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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

GAYNELA PRICE, ATALANTA PIERRE-  
LOUIS, and JAMIE DANNELLY, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

PAMS Lunch Room LLC; PCS Revenue  
Control Systems, Inc., d/b/a PayPAMS; and  
DOES 1-10,

Defendants.

**Case No.**

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

## INTRODUCTION

1. Each day, over 20 million at-need children receive free and reduced lunches in this country.<sup>1</sup> Those meals provide disadvantaged children a chance to focus on learning, instead of hunger.

2. The hope is that one day those children will live out the American dream and use their education to seize better opportunities for themselves and their families.

3. However, when children are hungry at school, they cannot focus. They cannot learn. They fall behind their peers, and their odds of success later in life drops off dramatically. Hungry children are more likely to experience decreased academic performance, lower levels of concentration, behavioral issues, and illness.<sup>2</sup> School lunch programs help close the gap between children living with food insecurity and their peers.<sup>3</sup>

4. Unfortunately, bullies still steal lunch money in American schools to this day. Over the past decade, the bullies have become more sophisticated, and evolved into payment processing companies like Defendants PAMS Lunch Room LLC and PCS Revenue Control Systems, Inc. (together, “PayPAMS”).

5. Like the bullies of old, the payment processors take lunch money away from kids, and particularly low-income kids, by charging “convenience” and “service” fees at the school lunch counter (hereafter, “Junk Fees”).

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<sup>1</sup> School Nutrition Association, *School Meal Statistics*, <https://schoolnutrition.org/about-school-meals/school-meal-statistics/> (last visited Oct. 29, 2024).

<sup>2</sup> No Kid Hungry, *How Does Hunger Affect Learning?*, <https://www.nokidhungry.org/blog/how-does-hunger-affect-learning> (April 24, 2023).

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

6. What those Junk Fees really are, however, is a means for the payment processors to inflate their bottom lines at the expense of children because, in many circumstances, *the school districts already pay these companies for their services.*

7. Not only do the Junk Fees allow PayPAMS and other payment processors to “double dip” by charging both the school district and families, the Junk Fees also prevent many children who are entitled to free and reduced lunches from being able to receive the full benefit these programs.

8. As detailed in a July 2024 study by the Consumer Financial Protection Bureau (“CFPB”), the transaction fees that PayPAMS and others charge “may send \$0.60 to payment processors for each \$1 [that low-income families] spend on school lunch.” Ex. A at p. 4.<sup>4</sup>

9. Not only do the Junk Fees disproportionately harm the working poor, the aggregate cost of Junk Fees are staggering, with the CFPB putting school lunch Junk Fees at around \$100 million each year.<sup>5</sup>

10. The \$100 million in Junk Fees represents money that could have gone to buy students food; money that parents could have kept for other expenses; or money that school districts could have redeployed for other educational purposes.

11. Junk Fees take an economic toll on American families who are just trying to pay for basic school expenses, including school lunch for kids.<sup>6</sup>

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<sup>4</sup> Exhibit A is a copy of the CFPB’s July 2024 Study *Costs of Electronic Payments in K-12 Schools* (the “CFPB Study”).

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

<sup>6</sup> Consumer Financial Protection Bureau, *CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms*, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/> (July 25, 2024).

12. As President Biden explained in a recent State of the Union address, “Junk Fees may not matter to the very wealthy, but they matter to most other folks in homes like the one I grew up in, like many of you did. They add up to hundreds of dollars a month. They make it harder for you to pay your bills[.]”<sup>7</sup>

13. PayPAMS’s Junk Fee practices ensnare parents and students. Parents and caregivers cannot choose their payment platform. Fee-free options may not be meaningfully available to all families. The Junk Fees add up for families with lower incomes, and payment processors like PayPAMS face little competition.<sup>8</sup>

14. PayPAMS’s Junk Fee practices are not only wrong. They are also illegal.

15. Plaintiffs and others similarly situated paid PayPAMS’s Junk Fees. Plaintiffs Gaynela Price, Atalanta Pierre-Louis, and Jamie Dannelly bring this Class Action Complaint on behalf of themselves and all others similarly situated to obtain redress and prevent future harm.

16. Plaintiffs state the following based on personal knowledge as to facts pertaining to Plaintiffs, and based upon the investigation of counsel and information and belief as to all other matters.

### **JURISDICTION AND VENUE**

17. The Court has subject-matter jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because there are at least 100 class members in the proposed class; the combined claims of the proposed class and the matter in controversy

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<sup>7</sup> The White House, *President Biden’s State of the Union Address*, <https://www.whitehouse.gov/state-of-the-union-2023/> (Feb. 7, 2023).

<sup>8</sup> Ex. A at 10.

exceeds \$5,000,000, exclusive of interest and costs; and at least two-thirds of the Class members are citizens of states different from PayPAMS's state of citizenship.

18. Minimal diversity exists for CAFA jurisdiction. Plaintiffs Gaynela Price and Jamie Dannelly are domiciled in Texas and are citizens of Texas. Plaintiff Atalanta Pierre-Louis is domiciled in Washington and is a citizen of Washington. Class members are domiciled in and citizens of various states. Defendant PAMS Lunch Room LLC ("PayPAMS LLC") is a New Jersey limited liability company with its principal place of business in New Jersey. PayPAMS LLC is a subsidiary of PCS Revenue Control Systems, Inc. ("PCS"), also a citizen of New Jersey.

19. Venue is proper in this District under 28 U.S.C. § 1391 because Defendants' headquarters are in this district, Defendants conduct business in this District, and the contract between the parties contains a choice of venue provision requiring the claims set forth herein to be litigated in this District. *See* Ex. B.<sup>9</sup>

20. PayPAMS's TOS contain a governing law provision that requires "that the laws of the State of New Jersey excluding conflict of law provisions will govern this Agreement" and that the "sole and exclusive forum for any dispute arising out of or in connection with your visit to the Site, using the services offered on the Site, our Privacy Policy or otherwise, shall be the state courts of New Jersey located in Bergen County, New Jersey or the Federal Courts for the district of New Jersey. You and PayPAMS consent to exclusive jurisdiction and venue in such courts and waive any and all claims of inconvenient forum and immunity." Ex. B (emphasis removed).

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<sup>9</sup> Exhibit B is a true and correct copy of the PayPAMS current Terms of Use ("TOS"), which were downloaded from <https://paypams.com/TermsOfUse.aspx> (last updated July 16, 2024).

**PARTIES**

21. Plaintiff Gaynela Price is a natural person living in Texas, and a citizen of Texas.

22. Plaintiff Atalanta Pierre-Louis is a natural person living in Washington, and a citizen of Washington.

23. Plaintiff Jamie Dannelly is a natural person living in Texas, and a citizen of Texas.

24. Defendant PayPAMS LLC is a New Jersey limited liability company with a principal office at 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.

25. Defendant PCS is a member of PayPAMS LLC. PCS is a New Jersey corporation with its principal place of business in Englewood Cliffs, New Jersey.

26. Defendant PCS, according to its website, provides a “complete and fully integrated line of products and services to the K-12 market” in the area of “school food and nutrition technology.”<sup>10</sup> PayPAMS LLC is one of the “solutions” offered by PCS.

27. Does 1-10 are individuals and/or entities who operate and/or assist PayPAMS with their unlawful scheme detailed in this Complaint. Plaintiffs presently do not know the identities of Does 1-10, but will amend this pleading once their identities are learned.

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<sup>10</sup> PCS Revenue Control Systems, <https://pcsracs.com/> (last visited Oct. 29, 2024).

## FACTUAL ALLEGATIONS

### A. **America’s Free and Reduced Lunch Programs Are a Cornerstone of the American Dream, Allowing Children to Focus on Education, Not Hunger.**

28. Each day, over 20 million at-need children receive free and reduced-price lunches in this country.<sup>11</sup> And another 12 million free and reduced-price breakfasts are served each day in America’s schools.<sup>12</sup>

29. Those meals provide disadvantaged children a chance to focus on learning, instead of hunger.

30. The country’s free and reduced lunch program and other school meal programs began in the wake of World War II with the passage of National School Lunch Act in 1946.

31. The program, which is run by the United States Department of Agriculture (“USDA”), has been repeatedly renewed and updated over the past 78 years and plays a crucial role in reducing food insecurity among children and improving academic performance.

32. That improved academic performance gives low-income children a chance to live out the American dream and use their education to rise above the financial circumstances of their upbringing.

33. Given the critical role that these programs play in early childhood development, since at least 2010, the USDA has required that children participating in school nutrition programs “not be charged any additional fees” for the services provided in conjunction with the delivery of school lunch benefits.<sup>13</sup> Through its policy, the USDA specified “by charging fees in addition to

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<sup>11</sup> School Nutrition Association, *School Meal Statistics*, <https://schoolnutrition.org/about-school-meals/school-meal-statistics/> (last visited Oct. 29, 2024).

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

<sup>13</sup> U.S. Department of Agriculture, Food and Nutrition Services, *Fees for Lunchroom Services*,

the regular reduced price or paid meal charge, a school is limiting access to the program and imposing an additional criterion on participants.”<sup>14</sup>

**B. The CFPB’s Bombshell Report Details How Corporate Bullies Have Infested the American School System, Taking Money Away from Kids.**

34. On July 25, 2024, the CFPB issued a report titled *Costs of Electronic Payments in K-12 Schools* that exposed the hundreds of millions of dollars in Junk Fees that payment processors have charged—and continue to charge—parents so that their kids can eat at school. A copy of the CFPB Report is attached to this Complaint as Exhibit A.

35. The CFPB found that payment processors like PayPAMS shake down over \$100 million each year from American families.<sup>15</sup>

36. The CFPB’s findings are based on data from the 300 largest school districts (covering 25,000 schools) in the United States, interviews with school officials, and interviews with representatives of the payment processor companies.<sup>16</sup>

37. The CFPB Report found that on average, families pay at least 8% of their school-lunch dollars to payment processors.

38. Critically, the CFPB Report found that the burden of these Junk Fees is not born equally *with families eligible for free and reduced-price lunch spending as much as sixty cents of every school-meal-dollar on payment processing fees.*<sup>17</sup>

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<https://www.fns.usda.gov/cn/fees-lunchroom-services> (June 14, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> Ex. A at 4.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *Id.* at 25-26.



39. These payment processors market platforms that allow families to electronically load funds into an account that students can draw from to pay for school meals and other school-related expenses.

40. Districts contract with third-party payment processors with the expectation that the companies will lower school district processing costs and increase administrative efficiency.<sup>18</sup>

41. But payment processors actually increase costs to families by charging far more than their processing cost—up to nine times more, according to the CFPB<sup>19</sup>—to inflate their own profits.

42. While any individual Junk Fee may seem small, the impact on families—particularly low-income families—is significant. The profits school lunch payment processors alone make are massive, collectively costing families over \$100 million each year.<sup>20</sup>

43. Processors also generally unilaterally control fee levels and retain the ability to change them at any time. Since families can only use the payment platform their district has chosen, families cannot shop around for lower fees.

44. School meal costs can be a challenge for families; the national average meal debt for public school students is \$180.60 per child, per year.<sup>21</sup> Junk Fees imposed by payment processors increase the burden on families who may rely on low-cost school meals to satisfy their children's nutritional needs during the day.

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<sup>18</sup> *Id.* at 4.

<sup>19</sup> *Id.* at 15.

<sup>20</sup> *Id.* at 4.

<sup>21</sup> *Id.* at 20.

45. While some schools also offer free options, they often require, for example, that parents bring a check or cash to the cafeteria during working hours—without an option for families for whom visiting school during the workday is not an option. Other districts limit the use of cash, personal checks, or both, effectively forcing parents to rely on the electronic option or risk their kids going hungry during the school day.

46. Low-income families are disproportionately impacted by Junk Fees charged in connection with school meal accounts. Flat fees in particular have a regressive impact on lower-income users—particularly where the same fees are charged regardless of whether a student receives a free or reduced-price lunch. Flat transaction fees are also much more expensive for families who make deposits more frequently, compared to those who can afford to make higher deposits less often.<sup>22</sup>

**C. The United States Senate Demands an End to Junk Fee Practices.**

47. Following the CFPB Report, on September 18, 2024, eight United States Senators wrote to the Secretary of the Department of Agriculture demanding that the department “act quickly to address exorbitant school lunch fees charged by payment processors.” Ex. C.<sup>23</sup>

48. The Senators called for an end to the practice because, through these Junk Fees, payment processors “snatch[] dollars meant to pay for kids’ school lunches in order to pad their profits,” calling it “unacceptable that parents face exorbitant fees just so their children can eat school lunch.”<sup>24</sup>

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<sup>22</sup> *Id.* at 24.

<sup>23</sup> Exhibit C is a true and correct copy of the Senators’ letter and is available online at [https://www.warren.senate.gov/imo/media/doc/warren\\_fetterman\\_etc\\_letter\\_to\\_usda\\_on\\_school\\_lunch\\_payment\\_processing\\_fees\\_091824.pdf](https://www.warren.senate.gov/imo/media/doc/warren_fetterman_etc_letter_to_usda_on_school_lunch_payment_processing_fees_091824.pdf)

<sup>24</sup> *Id.* at 1.

**D. PayPAMS Continues to Exploit American Families at the School Lunch Counter.**

49. PayPAMS is one of the largest payment processors in the country, covering over 1,500 schools and over one million students.

50. PayPAMS also engages in each of the industry-wide problematic practices described in Paragraphs 1 to 45, above.

51. Despite the USDA's, CFPB's and the Senate's warnings, PayPAMS continues to charge school districts for its services while double dipping by collecting Junk Fees from families across the country.

**1. PayPAMS Sets the Fee Amounts and Decides How to Describe Those Fees.**

52. PayPAMS enters into Services Agreements with individual school districts to provide a user-facing payment portal for parents to prepay for their kids' school food services. Often this is for lunch, but other times—including for children on otherwise free and reduced lunch programs—it is so that kids can buy items that are in addition to lunch, such as breakfast, snacks, or a drink.

53. In the Services Agreements with schools, PayPAMS contracts to operate a website through which parents can make prepayments to the school for meals.

54. In the Service Agreements, school districts generally agree to pay PayPAMS set amounts for its services. For example, since at least 2016, PCS has charged California's Sweetwater Union High School District approximately \$22,000 per year just to provide technical support for its processing systems, including PayPAMS.

55. Additionally, the Service Agreements also authorize PayPAMS to charge parents fees on a per-transaction basis. However, PayPAMS maintains unilateral control over the parent-facing fee structure and disclosures, and in practice, this discretion is abused to inflate prices.

56. For example, the CFPB found that, at the time it was conducting its research, PayPAMS charged consumers fees of between approximately \$1.95 to \$2.40 per transaction regardless of transaction amount or type, when in general, the cost to a payment processors on a credit, debit, or prepaid card transaction is around 1.53% of the transaction, and between \$0.26 to \$0.50 per transaction for an ACH transfer.<sup>25</sup>

57. In concrete terms, this means that if a low-income single parent wanted to add \$25 to her child's lunch account at a \$1.95-per-transaction-school, that the transaction would cost PayPAMS about \$0.38 cents but would net PayPAMS about \$1.57 on top of its costs on the transaction or a profit rate of over five times the cost of the transfer.

58. In many instances, PayPAMS's school specific contracts are even worse than what the CFPB Report found. For example, PayPAMS's Services Agreement with Texas's Arlington Independent School District ("Arlington ISD") provides that it can charge a 5.6% fee per transaction, but that it "reserve[d] the right to modify the above compensation provisions at any time."

59. This would mean that on a \$50 transaction, PayPAMS would charge about \$2.80 in Junk Fees and make about \$2.42, or more than seven times its costs.

60. PayPAMS charges inflated Junk Fees in other school districts, too.

61. In Florida's Miami-Dade County Public Schools and Oregon's Multnomah Education Service District, for example, PayPAMS charges per-transaction fees of \$1.95.

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<sup>25</sup> Ex. A at 15.

62. In parts of Texas's Tarrant County, for example, PayPAMS charges \$2.40 to \$2.95 per transaction. These fees far outstrip PayPAMS's costs of providing a payment platform and processing transactions, generating profit for PayPAMS out of families' school-lunch dollars.

63. The profits are not limited to fees. PayPAMS can also earn interest accumulated on funds that parents pay to PayPAMS while those funds remain in the child's PayPAMS account, including after the child is no longer enrolled in the school district.

64. Despite the CFPB's and the Senate's calls to eliminate these Junk Fees, PayPAMS continues to exploit parents and children to this day.

**2. PayPAMS's Contracts with Parents Only Authorizes PayPAMS to Charge for the Actual Costs of the Service.**

65. Parents whose schools contract with PayPAMS are strongly encouraged, if not required, to use the PayPAMS system for payments to the school to participate in any school lunch program.

66. Districts direct parents to the PayPAMS website to create an account, and as part of the account setup process, parents are forced to agree to the PayPAMS TOS. A copy of the current PayPAMS TOS is attached as Exhibit B.

67. The TOS is an agreement solely between the parents (like Plaintiffs) and PayPAMS. The school district is not a party.

68. The TOS state that parents "may be required to pay a fee," which PayPAMS represents "covers the *cost* of processing the payment transactions, including third party payment processors' fees, our *costs* to operate and maintain the Site, and related *costs* we incur to provide the services." (Emphasis added.)

69. This statement is misleading because, as detailed in Paragraphs 34 to 64, above, the actual cost to PayPAMS to process electronic transactions is well below the amount of the Junk

Fee charged, and PayPAMS retains the profit for itself, instead of providing it to the school district to fund other educational expenses.

**3. The PayPAMS-to-Parent Payment Interface Also Falsely Describes the Junk Fees as “Costs.”**

70. The user interface PayPAMS displays to parents replicates the deceptive statements regarding the Junk Fees being “costs.”

71. For example, PayPAMS’s site for Arlington ISD states that the “service fee” of \$2.95 per transaction “covers the *cost* of processing the payment transactions and maintaining the website.” (Emphasis added.)

72. PayPAMS’s site for Miami-Dade County Public Schools, for example, states in English and Spanish that the \$2.95 per-transaction fee “covers the cost of maintaining the website.”

73. In fact, as described above, the Junk Fees charged by PayPAMS far exceed the indicated costs, instead creating a profit center that generates tens of millions of dollars each year for PayPAMS.

**E. Plaintiffs’ Experiences with PayPAMS.**

**1. Plaintiff Gaynela Price**

74. From about 2007 through 2023, Plaintiff Gaynela Price had a child attending school in Texas’s Arlington Independent School District.

75. Plaintiff Price created an online account with PayPAMS in or about 2010.

76. As a condition to create her account, PayPAMS required Plaintiff Price to agree to PayPAMS’s standard TOS.

77. At that time, PayPAMS’s TOS stated that PayPAMS’s fee “cover[ed] the cost of processing the payment transactions,” or included substantially similar language.

78. From about 2010 through May 2023, Plaintiff Price regularly used PayPAMS to prepay for school meals for her children.

79. Each time Plaintiff Price used PayPAMS to prepay for school meals, she paid a fee to PayPAMS.

80. Based on their household income, at certain times, Plaintiff Price's children were eligible to receive school lunch at a reduced price while attending elementary school and junior high school.

81. The fee charged by PayPAMS increased throughout her childrens' enrollment in Arlington Independent School District schools. When her youngest child graduated high school in or about May 2023, the fee was approximately \$2.95 per transaction.

82. At that time, Plaintiff Price used PayPAMS approximately every one to three weeks to prepay in amounts ranging from \$20 to \$30.

83. Plaintiff Price understood the PayPAMS fee to be mandatory.

84. Plaintiff Price did not know that the fees PayPAMS charged her far exceeded PayPAMS's costs to process the transactions.

**2. Plaintiff Atalanta Pierre-Louis**

85. Within the past six years, Plaintiff Atalanta Pierre-Louis's two children attended Washington's Seattle Public School District.

86. When Plaintiff Pierre-Louis created her online account with PayPAMS, PayPAMS required Plaintiff Pierre-Louis to agree to PayPAMS's standard TOS.

87. At that time, PayPAMS's TOS stated that PayPAMS's fee "cover[ed] the cost of processing the payment transactions," or included substantially similar language.

88. Until approximately May 2024, Plaintiff Pierre-Louis regularly used PayPAMS to prepay for school meals for her children.

89. Plaintiff Pierre-Louis used PayPAMS approximately every two weeks to prepay in amounts generally ranging from \$20 to \$40 per child.

90. Each time Plaintiff Pierre-Louis used PayPAMS to prepay for school meals, she paid a fee to PayPAMS.

91. The fee charged by PayPAMS increased throughout her children's enrollment in the Seattle Public School District.

92. Plaintiff Pierre-Louis understood the PayPAMS fee to be mandatory.

93. Based on PayPAMS statements in its TOS and in the online payment processing interface, Plaintiff Pierre-Louis understood that the fees she was being charged were for the actual costs of the service and did not know or understand that in reality, the fees primarily consisted of large margins of profit for PayPAMS.

**3. Plaintiff Jamie Dannelly**

94. Plaintiff Jamie Dannelly's two children both currently attend school in the Arlington Independent School District.

95. Plaintiff Dannelly created an online account with PayPAMS in about 2022.

96. As a condition to create her account, PayPAMS required Plaintiff Dannelly to agree to PayPAMS's standard Terms of Use.

97. When she created her account and while using PayPAMS, PayPAMS's Terms of Use stated that PayPAMS's fee "cover[ed] the cost of processing the payment transactions" or included substantially similar language.

98. Since about 2022, Plaintiff Dannelly has regularly used PayPAMS to prepay for school meals for both of her children.



99. Beginning about January 2024, Plaintiff Dannelly has used PayPAMS to automatically transfer funds from her bank account via ACH about every two weeks to prepay for school meals for her son.

100. Each time Plaintiff Dannelly uses PayPAMS to prepay for school meals, she pays a fee to PayPAMS.

101. The fee charged by PayPAMS has increased since she initially created the account. In October 2024, PayPAMS has charged her approximately \$2.95 per transaction.

102. Plaintiff Dannelly understood the PayPAMS fee to be mandatory.

103. Plaintiff Dannelly understood that the fees she was being charged were for the actual costs of the service and did not know or understand that in reality, the fees far exceeded PayPAMS's costs to process the transactions.

#### **CLASS ACTION ALLEGATIONS**

104. Pursuant to Federal Rule of Civil Procedure 23(a), (b)(2), and (b)(3), Plaintiffs bring this class action on behalf of themselves and the following Class (hereinafter, the "Class"):

All persons who paid a transaction related fee to PayPAMS in the six years preceding the filing of the Complaint.

105. Excluded from the Class are PayPAMS; any entity in which PayPAMS has a controlling interest; PayPAMS's legal representatives, officers, directors, employees, assigns, and successors; the judge to whom the case is assigned, his or her court staff and law clerks, all members of the judge's immediate family, and Class Counsel.

106. PayPAMS's TOS dictate that New Jersey law applies. The statute of limitations is six years for the New Jersey Consumer Fraud Act ("NJCF"), the New Jersey Truth-in-Consumer Warranty and Notice Act ("TCCWNA") and for Breach of Contract.

107. The Class members can be identified and ascertained from PayPAMS's business records, which will reflect which customers were charged and paid fees to PayPAMS. PayPAMS's records are computerized and will reflect which customers were charged and paid a Junk Fee to PayPAMS. Thus, Plaintiffs' proposed class is ascertainable.

108. **Numerosity.** The members of the Class are so numerous and geographically diverse that joinder would be impracticable. Plaintiffs do not know the exact size of the Class because this information is exclusively within PayPAMS's control. However, based on the nature of the commerce involved and the size and scope of PayPAMS's business, Plaintiffs believe the Class likely numbers in the hundreds of thousands.

109. **Typicality.** Plaintiffs' claims are typical of the other Class members' claims because they were all subject to a standard form Terms of Use agreement and were charged the same unlawful Junk Fee by PayPAMS. They seek identical legal remedies under identical legal theories. Plaintiffs' claims do not conflict with the interests of any other members of the Class.

110. **Commonality and Predominance.** Common questions of law and fact exist and predominate across the Class, including, among others:

- a. Whether PayPAMS's description of its Junk Fees are unfair and deceptive;
- b. Whether PayPAMS's Junk Fees are mostly profit;
- c. Whether the aforementioned violations of the NJCFA constitute violations of the New Jersey Truth-in-Consumer Contract Warranty and Notice Act, N.J.S.A. § 56:12-14 *et seq.*, specifically N.J.S.A. § 56:12-15;
- d. Whether PayPAMS violated New Jersey law by concealing that its fees were not reasonably related to its costs;

- e. Whether the contracts between PayPAMS and the parents (including Plaintiffs) was breached;
- f. Whether PayPAMS's actions have proximately caused an ascertainable loss to Plaintiffs and member of the Class and, if so, the proper measure of damages; and
- g. Whether Plaintiffs and the Class are entitled to injunctive relief.

111. **Adequacy.** Plaintiffs will fairly and adequately represent and protect the interests of the Class members because they possess no interests antagonistic to other Class members and the adjudication of their claims will decide identical issues. Plaintiffs have retained competent and experienced counsel to represent Plaintiffs and the proposed Class. Whether the NJCF and TCCWNA were violated and PayPAMS breached its contract with parents involve predominating common issues that will be decided for all consumers who agreed to PayPAMS's similar or identical Terms of Use. There is nothing peculiar about the Plaintiffs' situations that would make them inadequate class representatives.

112. **Superiority.** A class action is superior to other methods for the fair and efficient adjudication of this controversy because the damages suffered by each individual Class member are modest, compared to the expense and burden of individual litigation. It would be impracticable for each Class member to seek redress individually for the wrongful conduct alleged. It would be difficult, if not impossible, for Class members to find counsel and recover damages on an individual basis for such small claims. There will be no difficulty in the management of this litigation as a class action as the legal issues affect a standardized pattern of conduct by PayPAMS and class actions are commonly used in such circumstances. Practically speaking, a class action is the only viable means of adjudicating their rights. Further, since joinder is impracticable, a class

action will allow for orderly and expeditious administration of the Class’s claims and will foster economies of time, effort, and expense.

113. PayPAMS also acted and refused to act on grounds generally applicable to the Class, thereby making appropriate declaratory and injunctive relief for the Class as a whole. Separate actions would create the risk of inconsistent or varying adjudications with respect to individual Class members.

**COUNT I**  
**Violation of the New Jersey Consumer Fraud Act**  
**N.J.S.A. § 56:8-2.1, *et seq.***

114. Plaintiffs restate Paragraphs 1 through 113 as though set forth in full herein.

115. Plaintiffs brings this claim on behalf of themselves and the Class.

116. The NJCFA prohibits the act, use, or employment by any person of any commercial practice that is unconscionable or abusive, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise.

117. N.J.S.A. § 56:8-2 declares:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; [...].

118. Plaintiffs and Class members are both “persons” and “consumers” pursuant to N.J.S.A. § 56:8-1(d), as they and all Class members are natural persons as defined therein.

119. PayPAMS is a “person” within the meaning of N.J.S.A. § 56:8-1(d).

120. PayPAMS's payment Platform is "merchandise" within the meaning of N.J.S.A. § 56:8-1(c) because it is offered directly or indirectly to the public for sale as defined therein.

121. PayPAMS engages in the sale of merchandise under N.J.S.A. § 56:8-1(e), as it offers its services directly or indirectly to the public for sale.

122. PayPAMS engaged in an unconscionable, unfair, deceptive, fraudulent and/or misleading pattern and practice by making misleading or false statements regarding fees charged to Plaintiffs and the putative Class members.

123. PayPAMS violated the NJCFA when it misrepresented the purpose of the fees it charges to use its platform. PayPAMS represents that its fees cover the "cost" of processing payment transactions and running its website. That statement is a false and deceptive misrepresentation because the cost of processing payment transactions is well below the amount of the fee charged. Thus, the Junk Fees it charges for electronic transactions is mostly profit, which PayPAMS keeps.

124. PayPAMS also violates the NJCFA when it fails to disclose and conceals from Plaintiffs and Class members material facts including that (1) the amount of the fees it charges bear no reasonable relationship to the costs it incurs to provide electronic payment processing services and maintain its website, and are far in excess of the cost, if any, incurred by actual services performed in processing deposits into Plaintiffs' and the Class members' accounts; (2) that the fees it charges parents are primarily for profit; and (3) that it also charges the school districts for its services.

125. PayPAMS's omissions were knowing and willful because PayPAMS knows its own costs and profits.

126. PayPAMS's omissions were material because reasonable consumers would not choose to pay fees knowing that they are well in excess of cost, contrary to PayPAMS's representations. PayPAMS intended that Plaintiffs and the Class rely on its material omissions.

127. The scheme perpetrated by PayPAMS in the way it assessed its Junk Fees was deceptive and unfair, and its explanation for the Junk Fees it charged was false and/or misleading. PayPAMS's conduct lacks honesty in fact, fair dealing, and good faith and has the capacity to and did mislead consumers like Plaintiffs that were acting reasonably.

128. PayPAMS's junk fees are also unfair and unconscionable under the NJCFA because they violate federal policy as articulated by the USDA.

129. USDA is responsible for administering the National School Lunch Program under the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1751 *et seq.* ("National School Lunch Act"). USDA regularly issues policy memoranda, regulations, and other guidance materials relating to National School Lunch Act requirements.

130. In 2010, USDA issued guidance stating that "[c]hildren participating in School Nutrition Programs shall not be charged any additional fees for supervision or other services provided in conjunction with the delivery of benefits under these programs. . . . By charging fees in addition to the regular reduced price or paid meal charge, a school is limiting access to the program and imposing an additional criterion for participation," in violation of the National School Lunch Act.<sup>26</sup>

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<sup>26</sup> See U.S. Department of Agriculture, Food and Nutrition Services, *Online Fees in the School Meal Programs*, <https://fns-prod.azureedge.us/sites/default/files/cn/SP02-2015os.pdf> (Oct. 8, 2014).

131. USDA updated that guidance in 2014 to state that School Food Authorities, i.e., school districts, could “charge a fee for these types of services” so long as the School Food Authorities offer a method to add money to the account that does not incur fees.<sup>27</sup>

132. Under USDA regulations, a “School Food Authority” is “the governing body which is responsible for the administration of one or more schools.” 7 C.F.R. § 210.2.

133. PayPAMS is not a “School Food Authority.”

134. While the 2014 Guidance allows a School Food Authority to charge a fee, nothing in the 2014 Guidance extends that permission to third party service providers like PayPAMS.

135. PayPAMS’s Junk Fees are not charged by a School Food Authority, nor are they passed on to or retained by a School Food Authority. PayPAMS brazenly admits that it keeps its Junk Fees for itself. This practice violates USDA policy stating that children participating in school nutrition programs “*shall not* be charged” additional fees, because such fees limit access to the program and impose additional criteria for participation.

136. An “unconscionable act” under the NJCFA lacks good faith, honesty in fact, and observance of fair dealing, and encompasses conduct more expansive than deception alone. Charging Junk Fees in violation of federal policy is an “unconscionable commercial practice” in violation of the NJCFA. This is particularly so because PayPAMS does so under the imprimatur of the school districts, giving consumers the false impression that its Junk Fees are permissible, when in fact, they violate federal policy.

137. PayPAMS’s fee practices described above contravene the New Jersey Consumer Fraud Act, N.J.S.A. § 56:8-1, *et seq.*

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<sup>27</sup> *Id.*

138. Plaintiffs and the Class members were damaged and suffered ascertainable losses when they paid fees to PayPAMS without full knowledge of the relevant facts. Had PayPAMS not misled Plaintiffs and the Class as to the true nature of its fees, and concealed material information from them, Plaintiffs and the Class would not have paid PayPAMS's fees.

139. Plaintiffs and the Class members are entitled to "a refund of all moneys acquired by means of" the above-described practices. N.S.J.A. §§ 56:8-2.11, 2.12.

140. As a result of PayPAMS's above-mentioned violations, Plaintiffs suffered an ascertainable loss of an amount no less than the amount of their payments of fees to PayPAMS.

141. But for PayPAMS's unconscionable acts and misrepresentations in violation of the NJCFA, Plaintiffs would not have suffered any damage. Said another way, Plaintiffs' damages are the direct and proximate result of PayPAMS's violations of the NJCFA, in that their loss flowed directly from PayPAMS's acts.

142. Plaintiffs and the Class seek all damages available under law, including actual damages, treble damages, as well as attorneys' fees and costs. N.J.S.A. § 56:8-19; § 56:12-17.

## **COUNT II**

### **Violation of the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, ("TCCWNA") N.J.S.A. § 56:12-14 *et seq.***

143. Plaintiffs restate Paragraphs 1 through 142 as though set forth in full herein.

144. Plaintiffs bring this claim on behalf of themselves and the Class.

145. The New Jersey Truth in Consumer Contract, Warranty and Notice Act ("TCCWNA"), N.J.S.A. § 56:12-14 *et seq.*, prohibits sellers from "offer[ing] to any consumer or prospective consumer or enter[ing] into any written consumer contract, or giv[ing] or display[ing] any written consumer warranty, notice, or sign . . . which includes any provision that violates any



clearly established legal right of a consumer or responsibility of a seller . . . as established by State or Federal Law.” N.J.S.A. § 56:12-15.

146. Plaintiffs and Class members are “consumers” within the meaning of TCCWNA.

147. PayPAMS is a “seller” within the meaning of TCCWNA.

148. PayPAMS’s Terms of Use is both a written “consumer contract” and a notice within the meaning of TCCWNA.

149. PayPAMS gave, displayed, offered, and/or entered into the PayPAMS Terms of Use with Plaintiffs and the Class members.

150. PayPAMS violated the TCCWNA when it misrepresented the purpose of the fees it charges to use its platform. PayPAMS represents that its fees cover the cost of processing payment transactions and running its website. That statement is a misrepresentation because the cost of processing payment transactions is well below the amount of the fee charged. Thus, the Junk Fees it charges for electronic transactions is mostly profit, which PayPAMS keeps.

151. PayPAMS also violated the TCCWNA when it failed to disclose and concealed from Plaintiffs and the Class members material facts including that (1) the amount of the fees it charges bears no reasonable relationship to the costs it incurs to provide electronic payment processing services, and was far in excess of the cost, if any, incurred by actual services performed in processing deposits into Plaintiffs’ and the Class members’ accounts; (2) that the fees it charges parents are primarily for profit; and (3) that it also charges the school districts for its services.

152. By violating the TCCWNA, PayPAMS violated Plaintiffs’ and the Class members’ clearly established rights. PayPAMS has a clearly established responsibility under the TCCWNA to provide clear and accurate disclosures of its fees and not to intentionally withhold or conceal material information.

153. Plaintiffs and the Class members suffered harm as a result of PayPAMS's inclusion of prohibited language by PayPAMS in its TOS, misrepresentations and omissions, and therefore they are "aggrieved consumers" within the meaning of N.J.S.A. § 56:12-17.

154. Specifically, Plaintiff Price is an aggrieved consumer because she repeatedly incurred monetary damages in loss of approximately \$2.95 each time she deposited funds into her children's school lunch accounts using PayPAMS, as a consequence of PayPAMS's inclusion of prohibited provisions in the TOS and other writings offered to and entered into by Plaintiff.

155. Plaintiff Pierre-Louis is also an aggrieved consumer because she repeatedly incurred monetary damages in loss in the amount of fees charged by PayPAMS each time she deposited funds into her children's school lunch accounts using PayPAMS, as a consequence of PayPAMS's inclusion of prohibited provisions in the TOS and other writings offered to and entered into by Plaintiff.

156. Plaintiff Dannelly is also an aggrieved consumer because she repeatedly incurred monetary damages in loss up to about \$2.95 each time she deposited funds into her children's school lunch accounts using PayPAMS, as a consequence of PayPAMS's inclusion of prohibited provisions in the TOS and other writings offered to and entered into by Plaintiff.

157. As a result of PayPAMS's violations of TCCWNA as alleged herein, Plaintiffs and the putative Class members are entitled to damages pursuant to N.J.S.A. § 56:12-17 which include statutory damages of not less than \$100 per violation, together with reasonable attorney fees and costs.

158. Plaintiffs and the Class members also seek an order enjoining PayPAMS from continuing to misrepresent the nature of its fees and withhold material information from consumers. Plaintiffs and the Class are "interested person[s]" entitled to seek injunctive relief

because they suffered harm when PayPAMS entered into a written consumer contract with them that contained language in violation of the TCCWNA.

**COUNT III**  
**Breach of Contract**

159. Plaintiffs restate Paragraphs 1 through 158 as though set forth in full herein.

160. Plaintiffs bring this claim on behalf of themselves and the Class.

161. Plaintiffs and the Class members contracted with PayPAMS for use of its electronic payment platform. A copy of the applicable contract is attached as Exhibit B.

162. Plaintiffs and the Class members gave consideration and performed all conditions precedent to filing this action.

163. PayPAMS promised Plaintiffs and the Class members that all fees paid to PayPAMS in connection with electronic transactions went to the costs of processing payments and maintaining its website. *Id.* By retaining any portion of the fees as profit, PayPAMS breached its contracts with Plaintiffs and the Class members.

164. As a direct and proximate result of PayPAMS's material breach, Plaintiffs and the Class members were harmed. Plaintiffs and the Class members suffered actual damages as a result of PayPAMS's breach. Plaintiffs and the putative Class are entitled to a refund of the amount paid as "Service Fees," "Convenience Fees," and similarly denominated fees.

165. Plaintiffs and the Class members seek all damages available under law.

**COUNT IV**  
**Unjust Enrichment**

166. Plaintiffs restate Paragraphs 1 through 165 as though set forth in full herein.

167. Plaintiffs bring this claim on behalf of themselves and the Class.

168. Plaintiffs assert this unjust enrichment claim in the alternative to the breach of contract claim alleged in Count III.

169. PayPAMS received benefits from Plaintiffs and the Class in the form of fees paid to PayPAMS.

170. It would be unjust to allow PayPAMS to retain the benefits received from Plaintiffs and the Class because PayPAMS misrepresented the nature and purpose of the fees it charged and received.

171. At most, PayPAMS is entitled to receive only the portion of any fee that was actually used to cover processing costs (far less than the amount of the fees) and the cost of maintaining its website. Any excess must be returned to Plaintiffs and the Class members.

172. Plaintiffs and the Class members seek restitution of the benefits unjustly retained by PayPAMS.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that the Court enter an order:

173. Certifying this case as a class action under Federal Rule of Civil Procedure 23, appointing Plaintiffs as Class Representatives, and appointing Plaintiffs' counsel as Class Counsel;

174. Declaring PayPAMS responsible for notifying all Class members;

175. Imposing injunctive relief prohibiting PayPAMS from future violations of the NJCFA and the TCCWNA and requiring PayPAMS to comply with these statutes and regulations;

176. Declaring that PayPAMS is in breach of its contracts with Plaintiffs and the Class members and awarding compensatory damages;

177. Awarding disgorgement of all the Junk Fees collected and retained from Plaintiffs and the Class members; awarding actual damages, punitive damages, treble damages pursuant to

N.J.S.A. § 56:8-19; actual and statutory damages pursuant to N.J.S.A. § 56:12-17; awarding reasonable attorneys' fees and costs of under N.J.S.A. § 56:8-19, N.J.S.A. § 56:12-17;

178. Awarding pre-judgment and post-judgment interest as available under law; and

179. Awarding any other relief as the Court deems equitable and just.

### DEMAND FOR JURY TRIAL

Plaintiffs on behalf of themselves and the putative class hereby demand a trial by jury of all issues so triable.

Dated: October 30, 2024

/s/ Esther Berezofsky

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Respectfully submitted,

/s/ Shana Khader

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*Counsel for Plaintiffs and the Putative Class*

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
GAYNELLA PRICE, ATALANTA PIERRE-LOUIS, and JAMIE DANNELLY
(b) County of Residence of First Listed Plaintiff Tarrant County, TX
(c) Attorneys (Firm Name, Address, and Telephone Number)
Esther Berezofsky; Motley Rice LLC, 210 Lake Drive East, Suite 101, Cherry Hill, NJ 08002; 856-382-4667

DEFENDANTS
PAMS Lunch Room LLC; PCS Revenue Control Systems, Inc., d/b/a PayPAMS; and DOES 1-10
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
PTF DEF
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, Labor, Intellectual Property, etc.

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 - 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. Sec. 1332(d)
Brief description of cause:
Unlawful fees charged to consumers

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 100,000,000
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE Oct 30, 2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Esther Berezofsky

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.
- I. **(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.)
- I. **(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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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.
  - 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
  - Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
  - PLEASE NOTE THAT THERE IS NOT AN 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 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 cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

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