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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

J PODAWILTZ, an Oregon
consumer, individually and on
behalf of all others similarly
situated,

Plaintiff,

v.

ROCKSTAR INC., a foreign
corporation,

Defendant.

Case No. 3:17-cv-477

**CLASS ACTION
ALLEGATION COMPLAINT**

Unlawful Trade Practices

28 U.S.C. § 1332

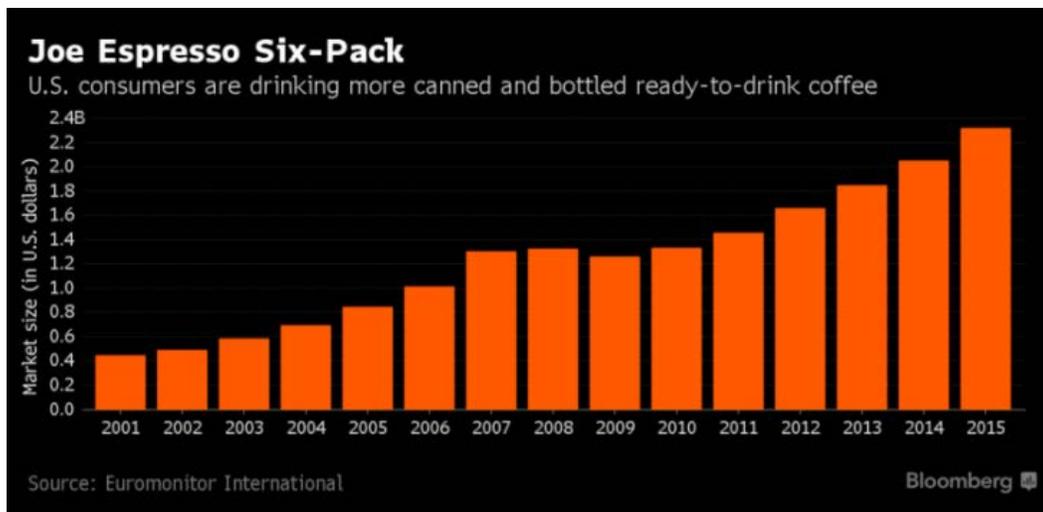
Demand for Jury Trial

1.

Like its eponymous name, Rockstar Inc. thinks it can get away with anything.

2.

The American public spends billions of dollars each year on canned energy coffee drinks.



3.

In a perfect world, companies like Starbucks, Monster, and Rockstar Inc. all compete fairly to produce the highest quality beverage at the lowest possible cost. But not every company competes fairly.

TRUTH IN ADVERTISING?



FALSE

Rockstar Inc.'s can contains about 6% less beverage than advertised.



TRUE

Starbucks's can contains 100% of the beverage as advertised.



TRUE

Monster's can contains 100% of the beverage as advertised.

Source: Columbia Food Laboratories, Inc. March 24, 2017

4.

A recent study by a certified Portland food laboratory found that Rockstar Inc.'s energy coffee drink contains about 6% less beverage than the amount Rockstar Inc. advertises on its can. The lab studied similar energy coffee drinks from Starbucks and Monster and found that they contained 100% of the beverage as advertised on their cans. Multiple cans of Rockstar Inc.'s energy coffee drink purchased from various locations in Oregon over the course of several months labeled 473 mL all similarly contained about 6% less beverage than advertised.

5.

Rockstar Inc. knows that misleading the American public about the amount of beverage in its cans may be hardly noticeable to most average consumers. But on a large scale, Rockstar Inc.'s unfair business practice gives it an advantage over its competitors that choose to play by the rules.

6.

This national class action case seeks an injunction to stop Rockstar Inc. from continuing to misrepresent the amount of beverage in its energy coffee drink cans, and to make things right for all those who've been short-changed.

7.

THE PARTIES IN THIS CASE

Rockstar Inc. is incorporated in the State of Nevada. In the regular course of its business, Rockstar Inc. is responsible for selling its energy coffee drink shown in Exhibit 1 attached to this complaint throughout Oregon.

8.

J Podawiltz (plaintiff) is an individual residing in Oregon. He purchased Rockstar Inc.'s energy coffee drink can shown in Exhibit 1 on January 18, 2017 at a convenient store in Portland, Oregon. His receipt is shown below.



9.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy including actual, statutory, and punitive damages exceeds \$75,000. Venue is proper under 28 U.S.C. § 1391 because the bulk of sales of Rockstar Inc.'s energy coffee drink cans in Oregon took place in Multnomah County. This complaint's allegations are based on personal knowledge as to plaintiff's conduct and made on information and belief as to the acts of others.

10.

CLASS ALLEGATIONS

The Oregon class consists of Oregon consumers who:

- (a) after March 26, 2016,
- (b) bought Rockstar Inc.'s product shown in Exhibit 1, and
- (c) received a can that contained less beverage than the quantity advertised on the can.

13.

Many of the retail stores that sell Rockstar Inc.'s energy coffee drink cans shown in Exhibit 1 will be able to identify each credit or debit sales transaction by customer name, customer address, purchase date, and purchase price. For instance, the receipt above identifies the sales transaction based on the customer's MasterCard information, and specifically tracks the sales of Rockstar Inc.'s energy coffee drink by brand name and type, separate from Rockstar Inc.'s other products.

14.

Every consumer who purchased Rockstar Inc.'s product shown in Exhibit 1 suffered an actual ascertainable loss of the economic value of about 30 mL of missing beverage, and suffered an actual ascertainable loss of the difference between the value of the can they received that did not contain a full 473 mL of beverage, and the increased value that a can that contained a full 473 mL of beverage would have had.

15.

Rockstar Inc.'s product shown in Exhibit 1 violates the Oregon Unlawful Trade Practices Act ("UTPA") ORS 646.608(1)(e) because it represents that Rockstar Inc.'s energy coffee drink cans have a quantity of 473 mL of beverage that Rockstar Inc.'s energy coffee drink cans do not actually have. This UTPA violation is common to the Oregon class.

16.

The class is so numerous that joinder is impracticable. The size of the Oregon class is in the thousands, and will be determined based on sales records and other customer data from Rockstar Inc. and its Oregon distributors and retailers, and from claims forms and receipts from Oregon consumers.

17.

Common questions of fact and law predominate over any questions affecting only individual class members. Common questions include whether Rockstar Inc. may lawfully advertise its energy coffee drink cans as containing 473 mL of beverage when in fact its cans contain less than 473 mL, whether under these facts, plaintiff and the Oregon class must prove reliance on Rockstar Inc.'s can advertisements, if so, whether reliance may be proved on a class-wide basis, whether plaintiff and the Oregon class members are entitled to equitable and injunctive relief, whether an injunction to prevent future harm is appropriate, whether Rockstar Inc. acted willfully, recklessly, knowingly, and or intentionally, whether plaintiff and the Oregon class members are entitled to recover actual damages or statutory damages or punitive damages from Rockstar Inc., and whether plaintiff and the Oregon class are entitled to recover fees and costs for Rockstar Inc.'s UTPA violation.

18.

Plaintiff's claims are typical of the claims of the Oregon class because each received a product that did not contain a full 473 mL of beverage as advertised, the injuries suffered by plaintiff and the Oregon class members differ only in the number of transactions per class member and purchase price per transaction, and plaintiff's claim for relief is based upon the same legal theories as are the claims of the other class members. Plaintiff will fairly and adequately protect and represent the interests of the class because his claim is typical of the claims of the Oregon class, he is represented by nationally known and locally respected attorneys who have experience handling class action litigation and consumer protection cases who are qualified and competent, and who will vigorously prosecute this litigation, and their interests are not antagonistic or in conflict with the interests of the Oregon class.

19.

A class action is superior to other available methods for fair and efficient adjudication of this case because common questions of law and fact predominate over other factors affecting only individual members, as far as plaintiff knows, no class action that purports to include Oregon consumers suffering the same injury has been commenced, individual class members have little interest in controlling the litigation, due to

the high cost of individual actions, the relatively small amounts of damages suffered, and because plaintiff and his attorneys will vigorously pursue the claims. The forum is desirable because the bulk of sales of Rockstar Inc.'s product shown in Exhibit 1 in Oregon took place in Multnomah County. A class action will be an efficient method of adjudicating the claims of the class members who have suffered relatively small monetary damages, as a result of the same conduct by Rockstar Inc. In the aggregate, class members have claims for relief that are significant in scope relative to the expense of litigation. Injunctive relief will prevent further ongoing harm to Oregon consumers, and the availability of Rockstar Inc.'s (and its Oregon distributors and retailers) sales records and customer data will facilitate proof of class claims, processing class claims, and distributions of any recoveries. To the extent Oregon consumers who purchased Rockstar Inc.'s product shown in Exhibit 1 cannot be located, their monies may be distributed through a cy pres process.

20.

OREGON CLASS CLAIM FOR RELIEF

VIOLATION OF ORS 646.608

Rockstar Inc. willfully, recklessly, knowingly and or intentionally violated ORS 646.608(1)(e) as alleged above, causing plaintiff and the Oregon class ascertainable losses. Rockstar Inc.

continues to misrepresent the amount of beverage in its energy coffee drink cans to this very day. Plaintiff seeks an injunction to stop Rockstar Inc.'s ongoing unlawful trade practices.

21.

Plaintiff and the Oregon class are also entitled to equitable relief in the form of an accounting, restitution, and unless agreed upon by Rockstar Inc., an order to preserve all documents and information (and electronically stored information) including sales records and customer data pertaining to this case. Plaintiff and the Oregon class are entitled to recover actual damages or \$200 statutory damages, interest and fees and costs under ORS 646.638. Rockstar Inc.'s violation of the UTPA as alleged above was reckless, in pursuit of profit, and constituted a wanton, outrageous and oppressive violation of the right of Oregon consumers to be free from unlawful trade practices. Plaintiff and the Oregon class are entitled to recover punitive damages under ORS 646.638.

22.

Plaintiff intends to amend this complaint to prosecute this claim on a nationwide basis.

23.

Demand for jury trial.

PRAYER FOR RELIEF

Plaintiff seeks relief for himself and the proposed Oregon class as follows:

- A.** An injunction requiring Rockstar Inc. to stop selling its product shown in Exhibit 1 in violation of Oregon law,
- B.** Unless agreed upon by Rockstar Inc., an order to preserve all documents and information (and electronically stored information) including sales records and customer data pertaining to this case,
- C.** An order certifying this matter as a class action,
- D.** Judgment against Rockstar Inc. for actual, statutory, and punitive damages, interest, and reimbursement of fees and costs;
- E.** And other relief the court deems necessary.

March 26, 2017

RESPECTFULLY FILED,

s/ Michael Fuller

Michael Fuller, OSB No. 09357

Lead Trial Attorney for Plaintiff

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(additional counsel on next page)

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kellydonovanjones@gmail.com

PROOF OF MAILING

Under ORS 646.638(2), I declare and certify that on the date below I caused a copy of this complaint to be mailed to the Oregon Attorney General at the following address:

Ellen Rosenblum
Oregon Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096

March 26, 2017

/s/ Michael Fuller
Michael Fuller, OSB No. 09357
Lead Trial Attorney for Plaintiff
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Direct 503-201-4570

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

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J PODAWILTZ, an Oregon
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Case No. 3:17-cv-477

EXHIBIT COVER PAGE

Plaintiff,

v.

ROCKSTAR INC., a foreign
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Defendant.

Exhibit 1

Rockstar Inc. Can Purchased by Plaintiff

EXHIBIT COVER PAGE



CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> 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 <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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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 (Excl. 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	<p>PERSONAL INJURY</p> <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 - Med. Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<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
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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	<p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
		<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <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))	
			<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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 F.R.C.P. 23 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.C.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; 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 clerks 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 seven 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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
v.)	Civil Action No.
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk