

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

DONALD MASON, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

VIZIO HOLDINGS, INC.; VIZIO,  
INC.; VIZIO INSCAPE SERVICES,  
LLC; VIZIO INSCAPE  
TECHNOLOGIES, LLC; and  
COGNITIVE MEDIA NETWORKS,  
INC.,

Defendants.

Case No. 1:15-cv-11288

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Donald Mason, by and through his attorneys, upon personal knowledge as to himself and his own acts and experiences, and upon information and belief as to all other matters, alleges as follows against Vizio Holdings, Inc., Vizio, Inc., Vizio Inscape Services, LLC, Vizio Inscape Technologies, LLC, and Cognitive Media Networks, Inc. (collectively, "Vizio"):

**I. NATURE OF THE CASE**

1. Vizio Holdings, Inc. was founded in California in 2002, and since then has become a major marketer of electronics, including Smart TVs, or Internet-connectable televisions.

2. According to Vizio's S-1/A registration filing, filed with the Security and Exchange Commission on October 22, 2015, their "products are sold in over 8,000 retail stores across the United States."<sup>1</sup> The company held "the #2 unit share position in the U.S. smart, high definition television, or HDTV, industry in 2014."<sup>2</sup>

3. Through its broad distribution of Smart TVs, the company states that it is "creating a community of over 10 million VIZIO connected units, or VCUs. A VCU is a Smart TV that has been connected to the Internet and has transmitted data collected by our Inscape data services. Our Inscape data services capture real-time viewing behavior from our VCUs and enable us to provide it to advertisers and media content providers."<sup>3</sup>

4. According to Vizio, approximately 90% of its Smart TV customers made an initial connection of their Smart TVs to the Internet for the twelve month period that ended September 30, 2015. Vizio's Discovery and Engagement Software, known as VIZIO Internet Apps Plus, connects customers "with traditional and streaming content providers, such as Netflix, Hulu, YouTube and Amazon Instant Video. Since 2009, users have streamed more than 3.5 billion hours of content through our discovery and engagement software."<sup>4</sup>

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<sup>1</sup> <http://www.sec.gov/Archives/edgar/data/1648158/000119312515350398/d946612dsla.htm> (last visited November 30, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*



5. Vizio's Inscape data services capture this viewing data in real time. "Inscape provides highly specific viewing behavior data on a massive scale with great accuracy, which can be used to generate intelligent insights for advertisers and media content providers. . . ." The Company, according to its October 22, 2015 SEC filing, expects that this will fuel future growth and drive revenue.<sup>5</sup>

6. On information and belief, to further realize its goal of monetizing its VCU television viewers' habits, Vizio acquired full ownership of Cognitive Media Networks, Inc., a software provider based in San Francisco, which enables Vizio's Inscape data services.

7. On information and belief, Vizio actually knew that data brokers, advertisers, or other partners would combine user identification information transmitted to it—including the user's IP address and other device identification information—with

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<sup>5</sup> *Id.*

information held by others to identify persons as having requested or obtained specific video materials or services.

8. On information and belief, Vizio obtains the date, time, channel of programs, and whether users watch them live or recorded. The viewing patterns are then connected to a user's IP address—the Internet address that can be used to identify every device in a home, from the household TV to mobile phones. Vizio actually knows that IP addresses can be linked to individuals through data brokers offering “data enrichment,” combining additional information about persons tied to a particular IP address provided by Vizio.

9. On information and belief, Vizio has worked with such data brokers, which may include Tapad, Neustar, and Experian. Tapad helps identify users across their many devices. Vizio's privacy policy concedes that it has begun providing data about customers' viewing habits to companies that “may combine this information with other information about devices associated with that IP address.” Vizio actually knows that such data can identify persons by name.

10. On information and belief, the Company falsely states that it encrypts IP addresses before sharing them; therefore, data brokers whose data includes IP addresses tied to names can identify the persons and the pre-recorded video cassette tapes or similar audio visual materials watched by those persons merely by having their IP address or other device IDs.

11. On information and belief, Vizio may share hashed or masked IDs in a way that permits matching the users to information in other data sets, so that data

brokers can associate a device's viewing information with personally-identifying information that the broker already holds, therefore revealing the viewing habits of persons identified by the broker.

12. On information an belief, Vizio actually knows such data can and in many instances will be recombined to identify persons, which Vizio knows raises the value of the data. Accordingly, Vizio actually knew that it was disclosing: 1) a user's identity; 2) the identity of the video material; and 3) the connection between the two—that the given user had “requested or obtained” the given video material. In its October 22, 2015 filing for an initial public offering, Vizio touted its ability to provide “highly specific viewing behavior data on a massive scale with great accuracy.”

13. Consumers under this regime of tracking must make extensive efforts to “opt-out” of this procedure, because it is set as the default option.

## II. PARTIES

14. Plaintiff Donald Mason is a citizen of the State of Illinois, residing in Chicago, Illinois. He purchased a 24 inch Vizio Smart TV, model number E241-a1, on April 2, 2015.

15. Defendant Vizio Holdings, Inc., is a Delaware corporation, with a principal place of business located at 39 Tesla, Irvine, California.

16. Defendant Vizio, Inc., is a California corporation, with a principal place of business located at 39 Tesla, Irvine, California.

17. Defendant Vizio Inscape Services, LLC, is a Delaware Limited Liability Company. On information and belief, it has a principal place of business located at 39 Tesla, Irvine, California.

18. Defendant Vizio Inscape Technologies, LLC, is a Delaware Limited Liability Company. On information and belief, it has a principal place of business located at 39 Telsa, Irvine, California.

19. Defendant Cognitive Media Networks, Inc., is a Delaware Corporation, with a principal place of business located at 39 Tesla, Irvine, California.

### **III. JURISDICTION AND VENUE**

20. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because at least one Class member is a citizen of a state other than that of Defendants, there are more than one hundred Class Members, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs.

21. This Court has personal jurisdiction over Vizio because Vizio has transacted business, maintained substantial contacts through its agent vendors, and directly participated in and/or committed overt acts in furtherance of its illegal conduct in this District vis-à-vis its unlawful collection and dissemination of Plaintiff Mason's and the Class Members personal information. As a result of Vizio's conduct, Plaintiff Mason has been injured and the injury occurred within this District.

22. Venue is proper in this District under 28 U.S.C. 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff Mason's individual

claims occurred in this District; Vizio conducts substantial business in this judicial district; has received substantial benefit from doing business in this District; and has knowingly engaged in activities directed at consumers in this District.

#### IV. CLASS ACTION ALLEGATIONS

23. Plaintiff brings this lawsuit as a class action pursuant to Federal Rules of Civil Procedure 23(a), (b)(1), and (b)(3), individually and on behalf of the following Class:

All persons or entities who purchased one or more Vizio Smart Televisions within the United States, in United States territories, and U.S. service people and citizens who have purchased Vizio Smart Televisions, and who viewed content broadcast over the Internet on the Vizio Smart Televisions from the four years prior to the first complaint filed in this matter through the time of trial.

24. Excluded from this Class are Defendants, their affiliates, employees, agents and attorneys, and the Court.

25. Plaintiff reserve the right to amend the Class definitions if discovery and further investigation reveal that the Class should be expanded, divided into additional subclasses, or modified in any other way.

26. **Numerosity.** The exact number of Class Members is presently unknown. However, the size of the Class can be estimated with reasonable precision. Based on Vizio's representations in its SEC-1/A filing that their "products are sold in over 8,000 retail stores throughout the United States" and that they held the "#2 unit share position in the US smart, high definition television, or HDTV, industry in 2014" and seek to create "a community of over 10 million VIZIO connected units, or VCUs," it is

reasonable to presume that the members of the proposed Class are so numerous that joinder is impracticable.

27. **Typicality.** The claims of Plaintiff Mason are typical of the claims of the other Class Members, because Plaintiff, like all Class Members, purchased one or more Vizio Smart TVs, connected them to the Internet as intended, and used the TV(s) for his own personal use. Plaintiff, like all Class Members, has been damaged by Defendants' conduct because he had his private, identifiable viewing habits and information obtained by Defendants and distributed to third parties without his knowledge or consent. Further, the factual bases of Defendants' misconduct are common to all Class Members and represent a common thread of misconduct resulting in injury to all Class Members.

28. **Adequacy.** Plaintiff Mason is a member of the Class and will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel with substantial experience in prosecuting complex consumer class actions.

29. **Commonality.** There are numerous questions of law and fact common to Plaintiff Mason and the Class Members. These common legal and factual issues include:

- a. whether Defendants gathered, stored, and transmitted the private information about their Vizio Smart TV customers to third parties;
- b. whether Defendants knew or should have known that the private consumer information and viewing habits of its Smart TV customers could be easily combined with the Internet IP address of each customer;



- c. whether Defendants failed to take the steps reasonably necessary to ensure that the private, identifiable information of their individual customers was not disclosed to third parties;
- d. whether Defendants made material misrepresentations regarding the collection, storage, distribution, disclosure, and utilization of their Smart TV customers' personal, identifiable information;
- e. whether Defendants had a duty to disclose the true nature of their data collection and dissemination practices to Plaintiff and the Class;
- f. whether Defendants omitted and failed to disclose material facts about their data collection and dissemination;
- g. whether Defendants' concealment of the true nature of the data collection, dissemination, and utilization induced a reasonable consumer to act to their detriment by purchasing one or more Vizio Smart TVs; and
- h. whether Plaintiff and the Class are entitled to injunctive and equitable relief.

30. **Superiority.** Plaintiff Mason and the Class Members have suffered and will continue to suffer harm and damages as a result of Defendants' unlawful conduct. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

31. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Defendants' misconduct. Absent a class action, Class Members will continue to incur damages and Defendants' misconduct will continue without remedy.

32. Class action treatment of common questions of law and fact would also be a superior method compared to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants, and will promote consistency and efficiency of adjudication.

33. Defendants have acted in a uniform manner with respect to Plaintiff and the Class Members.

34. Class-wide declaratory, equitable, and injunctive relief is appropriate under Rule 23(b)(1) and/or (b)(2) because Defendants have acted on grounds that apply generally to the Class, and inconsistent adjudications with respect to Defendants' liability would establish incompatible standards and substantially impair or impede the ability of Class Members to protect their interests. Class-wide relief assures fair, consistent, and equitable treatment and protection of all Class Members, and uniformity and consistency in Defendants' duties to perform corrective action regarding the Vizio Smart TVs.

**V. FIRST CAUSE OF ACTION**  
**Violations of the Video Privacy Protection Act, 18 U.S.C. § 2710**  
**On Behalf of Plaintiff and the Class**

35. Plaintiff Mason hereby re-alleges the paragraphs above as if fully set forth herein.

36. Vizio qualifies now and has qualified in the past as a "video tape service provider" under the Video Privacy Protection Act ("VPPA"), because Vizio is "engaged in the business, in or affecting interstate or foreign commerce, of rental, sale,

or delivery of prerecorded video cassette tapes or similar audio visual materials.” 18 U.S.C. § 2710(a)(4).

37. The VPPA mandates, among other things, that a video tape service provider “shall destroy personally identifiable information as soon as practicable, but no later than on the date the information is no longer necessary for the purpose for which it was collected.” 18 U.S.C. § 2710(e).

38. Vizio has violated 18 U.S.C. § 2710(e) because it has failed to destroy its users’ personally identifiable information as soon as practicable from the date the information was no longer necessary for the purpose for which it was collected.

39. The VPPA also requires Vizio to keep its customers’ personally identifiable information confidential. 18 U.S.C. § 2710(b)(1). “Personally identifiable information” cannot be disclosed to “any person without the informed, written consent of the consumer given at the time the disclosure is sought.” 18 U.S.C. § 2710(b)(2)(B).

40. As an owner and user of the Vizio Smart TV, Plaintiff Mason’s personally identifiable information was disclosed for marketing and advertising purposes without his informed, written consent.

41. As a result of Vizio’s conduct described herein and its violation of 18 U.S.C. § 2710, Plaintiff and the Class have suffered injuries. Plaintiff, individually and on behalf of the Class, seeks an order enjoining Vizio’s conduct as described herein and awarding the maximum statutory and punitive damages available under 18 U.S.C. § 2710(c), including an award of attorneys’ fees and costs, as well as such other and further relief as the Court deems just and proper.

**VI. SECOND CAUSE OF ACTION**

**Illinois Personal Information Protection Act, 815 ILCS 530**

**Plaintiff Mason, Individually, and on Behalf of the Illinois Members of the Class**

42. Plaintiff Mason hereby re-alleges the paragraphs above as if fully set forth herein.

43. Vizio is a “Data Collector” and a “person” as defined by the Illinois Personal Information Protection Act. 815 ILCS 530/5, 40.

44. The Illinois Personal Information Protection Act mandates, among other things, that a business take all reasonable steps to destroy or arrange for the destruction of a customer’s records within its custody or control, which contain personal information that is no longer to be retained by the business. 815 ILCS 530/30.

45. A person may destroy customer records by erasing the information, or modifying the personal information in those records to make it unreadable or undecipherable through any means. 815 ILCS 530/40(b).

46. Vizio has violated 815 ILCS 530/40 by failing to erase or otherwise destroy its users’ personal information or making their customers’ personal information unreadable or undecipherable.

47. Pursuant to 815 ILCS 530/20 and 815 ILCS 505/10(c), Plaintiff Mason, individually and on behalf of Illinois members of the Class, seeks an order enjoining Vizio’s conduct as described herein, an award of attorneys’ fees and costs, and such other and further relief as the Court deems just and proper.

**VII. THIRD CAUSE OF ACTION**

**Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505  
Plaintiff Mason, Individually, and on Behalf of the Illinois Members of the Class**

48. Plaintiff Mason hereby re-alleges the paragraphs above as if fully set forth herein.

49. Plaintiff Mason and the Class Members within Illinois are “consumers” as defined by the Illinois Consumer Fraud and Deceptive Business Practices Act (“Illinois Consumer Fraud Act”), because they purchased the Smart TVs for personal use. 815 ILCS 505/1

50. Vizio’s Smart TVs constitute “merchandise” as defined by the Illinois Consumer Fraud Act, and the conduct described herein occurred in “trade” and “commerce.” 815 ILCS 505/1.

51. Vizio, in its communications with and disclosures to the Illinois members of the Class, intentionally concealed or otherwise failed to disclose that Vizio collected Plaintiff’s and Class Members’ personally identifiable information, retained it for an indefinite period of time, and then sold it to third parties.

52. Plaintiff Mason and the Illinois members of the Class reasonably expected that Vizio did not and would not collect their personally identifiable information and sell it to third parties. The facts, which were concealed or not disclosed, are material facts that were likely to deceive reasonable consumers, and reasonable consumers would, and did, rely upon them in deciding whether or not to purchase the Smart TVs.

53. The Illinois Consumer Fraud Act prohibits, among other things “the use or employment of any deception . . . false pretenses . . . or the concealment, suppression or

omission of any material fact with intent that others rely upon the concealment, suppression or omission of such material fact . . . whether any person has in fact been misled, deceived, or damaged thereby.” 815 ILCS 505/2.

54. Vizio intended for consumers, like Plaintiff Mason and the Illinois members of the Class to rely on these omissions of material facts in violation of the Illinois Consumer Fraud Act.

55. Furthermore, Vizio’s violation of the Illinois Personal Information Protection Act constitutes a separate violation of the Illinois Consumer Fraud Act, in addition to the violations alleged herein. 815 ILCS 530/20.

56. Pursuant to 815 ILCS 505/10(c), Plaintiff Mason and the Illinois members of the Class seek an order enjoining Vizio from continuing to engage in the deceptive trade practices described herein, an award of attorneys’ fees and costs, and such other and further relief as the Court deems just and proper.

#### **VIII. FOURTH CAUSE OF ACTION**

##### **Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1**

##### **Plaintiff Mason, Individually, and on Behalf of the Illinois Members of the Class**

57. Plaintiff Mason hereby re-alleges the paragraphs above as if fully set forth herein.

58. Vizio is a “person” within the meaning of 815 ILCS 510/1(5).

59. Under the Illinois Uniform Deceptive Trade Practices Act, a “person engages in a deceptive trade practice when, in the course of his or her business, vocation or occupation,” the person engages in any other conduct which creates a likelihood of confusion or misunderstanding.

60. Vizio's actions, as alleged herein, constitute deceptive, unfair, fraudulent, and unlawful practices committed in violation of the Illinois Uniform Deceptive Trade Practices Act.

61. All of the conduct alleged herein occurred in the course of Vizio's business and was part of a pattern or generalized course of conduct.

62. Had Vizio disclosed the true quality and nature of the Smart TVs, Plaintiff Mason and the Illinois class members would not have purchased the Smart TVs or would have paid substantially less for them.

63. Vizio's deceptive, unfair, fraudulent and unlawful conduct alleged herein was designed to induce and did induce Plaintiff Mason and the Illinois class members to purchase the Smart TVs.

64. Vizio, in its communications with and disclosures to the Illinois members of the Class, intentionally concealed or otherwise failed to disclose that Vizio collected Plaintiff's and Illinois class members' personally identifiable information, retained it for an indefinite period of time, and then sold it to third parties.

65. The Illinois members of the Class reasonably expected that Vizio did not and would not collect their personally identifiable information and sell it to third parties. The facts, which were concealed or not disclosed, are material facts that were likely to deceive reasonable consumers, and reasonable consumers would, and did, rely upon them in deciding whether or not to purchase the Smart TVs. Vizio intended for consumers, like Plaintiff Mason and the Illinois members of the Class to rely on these omissions of material facts.

66. Vizio had exclusive knowledge it was collecting personally identifiable information as set forth above, facts which were unknown to the Illinois members of the Class. Due to Vizio's exclusive knowledge of these material facts, it gave rise to a duty to disclose these facts. Vizio failed to disclose these material facts.

67. Had Plaintiff Mason and the Illinois members of the Class known about Vizio's collection and sale of their personally identifiable information, they would not have purchased the Smart TVs.

68. As a direct and proximate result of Vizio's violation of the Illinois DTPA, Plaintiff Mason and the Illinois class members were damaged.

#### **PRAYER FOR RELIEF**

Plaintiff Mason, individually and on behalf of all others similarly situated, requests the Court to enter judgment against Defendants as follows:

- A. An order certifying the proposed Class, designating Plaintiff as the named representative of the Class, and designating the undersigned as Class Counsel;
- B. A declaration that Defendants are financially responsible for notifying Class Members about the true nature of Vizio Smart TVs;
- C. An order enjoining Defendants to desist from further deceptive distribution, marketing, and sales of Vizio Smart TVs;
- D. An award to Plaintiff Mason and Class Members of compensatory, exemplary, punitive and statutory penalties and damages, including interest, in an amount to be proven at trial;



- E. An award to Plaintiff Mason and Class Members for the return of the purchase prices of the Vizio Smart TVs, with interest from the time it was paid for the reimbursement of the reasonable expenses occasioned by the sale, for damages and for reasonably attorneys' fees;
- F. A declaration that Vizio must disgorge, for the benefit of Plaintiff Mason and the Class Members, all or part of the ill-gotten profits received from the sale of their personally identifiable information to third parties, and made full restitution to Plaintiff Mason and Class Members;
- G. An award of attorneys' fees and costs as allowed by law;
- H. An award of pre-judgment and post-judgment interest, as provided by law;  
and
- I. Such other relief as may be appropriate under the circumstances.

**DEMAND FOR JURY TRIAL**

The undersigned hereby demands a trial by jury as to all issues so triable.

Dated: December 15, 2015

/s/ Edward A. Wallace  
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*Attorneys for Plaintiff and the Putative  
Class*

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

DEFENDANTS
County of Residence of First Listed Defendant
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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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 (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

VII. Previous Bankruptcy Matters (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. 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

IX. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER
X. This case (check one box) Is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge

DATE SIGNATURE OF ATTORNEY OF RECORD

## 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. Previous Bankruptcy Matters** For nature of suit 422 and 423 enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this court. Use a separate attachment if necessary.

**VIII. 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.

**IX. 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.

**X. Refiling Information.** Place an "X" in one of the two boxes indicating if the case is or is not a refiling of a previously dismissed action. If it is a refiling of a previously dismissed action, insert the case number and judge.

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