and any entities in which Defendants have a controlling interest;

B. Any entities in which Defendants' officers, directors, or employees are employed and any of the legal representatives, heirs, successors or assigns of Defendants;

C. The Judge(s) to whom this case is assigned and any member of the Judge(s)'s immediate family;

D. All persons or entities that properly execute and timely file a request for exclusion from the Class.

26. Plaintiffs reserves the right to modify the Class definitions after discovery and at any time up to and including trial.

27. The action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of the Federal Rules of Civil Procedure Rule 23(a)(1-4) and (b)(1).

28. The Class is so numerous that the individual joinder of all its members, in this or any action, is impracticable. The exact number or identification of the Class members is presently unknown to Plaintiffs, but it is believed that Class members number at least in the thousands. The identity of Class members is ascertainable. Class members' number may be informed of the pendency of this Class action by a combination of direct mail and public notice, or other means.

29. Common question of fact and law exist as to all members of the Class, which predominate over questions affecting only individual members of the Class. These include, but are not limited to the following:

- a. Whether Defendants engaged in unlawful, unfair or deceptive business practices by failing to properly label its products it sold to consumers;
- b. Whether the products at issue were mislabeled as a matter of law and violated California CARB emissions standards and Formaldehyde Standards of Composite Wood Products in the Toxic Substances Control Act, 15 U.S.C. 2601, *et. seq.*;
- c. Whether Defendants made unlawful and misleading toxicity representations and warranties with respect to its products sold to consumers;
- d. Whether Defendants violated the Florida Deceptive and Unfair Trade Practices Act (Fla. Stat. § 501.201, *et. seq.*);
- e. Whether Defendants breached its implied warranty of merchantability;
- f. Whether Defendants breached its express warranties;
- g. Whether Defendants were negligent in its labeling and advertising of the Toxic Laminate Flooring;
- h. Whether Defendants unlawfully sold the Toxic Laminate Flooring in violation of the laws of Florida;
- i. Whether Defendants' unlawful, unfair and deceptive practices harmed Plaintiffs and the Class;

j. Whether Plaintiffs and the Class have been damaged by the unlawful actions of the Defendants and the amount of damages to the Class;

k. Whether Defendants were unjustly enriched by its deceptive practices;

l. Whether punitive damages should be awarded;

m. Whether medical monitoring is appropriate and what uniform standard should be applied to such monitoring; and

n. Whether Defendants should be enjoined from continuing the conduct complained of herein.

30. Plaintiffs' claims are typical of the claims of the members of each Class because Plaintiff bought Defendants' Toxic Laminate Flooring during the Class Period. Plaintiffs are asserting the same rights, making the same claims, and seeking the same relief for themselves and for all other class members. Defendants' unlawful, unfair and/or fraudulent actions concern the same business practices described herein irrespective of where they occurred or were experienced. Plaintiffs and each Class Member sustained similar injuries arising out of Defendants' conduct in violation of Florida law.

31. The injuries of each member of each Class were caused directly by Defendants' wrongful conduct. The factual underpinning of Defendants' misconduct is common to all Class members of each class and represents a common thread of misconduct resulting in injury to all members of each Class. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of each member of the Class and are based on the same legal theories.

32. Each Plaintiff is an adequate representative of the Plaintiff Class because each Plaintiff is a member of the Plaintiff Class and each Plaintiff's interests do not conflict with the interests of the members of the Class that Plaintiff seeks to represent. Each Plaintiff is represented by experienced and able counsel who have litigated numerous class actions, and Plaintiffs' counsel intends to prosecute this action vigorously for the benefit of the entire Plaintiff Class. Plaintiffs and Plaintiffs' counsel can fairly and adequately protect the interests of the members of the Plaintiff Class.

33. The class action is the best available method for the efficient adjudication of this litigation because individual litigation of the Plaintiff Class claims would be impractical and individual litigation would be unduly burdensome to the courts. Individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. As the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class treatment of common questions of law and fact would also be superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the Court and the litigants, and will promote consistency and efficiency of adjudication.

COUNT I - Unfair Trade Practices, Fla. Stat. §§ 501.201, *et seq.*

34. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 33 above.

35. Defendants' conduct constitutes unlawful deceptive and unconscionable trade practices. Defendants' conduct was consumer-oriented and this conduct had broad impact on consumers at large. Defendants engaged in false, misleading and unlawful advertising, marketing and labeling of Defendants' Toxic Laminate Flooring. Defendants' manufacture, distribution and sale of Defendants' Toxic Laminate Flooring were similarly unlawful.

36. Defendants unlawfully sold Defendants' Toxic Laminate Flooring in Florida during the Class Period.

37. As fully alleged above, by advertising, marketing, distributing and selling mislabeled Toxic Laminate Flooring to Plaintiff and other members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida, Defendants engaged in, and continue to engage in, unlawful deceptive and unconscionable trade practices.

38. Defendants' misleading marketing, advertising, packaging and labeling of Defendants' Toxic Laminate Flooring deceived reasonable consumers.

39. Plaintiffs and other members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida were deceived.

40. Defendants have engaged in unlawful deceptive and unconscionable trade practices.

41. Plaintiffs and other members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida were injured by Defendants' unlawful deceptive and unconscionable trade practices.

42. Defendants sold to Plaintiffs and the members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida, a product that had no economic value. Defendants' violation of Fla. Stat. § 501.201, *et. seq.* remains ongoing.

43. As a direct and proximate cause of Defendants' violation of Fla. Stat. § 501.201, *et. seq.*, Plaintiff and the members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida were injured when they paid for these illegal and worthless products. Plaintiff and the members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida have been damaged in an amount to be determined at trial.

44. As a result of Defendants' unlawful deceptive and unconscionable trade practices, Plaintiff and the members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida, pursuant to Fla. Stat. § 501.201, *et. seq.*, are entitled to damages and such other orders and judgments which may be necessary to disgorge Defendants' ill-gotten gains and to restore to Plaintiff and the members of the Class who purchased Defendants' Toxic Laminate Flooring in Florida any money paid for Defendants' Toxic Laminate Flooring.

45. The conduct described above constitutes unfair or deceptive trade practices predominately and substantially affecting the conduct of trade or commerce throughout the United States in violation of the Florida Deceptive and Unfair Trade Practice Act, Fla. Stat. § 501.201, *et. seq.*, and other similar state statutes prohibiting unfair and deceptive acts and practices (collectively "DUTPA").

46. The Defendants' deceptive trade practices are the proximate cause of the Plaintiffs and the members of the class having suffered damages in an amount to be proven at trial.

47. Defendants' conduct complained of herein renders it liable under the other states' DUTPAs for damages for the consequences of such conduct.

48. Defendants' actions were willful, wanton, malicious, and in total disregard for the rights of the Plaintiff and Class Members. Defendants knew or should have known, in light of the surrounding circumstances that their conduct in violation of states' Deceptive and Unfair Trade

Practices Acts would naturally and probably result in damages to Plaintiff and Class Members. Defendants continued its wrongful conduct with malice or in reckless disregard of the consequences, from which malice may be inferred. Further, Defendants intentionally pursued its course of conduct for the purpose of causing Plaintiff and Class Members damages. Punitive damages should be awarded to deter the actions of Defendants and others who might engage in similar action or conduct.

49. Plaintiffs and Class Members are entitled to any and all penalties and/or multipliers of damages as may be provided for in the states' DUTPAs.

50. Plaintiffs and Class Members are entitled to an injunction enjoining the Defendants from further deceptive and unfair trade practices in connection with the sale of the Mislabeled Products.

51. Plaintiffs and Class Members are entitled to an award of reasonable attorneys' fees, costs of this action, plus pre and post judgment interest as may be allowed by law.

COUNT II - Unjust Enrichment

52. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 33 above.

53. As a result of Defendants' unlawful and deceptive actions described above, Defendants was enriched at the expense of Plaintiffs and the Class through the payment of the purchase price for the Toxic Laminate Flooring.

54. Under the circumstances, it would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits that they received from the Plaintiff and the Class, in light of the fact that the Toxic Laminate Flooring purchased by Plaintiffs and the Class were illegal products and were not what Defendants represented them to be. Thus, it would be

unjust and inequitable for Defendants to retain the benefit without restitution to the Plaintiffs and the Class for the monies paid to Defendants for the Toxic Laminate Flooring.

COUNT III - Breach of Implied Warranty of Merchantability

55. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 33 above.

56. Implied in the purchase of the Toxic Laminate Flooring by Plaintiffs and the Class is the warranty that the purchased products are legal and can be lawfully sold and possessed.

57. Defendants reasonably knew or should have known those Toxic Laminate Flooring were unlawful for sale pursuant to The Toxic Substance Control Act, 15 U.S.C, 2601, *et. seq.*.

58. When Defendants sold these products they impliedly warranted that the products were legal and could be lawfully possessed and/or sold and therefore, merchantable.

59. No reasonable consumer would knowingly purchase a product that is illegal to own or possess.

60. The purchased Toxic Laminate Flooring is unfit for the ordinary purpose for which it was intended.

61. In fact, this Toxic Laminate Flooring is illegal, mislabeled, and economically worthless.

62. As a result, Plaintiffs and the Class were injured through their purchase of unsuitable, useless, illegal and unsellable products.

63. By reason of the foregoing, Plaintiffs and the Class were damaged in the amount they paid for Toxic Laminate Flooring.

COUNT IV – Breach of Express Warranty

64. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 33 above.

65. Defendants' representations of fact and/or promises on the labels relating to their Toxic Laminate Flooring created express written warranties that the product would conform to Defendants' representation of fact and/or promises.

66. The Defendants' description on the labeling of their Toxic Laminate Flooring that it complied with CARB and California emissions regulations became part of the basis of the bargain, creating express written warranties that the product purchased by Plaintiffs and the other Class Members would conform to Defendants' description and specification. The Toxic Laminate Flooring purchased by Plaintiff did not so conform.

67. Defendants provided warranties that its Toxic Laminate Flooring were labeled in compliance with state law and were not mislabeled under state law. Defendants breached these express written warranties.

68. As a result of the foregoing, Plaintiffs and the other Class Members have suffered damages, in that the value of the product they purchased was less than warranted by Defendants.

69. Defendants engaged in a scheme of offering the Toxic Laminate Flooring for sale to Plaintiffs and members of the Class by way of, inter alia, false and misleading product packaging and labeling.

70. Plaintiffs and the Class were the intended beneficiaries of such representations and warranties.

71. Plaintiffs assert this cause of action for violations of Florida law pertaining to express warranties. Plaintiff and the Class were injured as a result of Defendants' breach of their express warranties about the Toxic Laminate Flooring. Plaintiff and the Class are entitled to damages arising from the breach of warranty.

COUNT V - Negligence

72. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 33 above.

73. In making representations of fact to Plaintiffs and the other Class members about their Toxic Laminate Flooring, Defendants failed to lawfully label or advertise their Toxic Laminate Flooring and violated their duties to disclose the material facts alleged above. Among the direct and proximate causes of said failure to disclose were the negligence and carelessness of Defendants.

74. Plaintiffs and the other Class members, as a direct and proximate cause of Defendants' breaches of their duties, reasonably relied upon such representations to their detriment. By reason thereof, Plaintiff and the other Class members have suffered damages.

75. As described above, Defendants' actions violated Florida and Federal law designed to protect Plaintiffs and the Class. Defendants' illegal actions constitute negligence per se. Moreover, misbranding provisions violated by Defendants are strict liability provisions.

76. As alleged above, Plaintiffs and the Class were injured by Defendants' unlawful actions and are entitled to recover an amount to be determined at trial due to the injuries and loss they suffered as a result of Defendants' negligence.

COUNT VI – Medical Monitoring

77. Plaintiffs reallege and incorporate by reference paragraphs 1 through 33 above.

78. The Plaintiffs and Plaintiff Class have been exposed to a substance (formaldehyde) at greater than normal background levels.

79. The substance (formaldehyde) is hazardous, dangerous and toxic. The substance causes sore throat, nosebleeds, cough and cancer (primarily of the throat and nose).

80. Plaintiffs and the Plaintiff class were exposed to the toxic substance due to the wrongful conduct of the Defendants.

81. There is a significant increased risk of contracting a serious latent disease. Illness from formaldehyde takes time to develop and the rise increases as time of exposure increases. Increased heat and humidity is likely to increase the diffusion of formaldehyde from laminate flooring. This is especially important because no state has levels of heat and humidity comparable to Florida.

82. There is or will be a monitoring procedure in existence for the early detection of illness caused by exposure to formaldehyde. The monitoring procedure is different from that normally recommended in the absence of exposure to or ingestion of the hazardous or dangerous substance. The monitoring regime is reasonably necessary according to modern scientific principles.

83. Plaintiffs and the Plaintiff Class request that the Defendants establish and fund an appropriate medical monitoring process to detect and treat future illness caused by toxic exposure to formaldehyde.

JURY DEMAND

Plaintiffs hereby demand a jury trial on all claims in this action.

PRAYER FOR RELIEF

Plaintiffs, individually and on behalf of all other similarly situated persons, prays for judgment against Defendants as follows:

- A. An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class and any Subclasses the Court deems appropriate, and finding that Plaintiff(s) is/are a proper representative of the Class;

- B. Actual and/or compensatory damages and/or the recovery of civil penalties as provided by Fla. Stat. § 501.2075 and/or an award equal to the amount by which the Defendants have been unjustly enriched;
- C. An order awarding pre-judgment and post-judgment interest;
- D. The costs of this proceeding and attorneys' fees, as provided by Fla. Stat. § 501.2105;
- E. Punitive damages in an appropriate amount;
- F. An order permanently enjoining Defendants from continuing their unfair and/or deceptive conduct;
- G. Medical monitoring; and
- H. Any further compensatory, injunctive, equitable or declaratory relief including refunds as may be just and proper.

Respectfully submitted,

/s/ Matthew Seth Sarelson

MATTHEW SETH SARELSON, P.A.

Counsel for Plaintiffs and Putative Class

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305.773.1952

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.)

I. (a) PLAINTIFFS

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

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known) _____

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input 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 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 type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <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	PERSONAL INJURY <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 PERSONAL PROPERTY <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 LABOR <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 IMMIGRATION <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 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS Habeas Corpus: <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 Other: <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):

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 _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

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

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.