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7 [Additional Counsel Listed On Signature Page]

8 Attorneys for Plaintiff

9 **UNITED STATES DISTRICT COURT**

10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11
12 SUSAN NAZARI, individually and on behalf
of all others similarly situated,

13
14 Plaintiff,

15 v.

16 TARGET CORPORATION d.b.a. TARGET, a
Minnesota Corporation,

17
18 Defendant.

Case No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

19
20 **CLASS ACTION COMPLAINT**

21 Plaintiff Susan Nazari (“Plaintiff”), individually and on behalf of all others similarly
22 situated, through the undersigned attorneys, upon personal knowledge as to her own acts and status,
23 and upon information and belief based upon the investigation of counsel as to the remaining
24 allegations, alleges as follows:

25 **I. INTRODUCTION**

26 1. This is a nationwide consumer class action brought by Plaintiff on behalf of herself
27 and all individuals (“Class Members”) who purchased Defendant Target Corporation’s (“Target” or
28 “Defendant”) Up & Up Aloe Vera Gel (the “Product”) for personal use and not for resale. *See*

1 Product photos *infra*. The Product contains no aloe whatsoever.

2 2. Defendant advertises, markets, sells, and distributes the Product. According to the
3 Product label, it contains “pure aloe vera.” Defendant repeats this representation on its website. (*See*
4 <http://www.target.com/p/green-aloe-gel-16-oz-up-up/-/A-11982637>, last accessed July 18, 2016.)

5 In reality, according to independent lab tests, ***Defendant’s Product contains no actual aloe.***

6 3. The Product label and Defendant’s Product advertisements, including the
7 representations made on Defendant’s website, are false, deceptive, and misleading, in violation of
8 state warranty and consumer protection laws.

9 **II. PARTIES**

10 4. During the class period, Class Members throughout the United States purchased the
11 Product through Defendant’s brick-and-mortar stores and through its website, www.target.com.
12 Plaintiff and Class Members suffered an injury in fact caused by the false, fraudulent, unfair,
13 deceptive, and misleading practices set forth in this Complaint.

14 5. Plaintiff Susan Nazari is a resident of Sacramento, California. She purchased the
15 Product for her own use on or about July 2, 2016, from a Target located in Sacramento, California.
16 Plaintiff Nazari saw and relied on the Product labeling on the front of the Product when she made her
17 purchase. Plaintiff Nazari would not have purchased the Product if it were known to her that it
18 contained no Aloe Vera.

19 6. Target is a corporation incorporated under the laws of the state of Minnesota. Target
20 markets, distributes and sells the Product throughout the United States, including in California.

21 **III. JURISDICTION AND VENUE**

22 7. The Court has subject matter jurisdiction over Plaintiff’s class claims pursuant to 28
23 U.S.C. § 1332(d) because there are more than 100 Class Members, the aggregate amount in
24 controversy exceeds \$5,000,000, exclusive of interest, fees, and costs, and because Defendant is a
25 citizen of a different state than Plaintiff and most Class Members.

26 8. This Court has personal jurisdiction over Defendant because it regularly conducts
27 business in this District.

28 9. Venue is proper in this District pursuant to: (1) 28 U.S.C. § 1391(b)(2) in that a

1 substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this District;
2 and (2) 28 U.S.C. § 1391(b)(3) in that Defendant is subject to personal jurisdiction in this District.

3 **IV. FACTUAL ALLEGATIONS**

4 10. Aloe vera gel is made from the extract of the aloe vera plant leaf.

5 11. Aloe vera is typically used to moisturize dry and irritated skin. Aloe vera is also a
6 popular folk remedy, believed to treat everything from hypertension to the common cold.

7 12. Aloe vera’s popularity is undeniable. “The global market for aloe vera products is
8 estimated to have reached \$13 billion, according to information presented at a recent workshop held
9 by the International Aloe Science Council.”¹

10 13. The front label of the Product clearly states the misleading claims “Aloe Vera Gel,”
11 and, “pure aloe vera”:



26
27 ¹ [http://www.nutraingredients-usa.com/Markets/Global-aloe-market-estimated-at-13-billion,](http://www.nutraingredients-usa.com/Markets/Global-aloe-market-estimated-at-13-billion)
28 *last accessed Apr. 26, 2016).*

1 14. The back label of the Product lists “Aloe Barbadensis Leaf Juice” as the Product’s
2 second ingredient:



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27 15. Contrary to these representations, the Product contains no actual aloe vera.

28 16. After the consumer watchdog group ConsumerLab.com reported that several

1 commercially available aloe products contain no aloe vera, Plaintiff’s counsel tested the Product and
2 found it contained no aloe vera. If the Product contained aloe vera, laboratory testing would have
3 revealed the presence of Acemannan, the key compound in aloe vera. The laboratory testing
4 confirmed the Product contains no Acemannan.

5 17. Authoritative sources generally consider Acemannan to be the main active ingredient
6 in properly processed Aloe Vera inner leaf gel.² According to the International Aloe Science
7 Council (“IASC”), “[p]roducts that do not contain Acemannan are not considered to be true
8 aloe vera.”³ The IASC is an international, non-profit aloe testing and certification organization that
9 was formed in the 1980’s to help protect consumers from aloe-labeled snake oil.⁴

10 18. The difference between the Product promised and the Product sold is significant.
11 The lack of aloe vera and Acemannan in the Product reduces the value of the Product to nil. No
12 consumer would have purchased the Product had they known it contained no aloe vera.

13 19. At all relevant times, Defendant directed its misrepresentations, including its “with
14 pure aloe vera” claims, to consumers in general and Class Members in particular.

15 20. Defendant developed and knowingly employed a uniform marketing strategy and
16 campaign designed to deceive consumers. The only conceivable purpose of this scheme is to
17 stimulate sales and enhance Defendant’s profits.

18 21. Plaintiff and Class Members were, in fact, deceived by Defendant’s representations
19 and Product marketing. No reasonable person would have purchased, used, or consumed the
20 Product, which is labeled as Aloe Vera Gel, if they knew the Product did not contain any aloe vera.

21 22. The Product is defined as a “cosmetic” under 21 U.S.C. § 321(i) and a “drug” under
22 § 321(g)(1) and 21 C.F.R. § 700.35.

23 23. The U.S. Food and Drug Administration promulgated regulations for compliance

24 ² See Johnson AR, White AC, McAnalley BH. Comparison of common topical agents for
25 wound treatment: Cytotoxicity for human fibroblast in culture. *Wounds: a compendium of clinical*
26 *research and practice.* 1989; (3): 186-192.

27 ³ <http://www.iasc.org/Consumers/AloeVeraFAQ.aspx>, last accessed June 9, 2016 (emphasis
in original).

28 ⁴ See <http://www.iasc.org/Certification/ProgramDetails.aspx>, last accessed Apr. 26, 2016.

1 with the Food Drug & Cosmetic Act (“FDCA”) at 21 C.F.R. § 201 *et seq.* (for drugs), and § 701 *et*
2 *seq.* (for cosmetics). The Product is misbranded under 21 C.F.R. § 701.1, because it purports to
3 contain aloe vera, including, specifically, “aloe barbadensis leaf juice,” when, in fact, it contains no
4 aloe vera.

5 24. Defendant’s deceptive statements violate 21 U.S.C. § 362(a), which also deems a
6 cosmetic product misbranded when the label contains a statement that is “false or misleading in any
7 particular.”

8 25. Further, Defendant’s Product is misbranded under 21 C.F.R. § 701.1(b), which deems
9 cosmetics misbranded when “[t]he labeling of a cosmetic which contains two or more ingredients
10 may be misleading by reason (among other reasons) of the designation of such cosmetic in such
11 labeling by a name which includes or suggests the name of one or more but not all such ingredients,
12 even though the names of all such ingredients are stated elsewhere in the labeling.”

13 26. 21 C.F.R. § 701.3(c)(2)(i)(b) also requires all Carbomer compounds in cosmetics to
14 be identified by their specific type, e.g., Carbomer 934, 934P, 940, 941, 960, or 961. Defendant’s
15 Product label violates this standard and merely lists the ingredient “Carbomer.”

16 27. “Where a cosmetic product is also an over-the-counter drug product, the [label] shall
17 declare the active drug ingredients as set forth in § 201.66(c)(2) and (d) of this chapter, and the
18 [label] shall declare the cosmetic ingredients as set forth in § 201.66(c)(8) and (d) of this chapter.”
19 21 C.F.R. § 701.3(d). Defendant’s Product label lists no “active ingredient” in violation of 21
20 C.F.R. § 701.3(d) and 21 C.F.R. § 201.66(b)(2).

21 28. California’s Sherman Food, Drug and Cosmetic Law, California Health & Safety
22 Code § 109875, *et seq.* (“Sherman Law”) has fully adopted and incorporated by reference the
23 FDCA. Defendant’s conduct therefore also violates the Sherman Law.

24 29. Plaintiff and Class Members would not have purchased or used the Product had they
25 known the truth about the Product or Defendant’s scheme to sell the Product as a misbranded
26 cosmetic and drug.

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V. CLASS ACTION ALLEGATIONS

30. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23 for the following Class of persons:

Nationwide Class: All persons in the United States who, within four (4) years of the filing of this Complaint, purchased the Product.

California Sub-Class: All persons residing in California who, within four (4) years of the filing of this Complaint, purchased the Product for personal or household use.

Excluded from the Class are all legal entities, Defendant and any person, firm, trust, corporation, or other entity related to or affiliated with Defendant, as well as any judge, justice or judicial officer presiding over this matter and members of their immediate families and judicial staff.

31. While the exact number of Class Members is unknown to Plaintiff at this time, and will be ascertained through appropriate discovery, Plaintiff is informed and believes that there are tens to hundreds of thousands of Members in the proposed Class. The number of individuals who comprise the Class is so numerous that joinder of all such persons is impracticable and the disposition of their claims in a class action, rather than in individual actions, will benefit both the parties and the courts.

32. Plaintiff's claims are typical of the claims of the other Members of the Class. All Members of the Class have been and/or continue to be similarly affected by Defendant's wrongful conduct as complained of herein, in violation of federal and state law. Plaintiff is unaware of any interests that conflict with or are antagonistic to the interests of the Class.

33. Plaintiff will fairly and adequately protect the Class Members' interests and has retained counsel competent and experienced in consumer class action lawsuits and complex litigation. Plaintiff and her counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiff is aware of her duties and responsibilities to the Class.

1 34. Defendant has acted with respect to the Class in a manner generally applicable to
2 each Class Member. Common questions of law and fact exist as to all Class Members and
3 predominate over any questions wholly affecting individual Class Members. There is a well-defined
4 community of interest in the questions of law and fact involved in the action, which affect all Class
5 Members. Among the questions of law and fact common to the Class are:

- 6 a) The true nature and extent of aloe vera and Acemannan in the Product, if any;
7 b) Whether in the absence of aloe vera and Acemannan, the Product is useful or
8 valuable to anyone;
9 c) Whether Defendant violated express and/or implied warranties;
10 d) Whether the marketing, advertising, packaging, labeling, and other promotional
11 materials for the Product are false, deceptive, or misleading;
12 e) Whether Defendant's actions violated the state consumer fraud statutes invoked
13 below;
14 f) Whether Defendant is liable for damages, and the amount of such damages;
15 g) Whether Defendant should be enjoined from engaging in such conduct in the future;
16 and
17 h) Whether Plaintiff and Class Members are entitled to any other remedy.

18 35. A class action is superior to all other available methods for the fair and efficient
19 adjudication of this controversy since joinder of all Members is impracticable. Furthermore, as the
20 damages suffered by individual Class Members may be relatively small, the expense and burden of
21 individual litigation make it virtually impossible for Class Members to individually redress the
22 wrongs done to them. There will be no difficulty in managing this action as a class action.

23 36. Defendant has acted on grounds generally applicable to the entire Class with respect
24 to the matters complained of herein, thereby making appropriate the relief sought herein with
25 respect to the Class as a whole.
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1 VI. CAUSES OF ACTION

2 FIRST COUNT

3 **Violation of California's False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.* -**
4 **Untrue, Misleading and Deceptive Advertising**
5 **(On Behalf of the California Sub-Class)**

6 37. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1
7 through 37 of this Complaint.

8 38. Defendant advertised the Product to Plaintiff and other Members of the California
9 Sub-Class by way of commercial marketing, and advertising, Internet content, Product packaging
10 and labelling, and/or other promotional materials.

11 39. These materials, advertisements and other inducements misrepresented and/or
12 omitted the true contents and benefits of Defendant's Product as here alleged.

13 40. Defendant's advertisements and other inducements are advertising as defined in
14 California's False Advertising Law in that such promotional materials were intended as
15 inducements to purchase Defendant's Product to Plaintiff and other Members of the California Sub-
16 Class.

17 41. Defendant knew, or in the exercise of reasonable care should have known, that the
18 statements regarding its Product's aloe content were false, misleading and/or deceptive.

19 42. Consumers, including Plaintiff and Members of the California Sub-Class, necessarily
20 and reasonably relied on Defendant's statements regarding the contents of its Product. Consumers,
21 including Plaintiff and members of the California Sub-Class, were among the intended targets of
22 such representations. But for these representations, Plaintiff and the Class would not have purchased
23 the Product.

24 43. The above acts of Defendant, in disseminating misleading and deceptive statements
25 throughout the State of California and nationwide to consumers, including Plaintiff and Members of
26 the California Sub-Class, were and are likely to deceive reasonable consumers by obfuscating the
27 true nature and amount of the ingredients in Defendant's Product, and thus were violations of the
28 False Advertising Law, Cal Bus. & Prof. Code §§ 17500, *et seq.*

1 not falsely represented its Product, Plaintiff Nazari and the California Sub-Class would not have
2 purchased Defendant's Product, or, alternatively, would have paid significantly less for it. Likewise,
3 any reasonable consumer would not have purchased the product, or alternatively, would have paid
4 significantly less for it.

5 54. Additionally, misbranded cosmetic products cannot legally be manufactured, held,
6 advertised, distributed or sold. Thus, misbranded cosmetics have no economic value and are
7 worthless as a matter of law. Purchasers of misbranded cosmetics are therefore entitled to a refund
8 of the purchase price of the misbrand cosmetics.

9 55. Plaintiff Nazari, on behalf of herself and all other similarly situated California
10 consumers, and as appropriate, on behalf of the general public of the state of California, seeks
11 injunctive relief prohibiting Defendant from continuing these unlawful practices pursuant to
12 California Civil Code § 1782(a)(2).

13 56. Plaintiff Nazari provided Defendant with notice of its alleged violations of the CLRA
14 pursuant to California Civil Code § 1782(a) *via* certified mail, demanding that Defendant correct
15 such violations.

16 57. If Defendant fails to respond to Plaintiff Nazari's CLRA notice within 30 days,
17 Plaintiff may amend this Complaint to seek all available damages under the CLRA for all violations
18 complained of herein, including, but not limited to, statutory damages, punitive damages, attorneys'
19 fees and cost and any other relief that the Court deems proper.

20 **THIRD COUNT**

21 **Violation of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**
22 **Unlawful Business Acts and Practices**
(On Behalf of the California Sub-Class)

23 58. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1
24 through 37 of this Complaint.

25 59. California's Sherman Law, Health & Saf. Code §§ 109875 *et seq.*, broadly prohibits
26 the misbranding of any cosmetic products. The Sherman Law provides that a cosmetic is
27 misbranded "if its labeling is false or misleading in any particular." Health & Saf. Code § 110660.

28 60. Defendant is a person within the meaning of Health & Saf. Code E § 109995.

1 ingredient, the Product is not fit for the intended purpose, nor any purpose.

2 87. As a result of Defendant's conduct, Plaintiff and the Class did not receive goods as
3 impliedly warranted by Defendant to be merchantable in that they did not conform to the promises
4 and affirmations made on the container or label of the goods.

5 88. As a result of Defendant's breach of its contract, Plaintiff and the Class have been
6 damaged in the amount of the entire purchase price of the Product.

7 **EIGHTH COUNT**
8 **Negligent Misrepresentation**
9 **(On Behalf of the Nationwide Class)**

10 89. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1
11 through 37 of this Complaint.

12 90. Defendant has made material misrepresentations of fact concerning the nature of, and
13 ingredients in, the Product.

14 91. Defendant has and had no reasonable basis for believing that its misrepresentations
15 were true.

16 92. Defendant knew, or should have known, that Plaintiff and the Members of the Class
17 would rely on the false representations about the nature of, and ingredients in, the Product.

18 93. Defendant's false representations that the Product is made "with pure aloe" and
19 contains "aloe barbadensis leaf juice" are objectively material to reasonable consumers, and
20 therefore reliance upon such representations may be presumed as a matter of law.

21 94. Plaintiff and Members of the Nationwide Class reasonably relied to their detriment
22 on Defendant's false representations, which caused them to purchase the Product.

23 95. As a proximate result of Defendant's negligent misrepresentations, Plaintiff and
24 Members of the Nationwide Class have been damaged.

25 **NINTH COUNT**
26 **Intentional Misrepresentation**
27 **(On Behalf of the Nationwide Class)**

28 96. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1
through 37 of this Complaint.

1 97. Defendant has intentionally made material misrepresentations of fact concerning the
2 nature of, and ingredients in, the Product.

3 98. Defendant knew that the intentional misrepresentations herein were false at the time
4 they were made.

5 99. Defendant intended that Plaintiff and Members of the Class would rely on the false
6 representations and purchase Defendant's Product.

7 100. Defendant's false representations are objectively material to reasonable consumers
8 and therefore reliance upon such representations may be presumed as a matter of law.

9 101. Plaintiff and Members of the Class reasonably relied to their detriment on
10 Defendant's intentional misrepresentations.

11 102. Defendant's intentional misrepresentations were a substantial factor in causing
12 Plaintiff and Members of the Class to purchase the Product.

13 103. Defendant has acted with malice by engaging in conduct that was and is intended to
14 cause injury to Plaintiff and the Members of the Class, as evidenced by Defendant's failure to
15 update its Product after consumer watchdog groups like ConsumerLabs.com tested and reported in
16 February 2015 that many aloe gel products do not contain aloe at all

17 104. Defendant has committed fraud through its intentional misrepresentations, deceit,
18 and/or concealment of material facts known to Defendant with the intent to cause injury to the
19 purchasers of the Product.

20 105. As a proximate result of Defendant's intentional misrepresentations, Plaintiff and the
21 Members of the Nationwide Class suffered an ascertainable loss and are entitled to relief and
22 compensatory and punitive damages, in an amount to be determined at trial.

23 **TENTH COUNT**
24 **Unjust Enrichment**
(On Behalf of the Nationwide Class)

25 106. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1
26 through 37 of this Complaint.

27 107. Defendant knew that the Product contained no aloe vera, and it knowingly
28 misrepresented the Product's ingredients to Plaintiff and the Nationwide Class.

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Respectfully submitted,

RAM, OLSON, CEREGHINO & KOPCZYNSKI

Dated: August 23, 2016

By: /s/ Michael F. Ram
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Attorneys for Plaintiff and the Putative Class

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Susan Nazari, declare as follows:

1. I am a plaintiff in this action and a citizen of the State of California. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would testify competently thereto.

2. This is a proper place for trial under Civil Code Section 1780(d) in that a substantial portion of the transaction alleged occurred in the Eastern District of California because I reside in this District and purchased Target Corporation's Up & Up Aloe Vera Gel (the "Product") in this District.

3. While living in Sacramento, California, I purchased the Product from a Target retail store. I purchased the Product after viewing statements on the Product label, which indicated that the Product contained aloe vera. These representations were substantial factors influencing my decision to purchase the Product. I would not have purchased the Product had I known that it did not contain aloe vera.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on August 23, 2016 in Sacramento, California.



SUSAN NAZARI

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
SUSAN NAZARI, individually and on behalf of all others similarly situated

DEFENDANTS
TARGET CORPORATION d.b.a. TARGET, a Minnesota Corporation

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

County of Residence of First Listed Defendant Minneapolis, MN
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael F. Ram (SBN 104805), Susan Brown (SBN 287986)
Ram, Olson, Careghino & Kopczynski LLP, 101 Montgomery Street, Suite 1800, San Francisco, CA 94104-- Tel: 415-433-4949

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business in This State, Incorporated and Principal Place of Business in Another State, Foreign Nation.

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

Large grid table for nature of suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PERSONAL INJURY, PERSONAL PROPERTY, HABEAS CORPUS, FEDERAL TAX SUITS, LABOR, SOCIAL SECURITY, IMMIGRATION, and OTHER.

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

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

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332(a) and 1332(d).

Brief description of cause:
Breach of warranty and consumer statute class action

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: X Yes [] No

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

DATE 08/23/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael F. Ram

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.