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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MELANIE RAMIREZ, on behalf of herself and all others similarly situated, Plaintiff, v. HEADBANGER SPORTS, Defendant.	Case No. **CLASS ACTION COMPLAINT** **(DEMAND FOR JURY TRIAL)**

Plaintiff Melanie Ramirez brings this action on behalf of herself, and all others similarly situated, and alleges upon information and belief based, among other things, upon the investigation made by Plaintiff and through her attorneys, as follows:

INTRODUCTION

1. This is a proposed class action seeking monetary damages and restitution from Defendant Headbanger Sports, Inc., (referenced herein as "Headbanger") arising from its deceptive addition of junk shipping fees to consumers' shopping carts.

2. When consumers browse merchandise on the Headbanger website during the relevant time period, Defendant has advertised the price of its retail merchandise items, along with an advertisement for free shipping. Those pricing representations are false, however, because Headbanger surreptitiously added junk fees to consumer purchases on top of the free shipping in the form of so-called "Headbanger Shipping Protection" fees (referenced herein as "Shipping Protection Fees").

3. As discussed in detail herein, the assessment of these Shipping Protection Fees is deceptive and unfair, since: (a) Headbanger automatically adds these fees into consumers' shopping carts; (b) the fees are nothing more than an additional empty cost for shipping, rendering retailer representations of free shipping false; (c) the fees themselves are deceptively named and described; and (d) the fees provide no added value to consumers and reasonable consumers, like Plaintiff, who would not knowingly choose to pay them, absent Defendant's deception.

4. Thousands of e-commerce customers like Plaintiff have been assessed hidden shipping charges for which they did not bargain due to Headbanger's deceptive tactics.

5. Headbanger's pre-selected Shipping Protection Fee deceives consumers in two related ways, both arising from the same uniform checkout design. First, many consumers do not notice that the optional fee has been added late in the checkout process and are charged for a product they never chose to buy. Second, even consumers who notice the fee reasonably understand that optional items or services will not be added to their shopping carts without their affirmative action, and therefore reasonably believe that—like taxes—the fee is mandatory and unavoidable. Either way, consumers pay for Headbanger Shipping Protection without ever making an informed, affirmative choice to buy it.

6. By unfairly obscuring its true shipping costs, Defendant deceived consumers and gains an unfair upper hand on competitors that fairly disclose their true shipping charges. To wit, other major e-commerce sites do not assess such a fee.

7. Plaintiff seeks damages and, among other remedies, public injunctive relief requiring that consumers be permitted to affirmatively decide whether to purchase Headbanger Shipping Protection before they are charged for it.

PARTIES

8. Plaintiff Melanie Ramirez is a citizen and resident of Wasco, California.

9. Defendant Headbanger Signings LLC is based in Palm City, Florida.

JURISDICTION AND VENUE

10. This Court has original jurisdiction of this action, among other reasons, under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because (1) the proposed Class is comprised of at least 100 members; (2) at least one member of the proposed Class is a citizen of a State different from Defendant; and (3) the aggregate claims of the putative Class members exceed $5 million, exclusive of interest and costs.

11. This Court has personal jurisdiction over Defendant because it has contacts with California that are so continuous and systematic that they are essentially at home in this state. Defendant sold its products to consumers from California. Defendant regularly conducts and solicits business in California, provides products to persons in the State of California and nationwide, maintains an interactive commercial website, allows customers to order its products, and derives substantial revenue from its business established in California.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this District, and Defendant is subject to the Court's personal jurisdiction.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

I. Headbanger Surreptitiously Added Fees to Consumers' Carts

13. Upon information and belief, here's how Headbanger's deception works. When a consumer views an item on the Headbanger website among its online inventory of bats, apparel, sunglasses, and other merchandise for purchase, the consumer is shown the prices of the items being considered for purchase.

14. When the consumer selects an item for additional information about the product on the Headbanger website, the consumer is presented with the purchase price with a note that shipping would be calculated at checkout.

15. When a consumer adds the selected merchandise to their online shopping cart and

proceeds through checkout on the Headbanger website, Headbanger adds a line item labeled "Headbanger Shipping Protection" to the consumer's order. The Shipping Protection Fee is "Calculated by Cart Value ($2 For First $100, Increases in $1 Increments by $50 Cart Value After)."

16. Once the customer proceeds to the checkout screen to purchase the selected merchandise, the customer is prompted to enter a shipping address for delivery.

17. Once a customer enters a shipping address, the shipping cost line item would be displayed as "FREE" though the Shipping Protection Fee remained, which only serves to sow further confusion into a reasonable customer. This method of adding on Shipping Protection Fees was designed to go undetected by consumers and thus provide additional revenue to Headbanger.

18. If the consumer fails to opt out of the Shipping Protection Fee, the consumer would lose the benefit of the free shipping cost advertised on the Headbanger website.

19. At the time Plaintiff and the putative Class members made their purchases, the Headbanger Shipping Protection Fee was engineered to be a default addition to the consumer's cart. The opt-out option is intentionally designed to be presented as subtle go unnoticed by consumers, and engineered to force consumers to affirmatively opt-out of the junk fee in order to avoid it.

20. Thus, if consumers even notice the Shipping Protection Fee added to their transactions, consumers must still proactively remove the junk fee from their shopping cart.

21. This pre-selection and automatic opting in of consumers to junk fees is itself deceptive.

22. Across all online shopping sites, consumers' shopping carts begin empty. Reasonable consumers understand their shopping carts will remain empty until a consumer, seeing an item and a corresponding price listed on the website, affirmatively chooses to add an item or service to the cart. In other words, reasonable consumers understand merchants will not put optional items or services into their shopping carts—just as a brick-and-mortar store will not slip a few packs of gum or an extra pair of sunglasses into a shopper's cart as it is wheeled through the store.

23. In normal, non-deceptive online commerce, once the consumer finishes shopping, only mandatory charges such as taxes and shipping are added to the order total without affirmative consumer action, and those charges are then itemized for the consumer before checkout.

24. A shopping cart and order summary are communications to the consumer. They tell the consumer what the consumer chose to buy and what the consumer must pay to complete the purchase. Every consumer who completes a purchase on the Headbanger website views the order summary and order total and relies on them in clicking to pay. When Headbanger inserts the Shipping Protection Fee into the order by default, the order summary and total represent that the order contains only what the consumer selected, plus required charges. For every consumer charged through Headbanger's default, that representation is false.

25. The Wall Street Journal has highlighted the problem: "Some brands automatically add optional coverage to orders. Customers have complained the fees are disclosed in small fonts, made to appear mandatory when they are not or are displayed late in the online checkout process." Imani Moise, *Porch Pirates Are Now Raising the Price You Pay at Checkout*, Wall Street Journal, December 25, 2024, available at https://www.wsj.com/personal-finance/package-theft-hidden-fee-higher-prices-325c4a34.

26. At least three features of Headbanger's checkout design make the pre-selected Shipping Protection Fee likely to deceive a reasonable consumer. First, timing: the Shipping Protection Fee is added only after the consumer has finished selecting merchandise and is occupied with entering shipping and payment information, when a reasonable consumer is no longer on the lookout for items being added to the cart. The practice is no different than Headbanger slipping an extra pair of sunglasses into a consumer's cart at checkout without the consumer's consent.

27. Second, the nature of the fee: because the Shipping Protection Fee is labeled as "Shipping Protection" and appears during the shipping phase of checkout, a reasonable consumer would believe the fee is a mandatory component of shipping the order rather than an optional add-on. Indeed, a shipping-related charge is more likely to be perceived as mandatory than an unrelated product would be.

28. Third, the presentation: the Shipping Protection Fee and its pre-selected opt-out mechanism are displayed in a manner that does not communicate to a reasonable consumer that the fee is optional. Even to the extent the fee appears as a line item, the timing and presentation of that disclosure lead reasonable consumers to believe the fee is mandatory and part of the cost of

completing the purchase. Headbanger does not disclose the Shipping Protection Fee while the consumer is shopping, before the consumer proceeds to checkout.

29. As the FTC notes, "For years, unscrupulous direct-mail and brick-and-mortar retailers have used design tricks and psychological tactics such as pre-checked boxes, hard-to-find-and read disclosures, and confusing cancellation policies, to get consumers to give up their money or data." Press Release, Fed. Trade Comm'n, *FTC Report Shows Rise in Sophisticated Dark Patterns Designed to Trick and Trap Consumers* (Sept. *15, 2022*), https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-report-shows-rise-sophisticated-dark-patterns-designed-trick-trap-consumers.

30. The FTC further notes in its *Enforcement Policy Statement Regarding Negative Option Marketing* that **"[a] 'pre-checked box' does not constitute affirmative consent."** Federal Trade Commission Public Statement, *Enforcement Policy Statement Regarding Negative Option Marketing*, October 22, 2021, https://www.ftc.gov/system/files/documents/public_statements/1598063/negative_option_policy_statement-10-22-2021-tobureau.pdf at p. 13 (emphasis added). Similarly, an item automatically added to the cart, without having done anything whatsoever to add that item, does not constitute affirmative consent.

31. Congress has likewise condemned negative option sales. In the Restore Online Shoppers' Confidence Act ("ROSCA"), 15 U.S.C. §§ 8401–8405, Congress found that "'negative option'" sales "took advantage of consumers' expectations," *id.* § 8401(8), and prohibited charging consumers through a negative option feature in internet transactions unless the seller (1) clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information, and (2) obtains the consumer's express informed consent before charging the consumer. *Id.* § 8403(1), (2). Headbanger's pre-selected Shipping Protection Fee is a negative option feature—a provision under which "the customer's silence or failure to take an affirmative action to reject goods or services . . . is interpreted by the seller as acceptance of the offer," 16 C.F.R. § 310.2 (definition incorporated by 15 U.S.C. § 8403)—and Headbanger does not obtain consumers' express informed consent before they are charged for it.

32. Legal scholars describe negative option arrangements in the same terms. "Fundamentally, negative option contracts are those that construe consumer silence as assent." Kaitlin Caruso & Prentiss Cox, *Silence as Consumer Consent: Global Regulation of Negative Option Contracts*, 73 Am. U. L. Rev. 1611, 1620 (2024) available at https://aulawreview.org/blog/silence-as-consumer-consent-global-regulation-of-negative-option-contracts/. Such arrangements "shift the seller's traditional responsibility to obtain consumer consent . . . to the consumer, who must now speak up if they don't consent." *Id*. at 1615.

33. When a seller builds its business on predictable consumer inattention, the practice is not innocent. "[W]hen companies are aware of these tendencies [indeed, study them at length] and take advantage of them in structuring their dealings with consumers, it appears appropriate to view the merchants' behavior as a deliberate attempt to inflate consumer transaction costs." *Id*. at 1627 (quoting Jeff Sovern, *Toward a New Model of Consumer Protection: The Problem of Inflated Transaction Costs*, 47 Wm. & Mary L. Rev. 1635, 1653, 1655 (2006)). "Negative option marketers effectively bet, with empirics on their side, that many consumers who do not wish to buy . . . the goods or services in question will fail" to act. *Id*. at 1632.

34. Negative option arrangements "can be used to create a business model that selects for, and depends on, inattentive and vulnerable consumers," because "[a] seller can profit even if their group of knowing, willing customers is almost nonexistent." *Id*. at 1633. Where "the consumer doesn't know . . . they subscribed to the service, the seller never incurs any cost to actually provide them with any services or benefits." *Id*. at 1634.

35. Consumer advocates likewise identify pre-selected options as a recognized form of manipulative design. "Dark patterns"—"sometimes also referred to as harmful or coercive choice architecture"—are "design and choice architecture decisions deployed by hundreds of major companies that undermine individual choice and often impede the honest disclosure of information," and include "pre-selected options." Am. C.L. Union Found., Comment Letter on Advance Notice of Proposed Rulemaking—Negative Option Rule, RIN 3084-AB54, at 8–9 (Apr. 13, 2026), available at https://www.aclu.org/documents/aclu-comment-on-negative-option-rule-anprm-rin-3084-ab54.

36. As the ACLU explained to the FTC, "Consumer preferences can only be meaningfully ascertained by express or opt-in consent without pressure or manipulation." *Id*. at 2–3. Negative option practices "cause meaningful harm to consumers when companies make insufficient disclosures [and] charge customers without legitimate consent . . . ." *Id*. at 2. "Consumers coerced, manipulated, or deceived into agreement and continuing 'consent' cannot therefore reasonably avoid the damage" that results. *Id*. at 4.

37. Independent of its affirmative misrepresentations, Headbanger omits and conceals a single, uniform material fact in each transaction in which it charges the Shipping Protection Fee by default: that the fee is optional and can be removed. Headbanger does not ask consumers whether they want to buy Headbanger Shipping Protection, and nowhere in the checkout flow does Headbanger disclose that the fee, unlike the other charges in the cart, is not required.

38. Headbanger has a duty to disclose that fact. First, Headbanger has exclusive knowledge of it: Headbanger sets the pre-selected default and knows the fee is optional, while consumers have no reason to suspect that an optional product has been inserted into their order. Second, Headbanger actively conceals the fact by adding the fee automatically, at a late stage of checkout. Third, Headbanger makes partial representations that are misleading without disclosure: by placing the fee in the cart and order total alongside required charges, Headbanger represents that the fee is part of what the consumer must pay, while suppressing the fact that it is not. Fourth, whether a charge is optional goes to the heart of the transaction—whether the consumer must pay it at all.

39. The omitted fact is material. Reasonable consumers care whether they are required to pay a charge. As the FTC found with respect to similar pre-selected optional fees, if such fees are adequately disclosed and unselected by default, most consumers would decline them.

40. Consumers would have learned the omitted fact had Headbanger disclosed it. Headbanger controls the one point every consumer must pass through: the checkout page where the fee is added and where the consumer clicks to pay. The honest way to offer an optional product is to ask, with an unchecked box or a prompt that requires the consumer to choose. A consumer who sees that question learns the product is optional; a consumer who never notices it never buys the product. Either way, the consumer does not pay for a product the consumer did not choose.

41. Consumers cannot reasonably avoid this injury. A consumer cannot decline a charge he or she does not know is being imposed, and Headbanger designed the timing, placement, and default setting of the fee so that consumers would not notice it or would believe it mandatory. Headbanger's practice provides no countervailing benefit to consumers or competition: Headbanger could offer Shipping Protection on an opt-in basis, permitting consumers who want it to select it. The only benefit of the pre-selected default accrues to Headbanger and its shipping protection partner, in the form of revenue from consumers who never chose to buy the product.

III. The Add On Fees Render Promises of Transparent Shipping Costs False

42. Even beyond the deceptive manner in which the fees are added, the fees themselves are additionally deceptive because they directly contradict other promises on the Headbanger website concerning paid shipping. That is because Headbanger's add-on Shipping Protection Fees are, in actuality, a disguised shipping charge.

43. Whatever the Shipping Protection Fee is for—and as described herein, it is totally unclear—it is a fee somehow related to shipping of the products purchased by consumers and any returns or exchanges that a consumer may undertake.

44. But as described herein, Headbanger promised free shipping as was disclosed herein. These were clear promises that the total, marginal cost of having products shipped—that is, moved from the retailer to the consumer—was represented by the known free shipping promise.

45. However, Defendant decided it could actually charge more for shipping, thereby increasing profitability, by misrepresenting the true shipping costs to consumers.

46. Defendant was or should have been aware that consumers were and would be deceived by an embedded shipping fee at the same time as a promise of free shipping was being made.

47. Because it is well known that consumers prefer free shipping costs, Defendant made an intentional decision to break shipping costs into two parts and thus disguise its decision to charge more for shipping through deceptive add-on Shipping Protection Fees.

48. The deceptively added Shipping Protection Fee is a hidden shipping fee. This renders false Headbanger's representation of free shipping.

49. A reasonable consumer understands "shipping" to encompass not only the physical movement of a package but also the ordinary protections that accompany it, including protection against loss or damage in transit. Standard carrier shipping services, for example, automatically include such protection. A reasonable consumer who is promised free shipping therefore would not expect to pay a separate charge for "Shipping Protection" associated with that same shipment.

50. Because the Shipping Protection Fee appears during the shipping phase of checkout, after the consumer has already internalized Headbanger's free shipping promise, consumers have little opportunity to inquire into how the Shipping Protection Fee differs from the supposedly free shipping. Headbanger does not provide any readily accessible explanation of the difference between its free shipping and the Shipping Protection Fee.

51. By unfairly obscuring its charges to consumers, Defendant deceived consumers and gained an unfair upper hand on competitors.

52. In addition to the manner in which the fees are added and the fact that the added fees render other disclosed free shipping promises false and deceptive, Defendant's fees are nonsense fees that provide little or no value to consumers.

IV. Defendant's "Headbanger Shipping Protection" Fee Is Inaccurately Named and Described and Provides No Added Value to Consumers

53. Even beyond the deceptive manner in which the fees are added and the fact that fees themselves directly contradict other promises on e-commerce retailer websites regarding clearly disclosed flat rate shipping costs, the Shipping Protection Fees are also deceptively named and described.

54. Popular shipping services like UPS, Federal Express, USPS Priority Mail *automatically* include insurance for the first $100 worth of value in a package when goods are not delivered, stolen or damaged. Defendant misrepresents, and omits material facts about, that truth, too. Thus, for the vast majority of consumers—those who are paying to ship a product less than $100—the Shipping Protection Fee is entirely worthless, because they are already provided the same protection by the shippers. Even for consumers whose orders exceed $100, the Shipping Protection Fee's name and presentation materially overstate its value: the name "Shipping Protection" conveys

that, without the fee, the consumer's shipment would go unprotected, when in fact the fee supplies protection, at most, only for the incremental value exceeding the carrier's automatic coverage. Indeed, Headbanger charges for the first $100 of cart value—the very value carriers already protect at no cost.

55. Additionally, in the event goods are not delivered, stolen or damaged, consumers can report the issue to their credit card company or bank, who will often reverse the charge.

56. For all these reasons, the Shipping Protection Fee is deceptively named and described.

57. Even beyond the deceptive manner in which the fees are added, the fact that fees themselves directly contradict other promises on e-commerce retailer websites regarding free shipping, and the fact that the Shipping Protection Fees are deceptively named and described, they also provide virtually no additional value to consumers. No reasonable consumer would knowingly elect to pay for the Shipping Protection Fee because it provides essentially zero additional value to consumers.

58. As described above, damaged goods may already be returned to the retailer; third party shipping services like USPS, UPS and FedEx already provide some insurance coverage; and lost or stolen packages can be reported to credit card companies for chargebacks. Accordingly, the additional Shipping Protection Fee serves no purpose.

V. Defendant's Fees are Junk Fees and Violate Federal Guidance and California Law

59. Defendant's shipping fees, such as the Shipping Protection Fee, are precisely the type of "Junk Fee" that have come under government scrutiny in recent years:

> [M]any consumers said that sellers often do not advertise the total amount they will have to pay, and disclose fees only after they are well into completing the transaction. They also said that sellers often misrepresent or do not adequately disclose the nature or purpose of certain fees, leaving consumers wondering what they are paying for or if they are getting anything at all for the fee charged.

Federal Trade Commission, FTC Proposes Rule to Ban Junk Fees – Proposed rule would prohibit hidden and falsely advertised fees, October 11, 2023, available at https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees.

60. Just recently, the FTC secured a $35 million settlement with the travel app Hopper Inc. over pre-selected optional fees that were hidden from consumers using the app. Travel App

Hopper to Pay $35 Million to Settle FTC Allegations It Charged Fees Without Consent and Deceived Users About Fees and Benefits of Some Products, July 2, 2026, https://www.ftc.gov/news-events/news/press-releases/2026/07/travel-app-hopper-pay-35-million-settle-ftc-allegations-it-charged-fees-without-consent-deceived.

61. Pointedly, the FTC noted that not only were the "optional" pre-selected fees hidden from Hopper customers, but "…that if Hopper adequately disclosed these fees and made them unselected by default, most consumers would decline them." *Id*.

62. In its 2013 publication ".com Disclosures: How to Make Effective Disclosures in Digital Advertising," the FTC makes clear that when advertising and selling are combined on a website, and the consumer will be completing the transaction online, the disclosures should be provided before the consumer makes the decision to buy – for example, before the consumer "add[s] to shopping cart." See Fed. Trade Comm'n, .com Disclosures: How to Make Effective Disclosures in Digital Advertising at ii, 14 (Mar. 2013), available at https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf

63. Defendant's conduct is contrary to federal guidance and the consumer protection policies underlying California law, including by adding the Shipping Protection Fees as line items well after the consumer "add[s] to shopping cart," and by failing to disclose the nature of these fees.

64. Defendant's conduct also violates the federal Restore Online Shopper's Confidence Act ("ROSCA"), 15 U.S.C. §§ 8401–8405. Specifically, Defendants deploys "'negative option'" sales [that] took advantage of consumers' expectations." *Id*., § 8401(8). Moreover, Defendant violates ROSCA by using a negative option feature that (1) does not provide text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information; and (2) does not obtain the consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction. *Id*., § 8403(1), (2).

65. The pre-selected Shipping Protection Fee is a "negative option feature" because Headbanger interprets the consumer's silence or failure to take an affirmative action to reject the fee, by unchecking or removing it, as acceptance of the offer. *See* 15 U.S.C. § 8403; 16 C.F.R. § 310.2(w).

66. Among other things, Headbanger does not clearly and conspicuously disclose a material term of the transaction—that the Shipping Protection Fee is optional rather than mandatory—before obtaining the consumer's billing information. And because reasonable consumers are confused about whether the fee is optional, their acceptance of the order total does not constitute express informed consent to the Shipping Protection Fee.

VI. Plaintiff's Experience

67. On or about December 15, 2024, Plaintiff purchased goods from the Headbanger website. Plaintiff selected four pairs of sunglasses at their listed prices. She did not select Headbanger Shipping Protection. At the time of her purchase, Headbanger added Shipping Protection to orders by default unless the consumer removed it.

68. However, in addition, her purchase also included an $18.00 charge for "Headbanger Shipping Protection," which Headbanger described on her order as "Calculated by Cart Value ($2 For First $100, Increases in $1 Increments by $50 Cart Value After)." The Shipping Protection Fee was automatically and surreptitiously incorporated into her purchase through a pre-selected default and—for the reasons described above—in fact represented an additional shipping charge.

69. Plaintiff's order consisted of four pairs of Oakley sunglasses priced at $224.80, $224.80, $224.80, and $221.00.

70. Plaintiff did not know the charge existed or could be removed prior to her purchase. Plaintiff did not see that the Shipping Protection Fee had been pre-selected.

71. Before she clicked to pay, Plaintiff viewed the checkout page, including her order summary and order total. She understood them to show the items she selected and the charges required to complete her purchase, such as shipping and tax, and she relied on that understanding when she paid. She did not notice that Headbanger had added a separate, optional product to her order. Had Headbanger asked whether she wanted Shipping Protection, she would have declined.

72. Plaintiff reasonably believed that Headbanger would not add optional services or items to her shopping cart without her affirmative action.

73. Plaintiff would not have purchased Headbanger Shipping Protection if she knew it was optional, and she would have removed the Shipping Protection Fee from her order had Headbanger's representations not misled her.

CLASS ALLEGATIONS

74. Plaintiff brings this action on behalf of herself, and all other similarly situated persons. The proposed Class is defined as:

> All consumers who, during the applicable statute of limitations, paid a Headbanger Shipping Protection fee, Checkout + fee, or similar fee to Defendant after Defendant added that fee to their order by default, without their affirmative selection.

75. Plaintiff also brings this action on behalf of a subclass of the above-defined Nationwide Class consisting of consumers residing in California ("California Subclass").

76. Excluded from the Class and subclass are Defendant, any entities in which it has a controlling interest, any of its parents, subsidiaries, affiliates, officers, directors, employees and members of such persons' immediate families, and the presiding judge(s) in this case, and their staff. Plaintiff reserves the right to expand, limit, modify, or amend this class definition, including the addition of one or more subclasses, in connection with his motion for class certification, or at any other time, based upon, *inter alia,* changing circumstances and/or new facts obtained during discovery.

77. Plaintiff reserves the right to modify or amend the definition of the proposed Class and subclass and/or add a subclass(es), if necessary, before this Court determines whether certification is appropriate.

78. **Numerosity.** The parties are numerous such that joinder is impracticable. Upon information and belief, and subject to class discovery, the Class consists of thousands of members or more, the identity of whom are within the exclusive knowledge of and can be ascertained only by resort to Defendant's records. Defendant has the administrative capability through its computer systems and other business records to identify all members of the Class, and such specific information is not otherwise available to Plaintiff.

79. **Commonality.** The questions here are ones of common or general interest such that there is a well-defined community of interest among the members of the Class. These questions predominate over questions that may affect only individual class members because Defendant has acted on grounds generally applicable to the Class. Such common legal or factual questions include, but are not limited to:

a. Whether Defendant's alleged misconduct misled or had the tendency to mislead consumers;

b. Whether Defendant added the Shipping Protection Fee to consumers' orders by default;

c. Whether Defendant obtained consumers' affirmative consent before charging them the Shipping Protection Fee;

d. Whether the fact that the Shipping Protection Fee was optional was material;

e. Whether Defendant engaged in unfair, unlawful, and/or fraudulent business practices under the laws asserted;

f. Whether Defendant's alleged conduct constitutes violations of the laws asserted;

g. Whether Plaintiff and members of the Class were harmed by Defendant's misrepresentations;

h. Whether Defendant was unjustly enriched;

i. Whether Plaintiff and the Class have been damaged, and if so, the proper measure of damages; and

j. Whether an injunction is necessary to prevent Defendant from continuing to engage in the wrongful conduct described herein.

80. **Typicality.** Plaintiff's claims are typical of the claims of the other members of the Class in that they arise out of the same wrongful business practices by Defendant, as described herein.

81. **Adequacy.** Plaintiff is a more than adequate representative of the Class in that Plaintiff is Defendant's customer and has suffered damages as a result of Defendant's misrepresentations. In addition:

a) Plaintiff is committed to the vigorous prosecution of this action on behalf of herself

and all others similarly situated and has retained competent counsel experienced in the prosecution of consumer class actions;

b) There is no conflict of interest between Plaintiff and the unnamed members of the Class;

c) Plaintiff anticipates no difficulty in the management of this litigation as a class action; and

d) Plaintiff's legal counsel has the financial and legal resources to meet the substantial costs and legal issues associated with this type of litigation.

82. **Predominance.** Common questions of fact or law concerning Headbanger's liability to all class members for charging Shipping Protection Fees on transactions that didn't give class members any appreciable benefit would predominate over any questions affecting only individual class members. Plaintiff's proposed class action is the superior method for resolving this dispute because it is impracticable to bring proposed Class members' individual claims before the Court, especially where, as here, individual class members' damages are relatively small. Class treatment permits many similarly situated persons or entities to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, expense, or the possibility of inconsistent outcomes. Plaintiff knows of no difficulty to be encountered in the maintenance of this action that would preclude its maintenance as a class action.

FIRST CLAIM FOR RELIEF
Violation of California's Unfair Competition Law
(Cal. Bus. & Prof. Code § 17200, *et seq*.)
(On Behalf of Plaintiff and the California Subclass)

83. Plaintiff hereby incorporates by reference the preceding paragraphs.

84. Defendant's conduct described herein violates the Unfair Competition Law ("UCL"), codified at California Business and Professions Code section 17200, *et seq*.

85. The UCL prohibits, and provides civil remedies for, unfair competition. Its purpose is to protect both consumers and competitors by promoting fair competition in commercial markets for goods and services. In service of that purpose, the Legislature framed the UCL's substantive provisions in broad, sweeping language.

86. The UCL imposes strict liability. Plaintiff need not prove that Defendant intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices—but only that such practices occurred.

87. A business act or practice is "unfair" under the UCL if it offends an established public policy or is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers, and that unfairness is determined by weighing the reasons, justifications, and motives of the practice against the gravity of the harm to the alleged victims.

88. A business act or practice is "fraudulent" under the UCL if it is likely to deceive members of the public.

89. A business act or practice is "unlawful" under the UCL if it violates any other law or regulation.

90. Defendant committed unfair and fraudulent business acts and practices in violation of Cal. Bus. & Prof. Code § 17200, *et seq.*, by affirmatively and knowingly (a) sneaking fees into consumers' carts; (b) deceptively naming and describing the fees; (c) charging fees that are in actuality simply the price involved in the shipping process; and (d) charging fees that provide no added value to reasonable consumers, like Plaintiff, who would not knowingly choose to pay them, absent Defendant's deception.

91. Defendant's acts and practices offend an established public policy of truthful advertising in the marketplace, and constitute immoral, unethical, oppressive, and unscrupulous activities that are substantially injurious to consumers.

92. The harm to Plaintiff and the California Subclass outweighs the utility of Defendant's practices. There were reasonably available alternatives to further Defendant's legitimate business interests, other than the misleading and deceptive conduct described herein.

93. Plaintiff and the California Subclass could not reasonably avoid the injury caused by Defendant's pre-selected default, and Defendant's practice provides no countervailing benefit to consumers or competition, because Defendant could offer Shipping Protection on an opt-in basis.

94. Defendant's conduct also constitutes an "unlawful" act under the UCL because it also constitutes a violation of sections of the California Consumer Legal Remedies Act ("CLRA"), Cal.

Civ. Code section 1750, *et seq.,* as more thoroughly described below.

95. Headbanger's conduct also constitutes an "unlawful" act under the UCL because it constitutes a violation of the Restore Online Shopper's Confidence Act ("ROSCA"), 15 U.S.C. §§ 8401–8405. Specifically, Headbanger used "'negative option'" sales [that] took advantage of consumers' expectations." *Id*., § 8401(8). Moreover, Headbanger violated ROSCA by using a negative option feature that (1) did not provide text that clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information; and (2) did not obtain the consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction. *Id*., § 8403(1), (2).

96. Defendant's business practices have misled Plaintiff and the proposed California Subclass.

97. Plaintiff relied on Defendant's misrepresentations and omissions in making her purchase. Plaintiff did not know the Shipping Protection Fee had been added to her order or that it was optional, and she would have removed the Shipping Protection Fee absent Defendant's misrepresentations, omissions, and deceptive checkout design. Specifically, Defendant (a) deceptively added fees into consumers' carts; (b) deceptively named and described the add-on fees; (c) charged Plaintiff and Class members for shipping above and beyond what was promised to them; and (d) charged fees that provide no added value to consumers and reasonable consumers, like Plaintiff, would not knowingly choose to pay them, absent Defendant's deception.

98. As a result of its unfair, fraudulent, and unlawful conduct, Defendant has been unjustly enriched and should be required to disgorge its unjust profits and make restitution to Plaintiff and Class members pursuant to Cal. Bus. & Prof. Code § 17203 and 17204.

SECOND CLAIM FOR RELIEF
False and Misleading Advertising
(Bus. & Prof. Code §§ 17500, *et seq*.)
(On Behalf of Plaintiff and the California Subclass)

99. Plaintiff hereby incorporates by reference the preceding paragraphs as if fully restated here.

100. California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code section 17500, states that "[i]t is unlawful for any . . . corporation . . . with intent . . . to dispose of . . . personal property . . . to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated . . . from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement . . . which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading . . . ."

101. Defendant's material misrepresentations and omissions alleged herein violate Business and Professions Code section 17500.

102. Defendant knew or should have known that its misrepresentations and omissions were false, deceptive, and misleading.

103. Further, Plaintiff requests an order awarding Plaintiff and California Subclass members restitution of the money wrongfully acquired by Defendant by means of said misrepresentations.

104. Additionally, Plaintiff and California Subclass members seek an order requiring Defendant to pay attorneys' fees pursuant to California Civil Code section 1021.5.

THIRD CLAIM FOR RELIEF
Violation of California's Consumers Legal Remedies Act ("CLRA")
(Cal. Civ. Code § 1750, *et seq.*)
(On Behalf of Plaintiff and the California Subclass)

105. Plaintiff incorporates the preceding allegations by reference as if fully set forth herein.

106. This cause of action is brought pursuant to the Consumers Legal Remedies Act ("CLRA"), California Civil Code § 1750, *et seq*. Plaintiff and each member of the proposed California Subclass are "consumers" as defined by California Civil Code § 1761(d). Defendant's sale of merchandise and shipping insurance to consumers were "transactions" within the meaning of California Civil Code § 1761(e). The goods purchased by Plaintiff and the California Subclass are "goods" within the meaning of California Civil Code § 1761(a).

107. Defendant violated and continues to violate the CLRA by engaging in the following

practices proscribed by California Civil Code § 1770(a) in transactions with Plaintiff and the California Subclass which were intended to result in, and did result in, the sale of merchandise:

a. "Misrepresenting the affiliation, connection, or association with, or certification by, another" (a)(3);

b. "Representing that goods or services have . . . characteristics . . . that they do not have" (a)(5);

c. "Advertising goods or services with intent not to sell them as advertised" (a)(9);

d. "Representing that a transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law" (a)(14).

108. Specifically, Defendant (a) deceptively added fees into consumers' carts; (b) deceptively named and described the add-on fees; (c) charged Plaintiff and California Subclass members for shipping above and beyond what was promised and already provided to them; and (d) charged fees that provide no added value to consumers and reasonable consumers, like Plaintiff, would not knowingly choose to pay them, absent Defendant's deception.

109. Pursuant to § 1782(a) of the CLRA, Plaintiff's counsel notified Defendant in writing by certified mail of the particular violations of §1770 of the CLRA and demanded that it rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendant's intent to act. Defendant has failed to respond to Plaintiff's letter or agree to rectify the problems associated with the actions detailed above and give notice to all affected consumers within 30 days of the date of written notice, as proscribed by §1782. Therefore, Plaintiff includes claims for actual, punitive and statutory damages, as appropriate against Defendant.

FOURTH CLAIM FOR RELIEF
Violation of Florida's Deceptive and Unfair Trade Practices Act
Fla. Stat. 501.201 et seq.
(On Behalf of Plaintiff and the Class)

110. Plaintiff incorporates the preceding allegations by reference as if fully set forth herein.

111. Defendant violated and continues to violate Florida's Deceptive and Unfair Trade

Practices Act by engaging in unfair methods of competition, unconscionable acts and practices, and unfair and deceptive acts and practices in the conduct of its business.

112. Defendant is headquartered in Florida and all material misrepresentations and practices alleged herein were established in and emanated from Florida.

113. The material misstatements and omissions alleged herein constitute deceptive and unfair trade practices, in that they were intended to and did deceive Plaintiff and other consumers into believing that Defendant offered free shipping when in fact it covertly inserted a junk shipping fee into the shopping carts of Plaintiff and Class Members and created a negative option through which a consumer must affirmatively remove the fee.

114. Plaintiff and Class members reasonably relied upon Defendant's omission of the material fact that the pre-selected Shipping Protection Fee was optional in completing their purchases from Defendant.

115. Had Plaintiff known that the Shipping Protection Fee was optional, she would not have purchased it. As a result of Defendant's deceptive and unfair acts, Plaintiff and Class members have been damaged. The economic injury suffered by Plaintiff and Class Members can be measured on a classwide basis through evidence, including analysis of Defendant's pricing, internal marketing and valuation.

116. Defendant's conduct offends established public policy, and is immoral, unethical, oppressive, and unscrupulous to consumers.

117. Plaintiff and Class members are entitled to damages in an amount to be proven at trial.

FIFTH CLAIM FOR RELIEF
Unjust Enrichment
(On Behalf of Plaintiff and the Class)

118. Plaintiff repeats, realleges, and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.

119. This claim is pleaded in the alternative to Plaintiff's breach of contract and statutory claims, pursuant to Federal Rule of Civil Procedure 8(d)(2)–(3).

120. To assent to the fee was procured through the deception alleged herein.

121. To the detriment of Plaintiff and the Class, Defendant has been, and continues to be, unjustly enriched as a result of its wrongful conduct alleged herein.

122. Plaintiff and the Class conferred a benefit on Defendant.

123. Defendant unfairly, deceptively, unjustly, and/or unlawfully accepted said benefits, which under the circumstances, would be unjust to allow Defendant to retain.

124. Defendant's unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein. Defendant's enrichment resulted from its unfair practice of charging consumers through a default-on negative option without their affirmative consent, independent of any deception.

125. Plaintiff and the Class, therefore, seek disgorgement of all wrongfully obtained fees received by Defendant as a result of its inequitable conduct as more fully stated herein.

SIXTH CLAIM FOR RELIEF
Breach of Contract and
Breach of the Implied Covenant of Good Faith and Fair Dealing
(On Behalf of Plaintiff and the Class)

126. Plaintiff repeats and realleges the above allegations as if fully set forth herein.

127. Plaintiff and Defendant contracted for the purchase of merchandise. Headbanger offered free shipping on Plaintiff's order and performed that offer by excluding standard shipping costs at checkout, and Plaintiff accepted by proceeding through checkout. Free shipping was therefore a term of the parties' contract.

128. No contract provision authorizes Defendant to charge add-on fees to customers, and Plaintiff never affirmatively selected or agreed to purchase Headbanger Shipping Protection. Defendant breached the terms of its contract with consumers by charging add-on fees such as the Shipping Protection Fee.

129. Alternatively, every contract contains an implied covenant of good faith and fair dealing. Defendant breached that covenant by exercising its control over the checkout process to insert an optional, pre-selected charge that Plaintiff and Class members did not select, thereby depriving them of the benefit of their bargain to purchase only the merchandise they chose with free shipping.

130. Plaintiff and members of the Class have performed all, or substantially all, of the obligations imposed on them under the contract.

131. Plaintiff and members of the Class have sustained damages as a result of Defendant's breach of the contract and breach of the implied covenant of good faith and fair dealing.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class demands a jury trial on all claims so triable and judgment as follows:

(a) Certifying the proposed Class, appointing Plaintiff as representative of the Class, and appointing Plaintiff's counsel as class counsel for the proposed Class;

(b) For declaratory and public injunctive relief, including an order requiring Defendant to obtain consumers' affirmative selection before charging the Shipping Protection Fee, and for an order requiring Defendant to disgorge and make restitution of all monies it acquired by means of the unlawful practices set forth above;

(c) For compensatory damages according to proof;

(d) For punitive damages according to proof;

(e) For reasonable attorneys' fees and costs of suit;

(f) For pre-judgment interest at the maximum rate permitted by applicable law; and

(g) Awarding such other and further relief as this Court deems just, proper and equitable.

DEMAND FOR JURY TRIAL

Plaintiff and all others similarly situated hereby demand trial by jury on all issues in this Class Action Complaint that are so triable.

Dated: November 3, 2026

KALIELGOLD PLLC

By: */s/ Amanda J. Rosenberg*
Amanda J. Rosenberg
Sophia G. Gold

Attorneys for Plaintiff and the Putative Class

JS 44 (Rev. 04/21)

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

MELANIE RAMIREZ, on behalf of herself and all others similarly situated

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

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

Amanda J. Rosenberg, KalielGold PLLC, 490 43rd Street, No. 122, Oakland, CA 94609 (202) 350-4783

DEFENDANTS

HEADBANGER SPORTS

County of Residence of First Listed Defendant Palm City, Florida
(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
- ☒ 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)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☒ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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. §§ 1332(d)(2) and (6) and 28 U.S.C. § 1391

Brief description of cause:
Plaintiff seeks damages from Defendant for their deceptive addition of junk shopping fees to consumers' shopping carts.

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
November 3, 2026

SIGNATURE OF ATTORNEY OF RECORD
/s/ Amanda J. Rosenberg

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 pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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