

1 Carl J. Marquardt, WSBA #23257
2 Law Office of Carl J. Marquardt, PLLC
3 1126 34th Ave., Suite 311
4 Seattle, WA 98122-5137
5 Telephone: 206-388-4498
6 e-mail: carl@cjmp LLC.com

Charle C. Weller (*pro hac forthcoming*)
CHARLES C. WELLER APC
11412 Corley Court
San Diego, CA 92126
858.414.7465
legal@cweller.com

Attorneys for Plaintiff

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**

10 STEVEN A. CABRERA, individually and
11 on behalf of those similarly situated,

Plaintiff,

12 v.

13 MARTIN & PLEASANCE NORTH
14 AMERICA, INC., *a Washington*
15 *corporation,*

Defendant.

No. 2:26-cv-991

**CLASS ACTION COMPLAINT
UNDER THE WASHINGTON
CONSUMER PROTECTION ACT,
RCW CHAPTER 19.86**

JURY TRIAL DEMAND

17
18 Steven A. Cabrera (“Plaintiff”), individually and on behalf of all others similarly situated
19 nationwide, by and through undersigned counsel, hereby brings this action against Martin &
20 Pleasance North America, Inc. (“MPNA” or “Defendant”), alleging that its Ener-C Sugar-Free
21 Multivitamin Drink Mixes (“the Products”), which are manufactured, packaged, labeled,
22 advertised, distributed, and sold by Defendant, are misbranded and falsely advertised because
23 they claim to be “All Natural” while containing synthetic ingredients derived from petroleum
24 substrates, and upon information and belief and investigation of counsel alleges as follows:

25 **PARTIES**

26 1. Plaintiff Steven A. Cabrera is and at all times relevant was a citizen of the state of
27 Virginia, domiciled in Alexandria, Virginia.

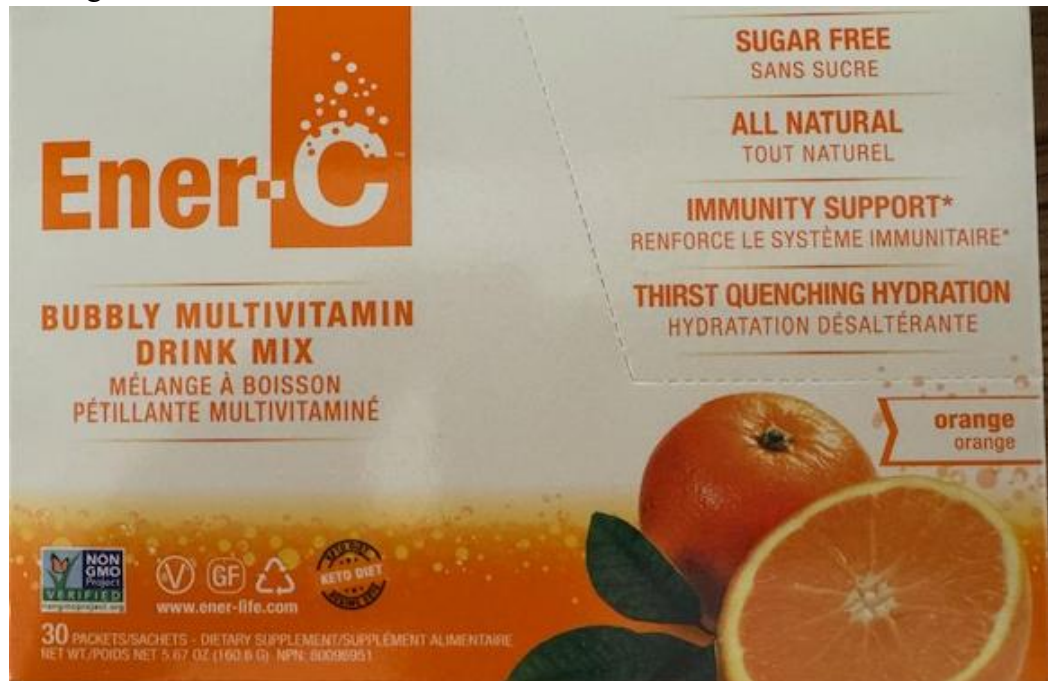
1 attributes: “No artificial ingredients” (69 percent); “No preservatives” (67 percent); or “All-
2 natural” (66 percent). These were the three most attractive attributes in the consumer survey.
3 Roughly 60 to 70 percent of consumers reported a willingness to pay a price premium for “clean
4 label” foods. See <https://www.lek.com/insights/ei/next-generation-mindful-food-consumption>.

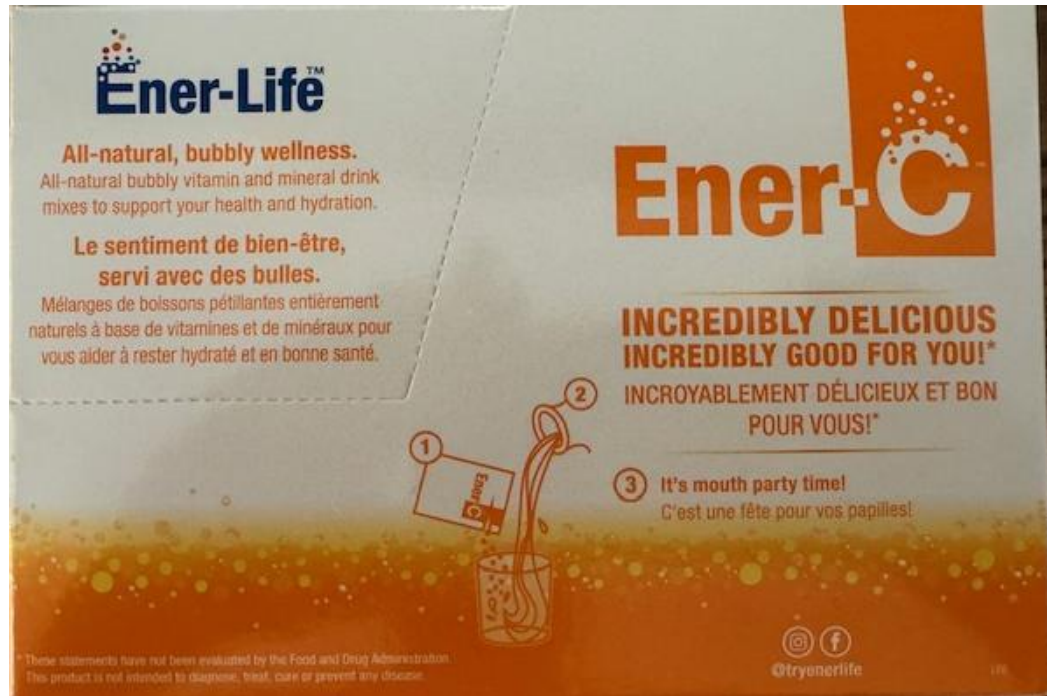
5 12. This consumer preference has led to an explosion in the category of “clean label”
6 foods and beverages. Leading analyst Allied Market Research estimated that the “natural foods
7 and drinks” category would grow by an estimated compound annual growth rate of 11.4 percent
8 from 2022 to 2031, reaching \$361 billion in annual sales by 2031. See
9 <https://www.alliedmarketresearch.com/natural-food-and-drinks-market>.

10 13. On or about June 3, 2025, Mr. Cabrera purchased the Orange flavor Products from
11 a Shoppers Food Warehouse store in Alexandria, Virginia. Mr. Cabrera attempts to avoid
12 products that contain synthetic ingredients.

13 14. Defendant formulates, manufactures, and sells fruit-flavored electrolyte-infused
14 drink enhancers.

15 15. The Products’ front and side labels state explicitly that the Products are “All
16 Natural,” with these statements reinforced by depictions of natural fruits that provide the
17 characterizing flavor:





16. These statements are false and/or misleading. All of the Products contain an ingredient that is listed in the ingredients list as “DL malic acid.”

17. There is a naturally occurring form of malic acid called “L malic acid” that is derived from apples. But because L malic acid is expensive to use in mass quantities, the vast majority of food products use a synthetic form of malic acid called “DL malic acid.” This type of malic acid is manufactured in petrochemical plants from benzene or butane—components of gasoline and lighter fluid, respectively—through a series of chemical reactions, some of which involve highly toxic chemical precursors and byproducts.

18. Federal regulations are explicit that that “DL-malic acid does not occur naturally. It is made commercially by hydration of fumaric acid or maleic acid.” 21 C.F.R. § 184.1069.

19. The use of synthetic malic acid in the Products has been confirmed by laboratory testing. When testing malic acid to determine whether it is artificial (DL) or natural (L) malic acid, the industry standard is to test for the presence of the “D isomer” of malic acid. This isomer is not present in any amount in L-malic acid. The presence of the D isomer of malic acid in any amount in a food or beverage indicates the use of artificial DL-malic acid instead of natural L-malic acid.

1 20. Counsel for Plaintiff commissioned testing of the specific items that were
2 purchased by Plaintiffs. That testing was conducted on or about August 21, 2025 by Krueger
3 Food Laboratories, Inc. of Chelmsford, Massachusetts, a reputable independent food testing and
4 analysis laboratory that has conducted testing for the food and beverage industry since 1984.

5 21. This testing by Krueger Food Laboratories revealed that the D isomer was present
6 in the Products purchased by Plaintiffs, in substantial amounts. This is the industry standard
7 method for distinguishing the use of synthetic versus natural malic acid in a food product. This
8 testing therefore establishes that the malic acid used in these Products is synthetic DL-malic
9 acid, and not natural L-malic acid.

10 22. Plaintiff reserves the right to amend this Complaint to add further products that
11 contain similar label misrepresentations as testing and investigation continue.

12 23. Labels are the chief means by which food product manufacturers convey critical
13 information to consumers, and consumers have been conditioned to rely on the accuracy of the
14 claims made on these labels.

15 24. Consumers including Plaintiffs especially rely on label claims made by food
16 product manufacturers such as Defendant, as they cannot confirm or disprove those claims
17 simply by viewing or even consuming the Products.

18 25. Further, federal law and corresponding state law and regulations both reflect and
19 create reasonable consumer expectations concerning the contents of foods and beverages. That
20 is, consumers have been conditioned to rely on statements such as “All Natural” when
21 purchasing foods and dietary supplements.

22 26. Plaintiff reviewed the front label on the Products prior to his purchase, as well as
23 the other statements described herein, and reviewed the statements regarding naturalness made
24 there. Consumers such as Plaintiff who viewed the Products’ labels reasonably understood the
25 Products to contain only natural ingredients. This representation was false.

26 27. Consumers including Plaintiff reasonably relied on this front-label statement such
27 that they would not have purchased the Products from Defendant if the truth about the Products
28

1 was known, or would have only been willing to pay a substantially reduced price for the Products
2 had they known that Defendant’s representations were false and misleading.

3 28. In the alternative, because of its deceptive and false labelling statements,
4 Defendant was enabled to charge a premium for the Products relative to key competitors’
5 products, or relative to the average price charged in the marketplace.

6 29. Plaintiff suffered economic injury by Defendant’s fraudulent and deceptive
7 conduct as stated herein, and there is a causal nexus between Defendant’s deceptive conduct and
8 Plaintiff’s injury.

9 30. Plaintiff seeks restitution for unjust enrichment in the alternative because he has
10 no adequate remedy at law.

11 31. A legal remedy is not adequate if it is not as certain as an equitable remedy. To
12 obtain a full refund as damages, Plaintiff may be required to show that the Product he received
13 has essentially no market value. In contrast, Plaintiff can seek restitution without making this
14 showing. This is because Plaintiff purchased products that he would not otherwise have
15 purchased, but for Defendant’s misrepresentations. Obtaining a full refund at law is less certain
16 than obtaining a refund in equity.

17 32. Also, winning damages under the CLRA requires additional showings not
18 required under equitable causes of action. For example, the CLRA prohibits only particular
19 categories of deceptive conduct. By contrast, equitable causes of action such as unjust
20 enrichment broadly prohibit “unfair” conduct.

21 33. By the same token, Plaintiff’s common law claims require additional showings,
22 compared to his unjust enrichment claim. For example, to prevail on his breach of warranty
23 claim, Plaintiff needs to show that the statements he challenges constitute a warranty and that
24 the warranty was part of the basis of the bargain. No such showings are required under an unjust
25 enrichment theory. And unjust enrichment exists in part because contractual claims are often
26 more difficult to establish. In this way, Plaintiff’s unjust enrichment claim is more certain than
27 his legal claims.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- b. Whether a reasonable consumer would understand Defendant’s “All-Natural” claim to indicate that the Products did not contain synthetic malic acid, and reasonably relied upon that representation;
- c. Whether Defendant was unjustly enriched at the expense of the Plaintiff and Class members;
- d. Whether Defendant breached an express warranty;
- e. the proper amount of damages;
- f. the proper scope of injunctive relief; and
- g. the proper amount of attorneys’ fees.

41. Defendant engaged in a common course of conduct in contravention of the laws Plaintiff seeks to enforce individually and on behalf of the Class. Similar or identical violations of law, business practices, and injuries are involved. Individual questions, if any, pale by comparison, in both quality and quantity, to the numerous common questions that predominate this action. The common questions will yield common answers that will substantially advance the resolution of the case.

42. In short, these common questions of fact and law predominate over questions that affect only individual Class members.

43. **Typicality – Rule 23(a)(3):** Plaintiff’s claims are typical of the claims of the Class members because they are based on the same underlying facts, events, and circumstances relating to Defendant’s conduct.

44. Specifically, all Class members, including Plaintiff, were harmed in the same way due to Defendant’s uniform misconduct described herein; all Class members suffered similar economic injury due to Defendant’s misrepresentations; and Plaintiff seeks the same relief as the Class members.

45. There are no defenses available to Defendant that are unique to the named Plaintiff.

1 46. **Adequacy of Representation – Rule 23(a)(4)**: Plaintiff is a fair and adequate
2 representative of the Class because Plaintiff’s interests do not conflict with the Class members’
3 interests. Plaintiff will prosecute this action vigorously and is highly motivated to seek redress
4 against Defendant.

5 47. Furthermore, Plaintiff has selected competent counsel who are experienced in
6 class action and other complex litigation. Plaintiff and Plaintiff’s counsel are committed to
7 prosecuting this action vigorously on behalf of the Class and have the resources to do so.

8 48. **Superiority – Rule 23(b)(3)**: The class action mechanism is superior to other
9 available means for the fair and efficient adjudication of this controversy for at least the
10 following reasons:

- 11 a. the damages individual Class members suffered are small compared to the burden
12 and expense of individual prosecution of the complex and extensive litigation
13 needed to address Defendant’s conduct such that it would be virtually impossible
14 for the Class members individually to redress the wrongs done to them. In fact,
15 they would have little incentive to do so given the amount of damage each member
16 has suffered when weighed against the costs and burdens of litigation;
- 17 b. the class procedure presents fewer management difficulties than individual
18 litigation and provides the benefits of single adjudication, economies of scale, and
19 supervision by a single Court;
- 20 c. the prosecution of separate actions by individual Class members would create a
21 risk of inconsistent or varying adjudications, which would establish incompatible
22 standards of conduct for Defendant; and
- 23 d. the prosecution of separate actions by individual Class members would create a
24 risk of adjudications with respect to them that would be dispositive of the interests
25 of other Class members or would substantively impair or impede their ability to
26 protect their interests.
- 27
- 28

1 74. The WCPA provides consumers with a comprehensive procedure for redressing
2 Defendants' unfair or deceptive business practices.

3 75. Plaintiff is a "consumer" within the meaning of the WCPA.

4 76. RCW 19.86.090 provides a private right of action to any person injured in his
5 property by an "unfair or deceptive act or practice."

6 77. Defendant's acts and omissions as alleged herein violate the Washington CPA
7 because they: (1) are unfair or deceptive acts or practices; (2) are committed in the course of
8 Defendants' business; (3) have a pervasive public interest impact and have the potential to
9 deceive a substantial portion of the public; and (4) have caused injury to Plaintiffs in their
10 business and/or property and the members of the Class..

11 78. Defendant's ongoing failure to provide material facts about its Products on its
12 labels violates the WCPA in at least these respects:

- 13 a. Defendant's acts and practices constitute misrepresentations that its Products have
14 characteristics, benefits, or uses which they do not have;
- 15 b. Defendant misrepresented that its Products are of a particular standard, quality,
16 and/or grade, when they are of another;
- 17 c. Defendant's acts and practices constitute the advertisement of goods, without the
18 intent to sell them as advertised;
- 19 d. Defendant's acts and practices fail to represent that transactions involving its
20 Products involve actions that are prohibited by law, particularly the use of
21 misleading nutritional labelling; and
- 22 e. Defendant's acts and practices constitute representations that its Products have
23 been supplied in accordance with previous representations when they were not.

24 79. As a result of Defendants' deceptive acts and practices as alleged herein. Plaintiffs
25 and the members of the Class paid for unwanted goods, or paid an unwanted premium for those
26 goods. Defendants' actions and inactions as alleged herein are the proximate cause of injury to
27 Plaintiffs and the Class in an amount to be proven at trial.

28

1 appropriate by the Court, and such other relief as the Court deems just and proper to remedy
2 Defendant's unjust enrichment.

3 90. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact as
4 a result of Defendant's actions as set forth above.

5 **COUNT 3**
6 **BREACH OF EXPRESS WARRANTY UNDER WASHINGTON LAW**

7 91. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
8 extent necessary, pleads this cause of action in the alternative.

9 92. Defendant, as the designer, manufacturer, marketer, distributor, and/or seller,
10 warranted that the Products contained only natural ingredients.

11 93. Defendant's express warranties, and its affirmations of fact and promises made to
12 Plaintiff and the Class and regarding the Products, became part of the basis of the bargain
13 between Defendant and Plaintiff and the Class, creating a warranty that the Products would
14 conform to those affirmations of fact, representations, promises, and descriptions.

15 94. The Products do not conform to the implied warranty that the Products contain
16 only natural ingredients.

17 95. As a direct and proximate cause of Defendant's breach of implied warranty,
18 Plaintiff and Class members have been injured and harmed because: (a) they would not have
19 purchased the Products on the same terms if they knew the truth about the Products' use of
20 synthetic ingredients; (b) they paid a price premium based on Defendant's warranties; and (c)
21 the Products do not have the characteristics, uses, or benefits that were promised.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests the Court grant the following relief
24 against Defendant:

- 25 a. Certifying the Class;
- 26 b. Declaring that Defendant violated the WCPA and/or was unjustly enriched and/or
27 breached a warranty;
- 28

- 1 c. Ordering an award of actual, compensatory, or statutory damages, in an amount to be
2 proven at trial;
- 3 d. Ordering an awarding of injunctive relief as permitted by law, including enjoining
4 Defendant from continuing the unlawful practices as set forth herein, and ordering
5 Defendant to engage in a corrective advertising campaign;
- 6 e. Ordering Defendant to pay reasonable attorneys' fees and litigation costs to Plaintiff;
- 7 f. Ordering Defendant to pay both pre- and post-judgment interest on any amounts
8 awarded; and
- 9 g. Such other relief as the Court may deem just and proper.

10 TRIAL BY JURY IS DEMANDED ON ANY COUNTS SO TRIABLE.

11
12
13 Dated this 24th day of March, 2026.

14 Respectfully submitted,

15
16 /s/ Carl J. Marquardt
17 Carl J. Marquardt, WSBA #23257
18 Law Office of Carl J. Marquardt, PLLC
19 1126 34th Ave., Suite 311
20 Seattle, WA 98122-5137
21 Telephone: 206-388-4498
22 e-mail: carl@cjmpllc.com

23 /s/ Charles C. Weller
24 Charles C. Weller (*pro hac vice* forthcoming)
25 CHARLES C. WELLER APC
26 11412 Corley Court
27 San Diego, CA 92126
28 (858) 414-7465
legal@cweller.com

Attorneys for Plaintiff

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

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

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

DEFENDANTS

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, 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, 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):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.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.

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: