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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 VANESSA MATHIESEN,  
16 Individually and on Behalf of All  
17 Others Similarly Situated,

18 Plaintiff,

19 v.

20 PLUM, PBC,

21 Defendant.

22 Case No. \_\_\_\_\_

23 **CLASS ACTION COMPLAINT FOR:**

- 24 (1) NEGLIGENT MISREPRESENTATION;  
25 (2) VIOLATIONS OF THE CALIFORNIA  
26 CONSUMER LEGAL REMEDIES ACT;  
27 (3) VIOLATIONS OF THE CALIFORNIA  
28 FALSE ADVERTISING LAW;  
(4) VIOLATIONS OF THE CALIFORNIA  
UNFAIR COMPETITION LAW;  
(5) UNJUST ENRICHMENT.

**DEMAND FOR JURY TRIAL**

1 1. Plaintiff Vanessa Mathiesen (“Plaintiff”), by and through her counsel, on her own  
2 behalf and on behalf of all others similarly situated, brings this Class Action Complaint against  
3 Defendant Plum, PBC (“Plum” or “Defendant”) and alleges the following facts in support of her  
4 claims against Defendant based upon personal knowledge, where applicable, information and  
5 belief, and the investigation of counsel:  
6

7 **NATURE OF THE ACTION**

8 2. Parents and other caregivers, including Plaintiff, reasonably believe that the baby  
9 food they purchase for their babies will be healthy, nutritious, and non-toxic, and that is what  
10 Defendant wanted them to think. Alarming, parents and Plaintiff were wrong. A recent report  
11 by the U.S. House of Representatives’ Subcommittee on Economic and Consumer Policy,  
12 Committee on Oversight and Reform (“House Subcommittee”) reveals that certain brands of  
13 commercial baby food – including Plum’s food products (the “Tainted Baby Foods”) – are tainted  
14 with significant and dangerous levels of toxic heavy metals, including but not limited to arsenic,  
15 lead, mercury, and cadmium. *See Baby Foods Are Tainted with Dangerous Levels of Arsenic,*  
16 *Lead, Cadmium and Mercury*, Staff Report Dated February 4, 2021, Subcommittee on Economic  
17 and Consumer Policy Committee on Oversight and Reform, U.S. House of Representatives (the  
18 “Congressional Report”).<sup>1</sup> Exposure to toxic heavy metals causes permanent decreases in IQ and  
19 endangers neurological development and long-term brain function, among numerous other  
20 deleterious alarming conditions and problems.  
21

22 3. Plaintiff brings this class action against Defendant for deceptive business practices,  
23 including misrepresentations and omissions, regarding the presence of dangerous levels of toxic  
24 heavy metals and other contaminants contained within Defendant Plum’s baby foods, including  
25  
26

27 <sup>1</sup> Available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf> (last accessed March 12, 2021).  
28

1 those that Plaintiff purchased. Plaintiff seeks injunctive and monetary relief on behalf of the  
2 proposed Class including (i) requiring full disclosure of all such substances and ingredients in  
3 Defendant's marketing, advertising, and labeling; (ii) requiring testing of all ingredients and final  
4 products for such substances; and (iii) restoring monies to the members of the proposed Class.

5 4. No reasonable consumer purchasing baby foods or seeing Defendant's  
6 representations in advertising would expect the baby foods to contain dangerous levels of heavy  
7 metals or other undesirable toxins or contaminants. Furthermore, reasonable consumers, like  
8 Plaintiff, would consider the inclusion of dangerous levels of heavy metals or other undesirable  
9 toxins or contaminants a material fact when considering what baby food to purchase.

11 5. Defendant intended for consumers to rely on its representations, and reasonable  
12 consumers did in fact so rely. However, Defendant's business practices, representations and  
13 omissions were deceptive, misleading, unfair, and/or false because, among other things, the  
14 Tainted Baby Foods contained undisclosed dangerous levels of toxic heavy metals or other  
15 undesirable toxins or contaminants.

17 6. Plaintiff brings this proposed consumer class action individually and on behalf of  
18 all other members of the Class (as defined herein), who, from the applicable limitations period up  
19 to and including the present, purchased for personal/household use and not resale any of  
20 Defendant's Tainted Baby Foods. Through this action, Plaintiff asserts claims for negligent  
21 misrepresentation, unjust enrichment, and violations of California's Consumer Legal Remedies  
22 Act (California Civil Code §§1750 *et seq.*), the California False Advertising Law (California  
23 Business & Professions Code §§17500 *et seq.*), and the California Unfair Competition Law  
24 (California Business & Professions Code §§17200 *et seq.*) seeking monetary damages, injunctive  
25 relief, and all other relief as authorized in equity or by law.  
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**Parties**

***Plaintiff Mathiesen***

7. Plaintiff Vanessa Mathiesen is a citizen and resident of the State of California, residing in San Gabriel, California. During the applicable statute of limitations period, Plaintiff Mathiesen purchased Tainted Baby Foods that were manufactured and produced by Defendant that have been found to contain dangerous levels of toxic heavy metals, including Plum Organics Pear Spinach and Pea Baby Food.

***Defendant Plum, PBC***

8. Defendant Plum, PBC is a Delaware public benefit corporation with its principal place of business located at 1485 Park Avenue, Suite 200, Emeryville, California. Defendant is a citizen of the State of California. On its website Plum emphasizes its status as a public benefit corporation, explaining that PBC status means Plum exists “to both make a profit and serve a greater societal purpose (i.e., make the world a little better).”<sup>2</sup> Plum’s stated public benefit is “to deliver nourishing, organic food to our nation’s little ones and to raise awareness and advance solutions for childhood hunger and malnutrition in the United States.”<sup>3</sup>

9. Defendant packages, labels, markets, advertises, formulates, manufactures, distributes, and sells its Tainted Baby Foods under the name “Plum Organics” throughout the United States, including California.

10. Defendant states on its website, “Plum was founded on the belief that little ones deserve the very best food from the very first bite.”<sup>4</sup> Plum further touts that it is “confident in the safety and quality of our products. Our top priority is to serve children healthy, nutritious food

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<sup>2</sup> <https://www.plumorganics.com/benefit-corp/> (last accessed March 12, 2021).

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

<sup>4</sup> [www.plumorganics.com/mission/](http://www.plumorganics.com/mission/) (last accessed March 12, 2021).

1 made from the best ingredients.”<sup>5</sup> Moreover, Defendant Plum’s website states, “We want to assure  
2 you that Plum’s products are safe (and delicious) to eat!”<sup>6</sup> Defendant goes on to claim that  
3 consumers can trust Plum’s assurances about food safety simply because the company serves the  
4 same food to its own children.<sup>7</sup>

5  
6 11. Defendant sells baby food products in the form of varying stages of pouches, Super  
7 Puffs, and Little Teethers. The Congressional Report concludes that numerous such products are  
8 tainted and contain dangerous levels of toxic heavy metals, as confirmed by limited independent  
9 testing.

### 10 **Jurisdiction and Venue**

11  
12 12. This Court has jurisdiction over this action pursuant to the Class Action Fairness  
13 Act of 2005 (“CAFA”), 28 U.S.C. §1332(d)(2), because at least one Class Member is of diverse  
14 state citizenship from Defendant, there are more than 100 Class Members, and the aggregate  
15 amount in controversy exceeds \$5 million, exclusive of interest and costs.

16  
17 13. The Northern District of California has personal jurisdiction over Defendant as  
18 Defendant is headquartered in this District and conducts substantial business in this State and in  
19 this District through its headquarters, sale of products, and commercial website.

20  
21 14. Venue is proper in this District under 28 U.S.C. §1391(b) because Defendant has  
22 its principal place of business in this District and because a substantial part of the events,  
23 misrepresentations and/or omissions giving rise to the conduct alleged in this Complaint occurred  
24 in, were directed to, and were emanated from this District.

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26 \_\_\_\_\_  
27 <sup>5</sup> [www.plumorganics.com/faqs/](http://www.plumorganics.com/faqs/) (last accessed March 12, 2021).

28 <sup>6</sup> *Id.*

<sup>7</sup> *Id.*

1 **II. FACTUAL ALLEGATIONS**

2 **Congressional Investigation Finds Dangerous Levels of Heavy Metals in Baby Foods**

3 15. On February 4, 2021, the House Subcommittee issued its Congressional Report  
4 detailing its findings that heavy metals, including arsenic, cadmium, lead, and mercury (“Heavy  
5 Metals”), were present in dangerously “significant levels” in numerous commercial baby food  
6 products.

7  
8 16. The FDA and the WHO have declared Heavy Metals dangerous to human health,  
9 particularly to babies and children, who are most vulnerable to their neurotoxic effects. Even low  
10 levels of exposure can cause serious and often irreversible damage to brain development. *See*  
11 Congressional Report at 2. In fact, children’s exposure to toxic heavy metals causes, among other  
12 things, permanent decreases in IQ, diminished future economic productivity, and increased risk of  
13 future criminal and antisocial behavior.<sup>8</sup> *See id.* at 9. The FDA cautions that infants and children  
14 are at the greatest risk of harm from toxic heavy metal exposure.<sup>9</sup>

15  
16 17. On November 6, 2019, following reports alleging high levels of toxic heavy metals  
17 in baby foods, the House Subcommittee requested internal documents and test results from seven  
18 of the largest manufacturers of baby food in the United States, including both makers of organic  
19 and conventional products. *See id.* at 2. One of those companies was Defendant. *See id.*

20  
21 18. Alarming, Defendant Plum refused to cooperate with the Subcommittee’s  
22 investigation. *See id.* According to the Congressional Report, Plum “refused to produce its testing

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24 <sup>8</sup> Miguel Rodriguez-Barranco et al., *Association of Arsenic, Cadmium and Manganese Exposure*  
25 *with Neurodevelopment and Behavioral Disorders in Children: A Systematic Review and Meta-*  
26 *Analysis* (April 9, 2013) (available at [www.sciencedirect.com/science/article/abs/pii/S0048969713003409?via%3Dihub](http://www.sciencedirect.com/science/article/abs/pii/S0048969713003409?via%3Dihub) (last accessed  
March 12, 2021).

27 <sup>9</sup> Food and Drug Administration, *Metals and Your Food* (available at  
28 [www.fda.gov/food/chemicals-metals-pesticides-food/metals-and-your-food](http://www.fda.gov/food/chemicals-metals-pesticides-food/metals-and-your-food) (last accessed March  
12, 2021).

1 standards and specific testing results to the Subcommittee. [Plum] has hidden its policies and the  
2 actual level of toxic heavy metals in its products.” *Id.* at 44. Rather than producing any substantive  
3 information to the Subcommittee, Defendant provided only “a spreadsheet self-declaring that  
4 every one of its products ‘meets criteria.’” *Id.* However, Defendant declined to state what those  
5 criteria are. *See id.* The Congressional Report stated that Plum’s “testing summary hides more  
6 than it reveals, since it does not show the levels of heavy metals that the testing found or the levels  
7 of heavy metals that would ‘meet criteria.’” *Id.* at 45.

8  
9 19. The Subcommittee also stated that it had “*grave concerns* about baby food products  
10 manufactured by” Defendant Plum, noting that it was “greatly concerned” that Plum’s lack of  
11 cooperation could “obscure the presence of even higher levels of toxic heavy metals in their baby  
12 products, compared to their competitors’ products.” *Id.* at 5 (emphasis added). The Congressional  
13 Report further characterized Plum’s “evasion” as “concerning,” as even limited independent  
14 testing revealed the presence of concerning levels of toxic heavy metals in its baby food. *Id.* at 5,  
15 45.

16  
17 20. Notably, Defendant sells Plum Organics products for babies as young as four  
18 months old. *See id.* at 5.

19 21. The FDA and other organizations have set rules and/or issued guidelines and  
20 recommendations as to the maximum allowable or advisable and safe levels in various different  
21 types of products of inorganic arsenic, lead, cadmium and mercury. *See generally id.* at Point II.  
22 In many instances, according to the independent testing, the test results of Defendant’s baby foods  
23 and their ingredients eclipse those levels for inorganic arsenic, lead, cadmium, and mercury. *See*  
24 *id.* at Findings, at 2-5.

25  
26 **Arsenic**

27 22. As per the Congressional Report, arsenic is ranked as number one for “substances  
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1 present in the environment that pose the most significant potential threat to human health,  
2 according to the Department of Health and Human Services' Agency for Toxic Substances and  
3 Disease Registry (ATSDR).” *Id.* at 10. Arsenic exposure has severe health risks, including  
4 damage to the central nervous system and cognitive development in children. *See id.* Full Scale  
5 IQ is severely negatively affected in children for verbal and performance domains and memory.  
6 *See id.* One study concluded that 5 ppb of arsenic in drinking water caused children to have  
7 significant reductions in Full Scale IQ and other related scores. *See id.*  
8

9 23. The Congressional Report further states that there “is no established safe level of  
10 inorganic arsenic consumption for babies.” *Id.* at 13. While certain organizations such as Healthy  
11 Babies Bright Futures contend that there should be a goal of no measurable inorganic arsenic in  
12 baby food, Consumer Reports suggests it should be no more than 3 ppb. *See id.* For bottled water,  
13 the FDA has set the maximum inorganic arsenic level at 10 ppb and the EPA has set a 10 ppb cap  
14 on drinking water, as have the European Union (EU) and WHO. *See id.* The FDA has only set  
15 one final standard to date, which is a 100 ppb limit for inorganic arsenic for infant rice cereal. *See*  
16 *id.* at 37.  
17

18 24. As stated above, Defendant refused to produce its testing standards and specific  
19 testing results to the Subcommittee, effectively hiding the actual level of toxic heavy metals,  
20 including arsenic, in its products. Rather than provide its internal testing standards and results  
21 relating to the presence of arsenic, Defendant produced only a spreadsheet declaring that each of  
22 its products “meets criteria” without actually stating what the criteria are.  
23

24 25. According to the Congressional Report, limited independent testing was performed  
25 on certain Plum products, which revealed that Plum Organics Gentle Organic Infant Formula with  
26 Iron, Milk-Based Powder (for ages 0-12 months) contained 4.6 ppb arsenic. *See Congressional*  
27 *Report, Appendix A, at 20.* Upon information and belief, independent also revealed the following:  
28



- 1 • Plum Organics Little Teethers Organic Multigrain Teething Wafers -  
2 Banana with Pumpkin - Baby Crawler contained 49.9 ppb arsenic. *See*  
*id.* at 27.
- 3 • Plum Organics Mighty Morning Bar - Blueberry Lemon – Tots (for ages  
4 15 months and up) contained 39 ppb inorganic arsenic, with 40 ppb total  
5 arsenic. *See id.*
- 6 • Plum Organics Just Prunes Organic Baby Food -1 (for ages 4 months  
7 and up) contained 7.6 ppb arsenic. *See id.* at 24.
- 8 • Plum Organics Just peaches - organic baby food (for ages 4 months and  
9 up, stage 1) contained 7.2 ppb arsenic. *See id.* at 23.
- 10 • Plum Organics Apple, Raisin & Quinoa Organic Baby Food – 2  
11 contained 5.6 ppb arsenic. *See id.* at 25.
- 12 • Plum Organics Just Sweet Potato Organic Baby Food – 1 (for ages 4  
13 months and up) contained 3.1 ppb arsenic in one testing and 2.3 ppb  
14 arsenic in a separate testing. *See id.* at 22.

15 26. In addition, upon information and belief, testing recently conducted by an  
16 independent laboratory further confirmed the presence of undisclosed Heavy Metals in the Tainted  
17 Baby Foods:

	Arsenic (ppb)	Cadmium (ppb)	Lead (ppb)	Mercury (ppb)
18 Plum Organics Pear, Purple Carrot, & 19 Blueberry Organic Baby Food, Sample 1	7.6	3.4	4.6	< 1.9
20 Plum Organics Pear, Purple Carrot, & 21 Blueberry Organic Baby Food, Sample 2	7.5	4.3	4.3	< 1.9
22 Plum Organics Pear, Spinach, & Pea 23 Organic Baby Food, Sample 1	3.4	20.1	1.6	< 1.7
24 Plum Organics Pear, Spinach, & Pea 25 Organic Baby Food, Sample 2	4.0	27.3	1.8	< 1.7
26 Plum Organics Just Sweet Potato Organic 27 Baby Food, Sample 1	3.0	3.5	31.0	< 1.8
28 Plum Organics Just Sweet Potato Organic Baby Food, Sample 2	2.9	3.9	30.0	< 1.6

1 2	Plum Organics Mighty 4 Blends Banana, Blueberry, Sweet Potato, Carrot, Greek Yogurt & Millet Tots Pouch	2.8	2.9	2.7	< 1.7
3 4	Plum Organics Mighty 4 Blends Banana, Kiwi, Spinach, Greek Yogurt & Barley Tots Pouch	7.4	7.7	3.9	< 1.8

5  
6 27. As stated above, only limited independent testing was performed on Defendant's  
7 products, and thus, the products referenced herein as containing high levels of arsenic are not an  
8 exhaustive list.

9 **Lead**

10 28. The Congressional Report noted that lead is number two on ATSDR's list of  
11 substances that pose the most serious threat to human health. *See* Congressional Report at 11.  
12 Even small amounts of exposure are dangerous, especially for children, and can cause behavioral  
13 issues, decreased cognitive performance, delayed puberty, and reduced postnatal growth. *See id.*  
14 Early childhood lead exposure negatively affects school performance and test scores. *See id.*  
15 These effects can be permanent. *See id.*

16 29. As the Congressional Report states, "[t]here is a growing consensus among health  
17 experts that lead levels in baby foods should not exceed 1 ppb." *Id.* at 21. In other products, the  
18 FDA set a 5 ppb lead standard for bottled water; the WHO set a 10 ppb provisional guideline for  
19 drinking water; the EPA set an action level of 15 ppb in drinking water; the FDA set standards for  
20 juice at 50 ppb and candy at 100 ppb; and the EU set a maximum level of 20 ppb in infant formula.  
21 *See id.*

22 30. According to the Congressional Report, the Subcommittee's independent testing of  
23 Defendant's products revealed that Plum Organics Just Sweet Potato Organic Baby Food – 1 (for  
24 ages 4 months and up) contained 14 ppb lead, well above the consensus among health experts that  
25 lead levels in baby foods should not exceed 1 ppb. *See id.*, Appendix A, at 22.  
26  
27  
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1 31. Independent testing also revealed that Plum Organics Gentle Organic Infant  
2 Formula with Iron, Milk-Based Powder (for ages 0-12 months) contained 4.7 ppb lead. *See id.*,  
3 Appendix A, at 20. In addition, the testing performed by the Subcommittee revealed:

- 4 • Plum Organics Just Sweet Potato Organic Baby Food – 1 (for ages 4 months  
5 and up) contained 5.6 ppb lead. *See id.* at 22.
- 6 • Plum Organics Just Prunes Organic Baby Food – 1 (for ages 4 months and up)  
7 contained 2.5 ppb lead. *See id.* at 24.
- 8 • Plum Organics Pumpkin Banana Papaya Cardomom (for ages 6 months and up)  
9 contained 1.4 ppb lead. *See id.*

10 32. As stated above, only limited independent testing was performed on Defendant's  
11 products, and thus, the products referenced herein as containing high levels of lead are not an  
12 exhaustive list.

### 13 Cadmium

14 33. The Congressional Report states that cadmium is seventh on ATSDR's list of  
15 substances in the environment that pose the most serious threat to human health. *See*  
16 Congressional Report at 12. Cadmium has been associated with decreases in IQ and ADHD. *See*  
17 *id.*

18 34. Outside of baby foods, the EPA has a 5 ppb limit for drinking water; the FDA has  
19 a 5 ppb limit for bottled water; and the WHO has a 3 ppb limit for drinking water. *See id.* at 29.  
20 Healthy Babies Bright Futures contends there should be no measurable cadmium in baby food and  
21 Consumer Reports' position is there should be a limit of 1 ppb cadmium in fruit juices. *See id.*  
22 The EU set a limit from 5-20 ppb cadmium for infant formula. *See id.*

23 35. According to the Congressional Report, the Subcommittee's independent testing of  
24 Defendant's products revealed that Plum Organics Mighty Morning Bar – Blueberry Lemon – Tots  
25 (for ages 15 months and up) contained 24.3 ppb cadmium. *See id.*, Appendix A, at 27. Independent  
26 also revealed the following:  
27  
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- 1 • Plum Organics Little Teethers Organic Multigrain Teething Wafers –  
2 Banana with Pumpkin – Baby Crawler contained 6.3 ppb cadmium. *See*  
*id.*
- 3 • Plum Organics Just Sweet Potato Organic Baby Food – 1 (for ages 4  
4 months and up) contained 2.7 ppb cadmium in one testing and 2.3  
5 cadmium in another testing. *See id.*, Appendix A, at 22.
- 6 • Plum Organics Pumpkin Banana Papaya Cardomom (for ages 6 months  
7 and up) contained 2.4 ppb cadmium. *See id.*, Appendix A, at 24.
- 8 • Plum Organics Apple, Raisin & Quinoa Organic Baby Food – 2  
9 contained 1.9 ppb cadmium. *See id.*, Appendix A, at 25.

10 36. As stated above, only limited independent testing was performed on Defendant’s  
11 products, and thus, the products referenced herein as containing high levels of cadmium are not an  
12 exhaustive list.

### 13 Mercury

14 37. According to the Congressional Report, Mercury is third on the ATSDR’s list of  
15 substances in the environment that pose the most serious threat to human health. *See id.* at 12.  
16 Studies have shown that higher blood mercury levels in children 2 to 3 years old were associated  
17 with autistic behaviors among preschool age children. *See id.* at 12-13.

18 38. Outside of the baby food context, the EPA limits mercury in drinking water to 2  
19 ppb. *See id.* at 32. Healthy Babies Bright Futures contends there should be no measurable mercury  
20 in baby food. *See id.*

21 39. According to the Congressional Report, the Subcommittee “*was disturbed that, for*  
22 *mercury, which is a powerful neurotoxin, [Plum] notes with asterisks that it has no criterion*  
23 *whatsoever, stating: ‘No specific threshold established because no high-risk ingredients are used.’*  
24 However, despite [Plum] having no mercury threshold, [Plum] still marked every food as ‘meets  
25 criteria’ for mercury. *This misleading framing—of meeting criteria that do not exist—raises*  
26 *questions about what [Plum’s] other thresholds actually are, and whether they exist.” Id.* at 45  
27  
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1 (emphasis added).

2 40. According to the Congressional Report, the Subcommittee’s independent testing of  
3 Defendant’s products revealed that Plum Organics Little Teethers Organic Multigrain Teething  
4 Wafers - Banana with Pumpkin - Baby Crawler contained 0.726 ppb mercury. *See* Congressional  
5 Report, Appendix A, at 27. The Subcommittee’s limited testing generally revealed lesser amounts  
6 of mercury in Defendant’s products. *See id.*, Appendix A.

7  
8 41. As stated above, only limited independent testing was performed on Defendant’s  
9 products, and thus, the products referenced herein as containing high levels of mercury are not an  
10 exhaustive list.

11 42. Baby foods containing dangerous levels of toxic Heavy Metals bear no label or  
12 warning to parents. But the Congressional Report makes clear that this is unacceptable and  
13 deceptive.

14 43. As a result of its studies of toxic Heavy Metal levels in baby food, the House  
15 Subcommittee has recommended that parents should avoid baby foods that contain ingredients  
16 testing high in toxic Heavy Metals, such as rice products. *See id.* at Findings, Paragraph 5.

17 44. Baby food manufacturers hold a special position of public trust. Consumers believe  
18 that they would not sell products that are unsafe. Consumers also believe that the federal  
19 government would not knowingly permit the sale of unsafe baby food. As the House  
20 Subcommittee’s Report reveals, baby food manufacturers, including Defendant, have violated the  
21 public trust. *See id.* at Findings, Paragraph 6.

22  
23 45. Despite the dangerous levels of toxic and Heavy Metals that Defendant knows to  
24 be contained in its Tainted Baby Foods, as noted above, on its website, Defendant falsely  
25 represents to parents that it has a strong commitment to health and nutrition as well as the quality  
26 and safety of its baby products. Defendant’s website states: “Plum was founded on the belief that  
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1 little ones deserve the very best food from the very first bite.”<sup>10</sup> Defendant further touts that it is  
2 “confident in the safety and quality of our products. Our top priority is to serve children healthy,  
3 nutritious food made from the best ingredients.”<sup>11</sup> Moreover, Defendant states, “We want to  
4 assure you that Plum’s products are safe (and delicious) to eat!”<sup>12</sup> Each of these statements is  
5 materially false and misleading given Defendant’s sales of its Tainted Baby Foods.  
6

7 46. Based on Defendant’s decision to advertise, label, and market its Tainted Baby  
8 Foods as healthy, nutritious, and safe for consumption, it had a duty to ensure that these statements  
9 were true and not misleading, which it failed to do.

10 47. The Tainted Baby Foods are available at numerous retail and online outlets.  
11 However, as discussed above, Defendant fails to disclose they contain or are at risk of containing  
12 dangerous levels of Heavy Metals or other undesirable toxins or contaminants. Defendant  
13 intentionally omitted these contaminants to induce and mislead reasonable consumers to purchase  
14 its Tainted Baby Foods.  
15

16 **III. CLASS ACTION ALLEGATIONS**

17 48. Pursuant to the provisions of Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal  
18 Rules of Civil Procedure, Plaintiff brings this class action on behalf of herself and a nationwide  
19 Class defined as:  
20

21 **All persons who, during the applicable statute of limitation period to**  
22 **the present, purchased Defendant’s Tainted Baby Foods in the United**  
23 **States for personal/household use, and not for resale (the “Class” or**  
24 **“Nationwide Class”).**

25 49. Plaintiff Vanessa Mathiesen also seeks to represent a subclass, defined as follows:  
26

26 <sup>10</sup> [www.plumorganics.com/mission/](http://www.plumorganics.com/mission/) (last accessed March 12, 2021).

27 <sup>11</sup> [www.plumorganics.com/faqs/](http://www.plumorganics.com/faqs/) (last accessed March 12, 2021).

28 <sup>12</sup> *Id.*

1           **All persons who, during the applicable statute of limitation period to**  
2           **the present, purchased Defendant’s Tainted Baby Foods in California**  
3           **for personal/household use, and not for resale.**

4           50.     Certification of Plaintiff’s claims for class-wide treatment is appropriate because  
5           all elements of Fed. R. Civ. P. 23(a), (b)(2)-(3) are satisfied. Plaintiff can prove the elements of  
6           her claims on a class-wide basis using the same evidence as would be used to prove those elements  
7           in an individual action alleging the same claims.

8           51.     **Numerosity:** All requirements of Fed. R. Civ. P. 23(a)(1) are satisfied. The  
9           members of the Class are so numerous and geographically dispersed that individual joinder of all  
10          Class members is impracticable. While Plaintiff is informed and believe that there are thousands  
11          of members of the Class, the precise number of Class members is unknown to Plaintiff. Plaintiff  
12          believes that the identity of Class members is known or knowable by Defendant or can be discerned  
13          through reasonable means. Class members may be identified through objective means. Class  
14          members may be notified of the pendency of this action by recognized, Court-approved notice  
15          dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or  
16          published notice.

17  
18          52.     **Commonality and Predominance:** All requirements of Fed. R. Civ. P. 23(a)(2)  
19          and 23(b)(3) are satisfied. This action involves common questions of law and fact, which  
20          predominate over any questions affecting individual Class members, including, without limitation:

- 21               a.     whether Defendant engaged in the deceptive and misleading business practices  
22                       alleged herein;  
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24               b.     whether Defendant knew or should have known that the Tainted Baby Foods  
25                       contained dangerous levels of Heavy Metals;  
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- c. whether Defendant represented and continues to represent that the Tainted Baby Foods are healthy, nutritious, made from the best ingredients, and safe for consumption;
- d. whether Defendant represented and continues to represent that the manufacturing of its Tainted Baby Foods is subjected to rigorous quality standards;
- e. whether Defendant failed to disclose that the Tainted Baby Foods contained dangerous levels of Heavy Metals;
- f. whether Defendant had knowledge that those representations were false, deceptive, and misleading and was unjustly enriched by its actions;
- g. whether Defendant continues to disseminate those representations despite knowledge that the representations are false, deceptive, and misleading;
- h. whether the misrepresented and/or omitted facts are material to a reasonable consumer;
- i. whether Defendant violated California’s Consumer Legal Remedies Act, California Civil Code §§1750 *et seq.*;
- j. whether Defendant violated the California False Advertising Law, California Business & Professions Code §§17500 *et seq.*;
- k. whether Defendant violated California’s Unfair Competition Law, California Business & Professions Code §§17200 *et seq.*;
- l. whether Plaintiff and members of the Class were injured and suffered damages;
- m. whether Defendant’s misconduct proximately caused Plaintiff’s and the Class members’ injuries; and



1 n. whether Plaintiff and members of the Class are entitled to damages and, if so,  
2 the measure of such damages.

3 53. **Typicality:** All requirements of Fed. R. Civ. P. 23(a)(3) are satisfied. Plaintiff is a  
4 member of the Nationwide Class and California Subclass, having purchased for  
5 personal/household use Tainted Baby Food products that were manufactured by Defendant.  
6 Plaintiff's claims are typical of the other Class members' claims because, among other things, all  
7 Class members were comparably injured through Defendant's conduct.

8  
9 54. **Adequacy of Representation:** All requirements of Fed. R. Civ. P. 23(a)(4) are  
10 satisfied. Plaintiff is an adequate Class representative because she is a member of the Nationwide  
11 Class and California Subclass and her interests do not conflict with the interests of the other  
12 members of the Class that she seeks to represent. Plaintiff is committed to pursuing this matter  
13 for the Class with the Class's collective best interests in mind. Plaintiff has retained counsel  
14 competent and experienced in complex class action litigation of this type and Plaintiff intends to  
15 prosecute this action vigorously. Plaintiff, and her counsel, will fairly and adequately protect the  
16 Class's interests.

17  
18 55. **Predominance and Superiority:** All requirements of Fed. R. Civ. P. 23(b)(3) are  
19 satisfied. As described above, common issues of law or fact predominate over individual issues.  
20 Resolution of those common issues in Plaintiff's individual case will also resolve them for the  
21 Class's claims. In addition, a class action is superior to any other available means for the fair and  
22 efficient adjudication of this controversy and no unusual difficulties are likely to be encountered  
23 in the management of this class action. The damages or other financial detriment suffered by  
24 Plaintiff and the other Class members are relatively small compared to the burden and expense  
25 that would be required to individually litigate their claims against Defendant, so it would be  
26 impracticable for members of the Class to individually seek redress for Defendant's wrongful  
27  
28

1 conduct. Even if Class members could afford individual litigation, the court system could not.  
2 Individualized litigation creates a potential for inconsistent or contradictory judgments and  
3 increases the delay and expense to all parties and the court system. By contrast, the class action  
4 device presents far fewer management difficulties and provides the benefits of single adjudication,  
5 economies of scale, and comprehensive supervision by a single court.

6 56. **Cohesiveness:** All requirements of Fed. R. Civ. P. 23(b)(2) are satisfied. Defendant  
7 has acted, or refused to act, on grounds generally applicable to the Class making final declaratory  
8 or injunctive relief appropriate.  
9

10 **IV. CAUSES OF ACTION**

11 **COUNT I**  
12 **(Negligent Misrepresentation Against Defendant on Behalf of the Nationwide**  
13 **Class or, Alternatively, the State Subclass)**

14 57. Plaintiff, individually and on behalf of the Class, repeats and re-alleges the  
15 allegations contained in paragraphs 1 through 56 as though fully set forth herein.

16 58. Plaintiff reasonably placed her trust and reliance in Defendant's representations that  
17 the Tainted Baby Foods were as marketed to them and the Class, and were healthy, nutritious,  
18 organic, made from the best ingredients, and safe for consumption, and did not contain Heavy  
19 Metals or other undesirable toxins or contaminants.

20 59. Because of the relationship between the parties, Defendant owed Plaintiff and the  
21 Class a duty to use reasonable care in the formulation, testing, manufacturing, marketing,  
22 distribution, and sale of the Tainted Baby Foods, and to impart correct and reliable disclosures  
23 concerning the presence of Heavy Metals or other undesirable toxins or contaminants in the  
24 Tainted Baby Foods or, based upon their superior knowledge, having spoken, to say enough to not  
25 be misleading.  
26

27 60. Defendant breached its duty to Plaintiff and the Class by formulating, testing,  
28 manufacturing, advertising, marketing, distributing, and selling products to Plaintiff and the Class

1 that did not have the ingredients, qualities, characteristics, and suitability for consumption as  
2 marketed by Defendant and by providing false, misleading, and/or deceptive information regarding  
3 the nature of the Tainted Baby Foods.

4 61. Defendant knew or should have known the ingredients, qualities, and  
5 characteristics of the Tainted Baby Foods were not as advertised or suitable for their intended use  
6 (consumption by infants) and were otherwise not as warranted and represented.

7  
8 62. Plaintiff and the Class reasonably and justifiably relied upon the information  
9 supplied to them by the Defendant. A reasonable consumer would have relied on Defendant's  
10 warranties, statements, representations, advertising, packaging, labeling, and other marketing as  
11 to the quality, make-up, and included ingredients of the Baby Foods.

12 63. As a direct and proximate result of Defendant's misrepresentations, Plaintiff and  
13 the Class suffered actual damages in that they purchased the Tainted Baby Foods that were worth  
14 less than the price paid and that they would not have purchased at all had they known they  
15 contained or may contain Heavy Metals or other undesirable toxins or contaminants that do not  
16 conform to the products' labels, packaging, advertising, and statements.

17  
18 64. Defendant failed to use reasonable care in its communications and representations  
19 to Plaintiff and the Class, especially in light of their knowledge of the presence of Heavy Metals  
20 or other undesirable toxins or contaminants in the Tainted Baby Foods and the importance  
21 consumers place on ingredients when deciding whether to purchase products such as the Tainted  
22 Baby Foods.

23  
24 65. By virtue of Defendant's negligent misrepresentations, Plaintiff and the Class have  
25 been damaged in an amount to be proven at trial or alternatively, seek rescission and disgorgement  
26 under this Count.

**COUNT II**

**(Violations of California’s Consumer Legal Remedies Act,  
California Civil Code §§ 1750, *et seq.*, Against Defendant on Behalf of the Class)**

1  
2  
3 66. Plaintiff, individually and on behalf of the Class, repeats and re-alleges the  
4 allegations contained in paragraphs 1 through 56 as though fully set forth herein.

5 67. Plaintiff and each proposed Class member are a “consumer,” as that term is defined  
6 in California Civil Code § 1761(d).

7  
8 68. The Tainted Baby Foods are “goods,” as that term is defined in California Civil  
9 Code section 1761(a).

10 69. Defendant is a “person” as that term is defined in California Civil Code section  
11 1761(c).

12 70. Plaintiff and each proposed Class member’s purchase of Defendant’s products  
13 constituted a “transaction” as that term is defined in California Civil Code section 1761(e).

14 71. Defendant’s conduct alleged herein violates the following provisions of  
15 California’s Consumer Legal Remedies Act (the “CLRA”):

16  
17 a) California Civil Code § 1770(a)(5), by negligently, recklessly, and/or  
18 intentionally representing that the Tainted Baby Foods are healthy, nutritious,  
19 organic, made from the best ingredients, and safe for consumption, and by  
20 failing to make any mention of Heavy Metals or other undesirable toxins or  
21 contaminants in the Tainted Baby Foods;

22 b) California Civil Code § 1770(a)(7), by negligently, recklessly, and/or  
23 intentionally representing that the Tainted Baby Foods were of a particular  
24 standard, quality, or grade, when they were of another;  
25  
26  
27  
28

1 c) California Civil Code § 1770(a)(9), by negligently, recklessly, and/or  
2 intentionally advertising the Tainted Baby Foods with intent not to sell them as  
3 advertised; and

4 d) California Civil Code § 1770(a)(16), by representing that the Tainted Baby  
5 Foods have been supplied in accordance with previous representations when  
6 they have not.

7  
8 72. As a direct and proximate result of these violations, Plaintiff and the Class have  
9 been harmed, and that harm will continue unless Defendant is enjoined from using the misleading  
10 marketing described herein in any manner in connection with the advertising and sale of the  
11 Tainted Baby Foods.

12 73. Plaintiff seeks an award of attorneys' fees pursuant to, inter alia, California Civil  
13 Code § 1780(e) and California Code of Civil Procedure § 1021.5.

14  
15 **COUNT III**

16 **(Violations of California False Advertising Law, California Business & Professions  
17 Code §§ 17500, et seq., Against Defendant on Behalf of the Class)**

18 74. Plaintiff, individually and on behalf of the Class, repeats and re-alleges the  
19 allegations contained in paragraphs 1 through 56 as though fully set forth herein.

20 75. California's False Advertising Law prohibits any statement in connection with the  
21 sale of goods "which is untrue or misleading." Cal. Bus. & Prof. Code §17500.

22 76. As set forth herein, Defendant's claims that the Tainted Baby Foods are healthy,  
23 nutritious, organic, made from the best ingredients, and safe for consumption are literally false and  
24 likely to deceive the public.

25  
26 77. Defendant's claims that the Tainted Baby Foods are healthy, nutritious, organic,  
27 made from the best ingredients, and safe for consumption are untrue or misleading, as is failing to  
28

1 mention the presence of Heavy Metals or other undesirable toxins or contaminants in the Tainted  
2 Baby Foods.

3 78. Defendant knew, or reasonably should have known, that all these claims were  
4 untrue or misleading.

5 79. Defendant's conduct is ongoing and continuing, such that prospective injunctive  
6 relief is necessary, especially given Plaintiff's desire to purchase these products in the future if  
7 they can be assured that, so long as the Tainted Baby Foods are as advertised: healthy, nutritious,  
8 organic, made from the best ingredients, and safe for consumption, and do not contain Heavy  
9 Metals or other undesirable toxins or contaminants.  
10

11 80. Plaintiff and members of the Class are entitled to injunctive and equitable relief,  
12 and restitution in the amount they spent on the Tainted Baby Foods.  
13

14 **COUNT IV**  
15 **(Violations of the Unfair Competition Law, California Business & Professions**  
16 **Code §§ 17200, *et seq.*, Against Defendant on Behalf of the Class)**

17 81. Plaintiff, individually and on behalf of the Class, repeats and re-alleges the  
18 allegations contained in paragraphs 1 through 56 as though fully set forth herein.

19 82. The Unfair Competition Law prohibits any "unlawful, unfair or fraudulent business  
20 act or practice." Cal. Bus. & Prof. Code §17200.

21 **Fraudulent**

22 83. Defendant's statements that the Tainted Baby Foods are healthy, nutritious,  
23 organic, made from the best ingredients, and safe for consumption are literally false and likely to  
24 deceive the public, as is Defendant's failing to make any mention of Heavy Metals or other  
25 undesirable toxins or contaminants in the Tainted Baby Foods.  
26  
27  
28

1                   **Unlawful**

2           84.     As alleged herein, Defendant has advertised the Baby Foods with false or  
3 misleading claims, such that Defendant’s actions as alleged herein violate at least the following  
4 laws: (i) the CLRA, California Business & Professions Code sections 1750, *et seq.*; and (ii) the  
5 False Advertising Law, California Business & Professions Code sections 17500, *et seq.*

6                   **Unfair**

7           85.     Defendant’s conduct with respect to the labeling, packaging, advertising,  
8 marketing, and sale of the Tainted Baby Foods is unfair because Defendant’s conduct was  
9 immoral, unethical, unscrupulous, or substantially injurious to consumers and the utility of their  
10 conduct, if any, does not outweigh the gravity of the harm to their victims.

11           86.     Defendant’s conduct with respect to the labeling, packaging, advertising,  
12 marketing, and sale of the Tainted Baby Foods is also unfair because it violates public policy as  
13 declared by specific constitutional, statutory, or regulatory provisions, including, but not limited  
14 to, the False Advertising Law and the CLRA.

15           87.     Defendant’s conduct with respect to the labeling, packaging, advertising,  
16 marketing, and sale of the Tainted Baby Foods is also unfair because the consumer injury is  
17 substantial, not outweighed by benefits to consumers or competition, and not one consumers,  
18 themselves, can reasonably avoid.

19           88.     In accordance with California Business & Professions Code § 17203, Plaintiff seeks  
20 an order enjoining Defendant from continuing to conduct business through fraudulent or unlawful  
21 acts and practices and to commence a corrective advertising campaign. Defendant’s conduct is  
22 ongoing and continuing, such that prospective injunctive relief is necessary.  
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1 97. Defendant should be compelled to disgorge into a common fund or constructive  
2 trust, for the benefit of Plaintiff and Class members, proceeds that it unjustly received from them.  
3 In the alternative, Defendant should be compelled to refund the amounts that Plaintiff and Class  
4 members overpaid.

5 **VI. REQUEST FOR RELIEF**

6 WHEREFORE, Plaintiff, individually and on behalf of the Class, respectfully requests that  
7 the Court:

- 8
- 9 a) Certify the Nationwide Class, including the California Subclass, and appoint  
10 Plaintiff and her counsel to represent the Nationwide Class and California Subclass;
- 11 b) Find that Defendant engaged in the unlawful conduct as alleged herein and enjoin  
12 Defendant from engaging in such conduct;
- 13 c) Enter a monetary judgment in favor of Plaintiff and the Class, including the  
14 California Subclass, to compensate them for the injuries suffered, together with pre-  
15 judgment and post-judgment interest, punitive damages, and penalties where  
16 appropriate;
- 17
- 18 d) Require Defendant to rectify all damages caused by its misconduct;
- 19 e) Award Plaintiff and the Nationwide Class, and California Subclass, reasonable  
20 attorneys' fees and costs of suit, as allowed by law; and
- 21 f) Award such other and further relief as this Court may deem just and proper.

22 **JURY TRIAL DEMANDED**

23 Plaintiff hereby demands a trial by jury.  
24  
25  
26  
27  
28

1 Dated: March 12, 2021

Respectfully submitted,

2 /s/ Michael Liskow

3 Michael Liskow, Esq. (243899)

4 Janine L. Pollack, Esq. (*pro hac vice* forthcoming)

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20 ***Counsel for Plaintiff***

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Vanessa Mathiesen, Individually and on Behalf of All Others Similarly Situated

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

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

Michael Liskow, Janine L. Pollack, 1140 Avenue of the Americas, 9th Floor, New York, New York 10036, Phone: (917) 899-1765.

DEFENDANTS

Plum, PBC

County of Residence of First Listed Defendant Alameda County (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 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant X 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 and incorporation status. Includes options like 'Citizen of This State', 'Citizen of Another State', 'Citizen or Subject of a Foreign Country', 'Incorporated or Principal Place of Business In This State', etc.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category lists various legal claims and their corresponding case numbers.

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

- X 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-Transfer 8 Multidistrict Litigation-Direct File

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

Brief description of cause: Consumer class action alleging unfair business practices.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Gonzalez Rogers

DOCKET NUMBER 4:21-cv-00913-YGR

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

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

DATE 03/12/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Michael Liskow

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 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.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.