

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN
COURT FILE NO.: 19-cv-181**

Quinton Carlson, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

Ford Motor Credit Company, LLC and
Patrick K. Willis Company, Inc. d/b/a/ SB
Investigations,

Defendants.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Quinton Carlson (hereinafter “Plaintiff”) brings this consumer class action on behalf of himself and other Wisconsin consumers similarly situated against Ford Motor Credit Company, LLC (hereinafter “Defendant FMCC”) for its violations of Wis. Stat. § 409.607 and against Defendant Patrick K. Willis Company, Inc. d/b/a SB Investigations (hereinafter “Defendant PKW”) (collectively hereinafter “Defendants”) for its violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et. seq.* (“FDCPA”).

PARTIES

1. Plaintiff is a natural person who resides in the city of Balsam Lake, county of Polk, state of Wisconsin.
2. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3) and an “account debtor” as defined by Wis. Stat. § 409.102(1)(am).

3. Defendant FMCC is a limited liability company organized under the laws of the state of Delaware; is authorized to do business in the state of Wisconsin, and regularly conducts business in said State, and has its headquarters located at Tax Department Ford WHQ Room 612, One American Road, Dearborn, MI 48126.
4. Defendant FMCC has designated CT Corporation System as its agent, located at 301 S. Bedford Street, Suite 1, Madison, Wisconsin 53703.
5. Defendant FMCC is a “secured party” as defined by Wis. Stat. § 409.102(1)(rs).
6. Defendant PKW is a collections company incorporated under the laws of California and, upon information and belief, regularly conducts business within the state of Wisconsin, and has a principal place of business located at 5118 Robert J. Mathews Parkway, El Dorado Hills, California 95762.
7. Defendant PKW is a “debt collector” as defined by 15 U.S.C. § 1692a(6) because it seeks to collect debts and enforce security agreements allegedly owed or due another.

JURISDICTION AND VENUE

8. Jurisdiction of this Court is proper pursuant to 15 U.S.C. § 1692, *et seq.*, 28 U.S.C. §§ 1331, and 1367 for pendent state law claims.
9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because Defendants reside in this District and a substantial part of the acts or omissions giving rise to this action occurred in this District.

FACTUAL ALLEGATIONS

Inception of Plaintiff's Loan and Subsequent Payment History

10. On December 31, 2015, Plaintiff went to AutoNation Ford (hereinafter the "Dealership"), located in White Bear Lake, Minnesota, to purchase a 2012 Ford F-150 (hereinafter the "Vehicle").
11. Plaintiff entered into a Retail Installment Contract and Security Agreement (hereinafter "RICS") with the Dealership, acting as both seller and creditor.
12. Pursuant to the terms of the RICS, Plaintiff was to repay the Dealership the entire amount financed through regular, monthly installments and the Dealership was granted a security interest in the Vehicle to secure repayment.
13. The RICS was contemporaneously assigned to Defendant FMCC.
14. Plaintiff purchased the Vehicle for personal, family, or household purposes.
15. The amount financed to purchase the Vehicle is, therefore, a "debt" as defined by 15 U.S.C. § 1692a(5).
16. From the inception of the loan through July of 2016 Plaintiff made his payments to Defendant FMCC in accordance with, or largely in accordance with, the RICS.
17. Plaintiff fell behind on his payments to Defendant FMCC beginning in August of 2016.
18. Sometime thereafter, Defendant FMCC retained Defendant PKS to collect Plaintiff's Vehicle by self-help repossession or other means.
19. At all times herein relevant, Defendant PKS was acting as Defendant FMCC's agent and was acting within the course and scope of that agency.

Applicable Law

The FDCPA and Wisconsin Law

20. In recognition of the fact that “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors” and the acute damage caused by such practices, Congress enacted the FDCPA. *See*, 15 U.S.C. § 1692(a).
21. The FDCPA proscribes specific and general practices deemed by Congress to be abusive, deceptive, or unfair.
22. Section 1692b(2) provides that “[a]ny debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall not state that such consumer owes any debt. 15 U.S.C. § 1692b(2).
23. Section 1692c(b) provides that “a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer” except in specific circumstances not present in this case. 15 U.S.C. § 1692c(b).
24. Section 1692d provides that a “debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.” 15 U.S.C. § 1692d.
25. Section 1692e provides that a “debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.” 15 U.S.C. § 1692e.

26. Section 1692e(5) specifically prohibits a debt collector from making a “threat to take any action that cannot legally be taken or that is not intended to be taken.” 15 U.S.C. § 1692e(5).
27. Section 1692f provides that a “debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.
28. Pursuant to Wisconsin law, if a secured party “undertakes to collect from or enforce an obligation from an account debtor,” it must do so in a “commercially reasonable manner.” Wis. Stat. § 409.607(3).
29. If a secured party undertakes to collect from or enforce an obligation for an account debtor and fails to do so in a commercially reasonable manner, it shall be liable for the losses caused, pursuant to Wis. Stat. § 409.625.

Defendant PKW’s Insidious Debt Collection Practices

30. On or about January 31, 2019, at or about 12:29 p.m., Plaintiff received a voicemail from Defendant PKW’s agent, an individual identifying himself as “Shawn Michaels”, claiming he was working for a company named “SB Investigations,” from the telephone number 1-855-844-2570, and stating, in relevant part, that he needed to speak with Plaintiff and make arrangements to pick up Plaintiff’s Vehicle.
31. That same day, at or about 12:44 p.m. Plaintiff called Defendant PKW’s agent back and engaged in a conversation with him.
32. Defendant PKW’s agent stated that Plaintiff needed “to do the right thing” and surrender his Vehicle.

33. Defendant PKW's agent asked Plaintiff how he could "convince" Plaintiff "to do the right thing."
34. Defendant PKW's agent then asked Plaintiff, "Do you think Alexandra [Plaintiff's daughter] or Noah [Plaintiff's brother] might help me find the truck?"
35. Defendant PKW's agent asked Plaintiff if he thought Plaintiff's son, Anthony was aware that Plaintiff was behind on payments to Defendant FMCC.
36. Defendant PKW's agent's conduct, his threat to disclose details of Plaintiff's alleged debt to Defendant FMCC to Plaintiff's family members, is in violation of 15 U.S.C. §§ 1692d, 1692e, 1692e(5) and 1692f.
37. Plaintiff terminated the telephone call shortly thereafter.
38. That same day, at or about 1:00 p.m., Plaintiff's son Anthony received a telephone call from the telephone number 1-855-844-2570.
39. Anthony answered the telephone call and Defendant PKW's agent identified himself as "Shawn Michaels" and asked Anthony if he knew a "Quinton Carlson" or a "Lisa Carlson."
40. Unnerved by Defendant PKW's agent's questions and demeanor, Anthony responded "No."
41. Defendant PKW's agent responded, "That's too bad. I was going to offer you a cash reward for any information on Quinton Carlson's whereabouts or any information that would help me repossess the truck."
42. Defendant PKW's agent continued, "I will try reaching out to other family members."

43. Defendant PKW's agent's conduct, disclosing details of Plaintiff's alleged debt to Defendant FMCC to Anthony and offering him compensation to aid in his efforts to repossess Plaintiff's Vehicle, is in violation of 15 U.S.C. §§ 1692b(2), 1692c(b), and 1692f.
44. Defendant FMCC may be held accountable for Defendant PKW's conduct for Defendant FMCC has a nondelegable duty to ensure that collection efforts done at its behest are in accordance with the law. *See, e.g., Walser Leasing, Inc. v. Simonson*, 355 N.W.2d 545, 546 (Wis. Ct. App. 1984).
45. Defendant FMCC's failure to do so is "commercially unreasonable" and in violation of Wis. Stat. § 409.607(3).
46. Anthony terminated the telephone call shortly thereafter.
47. Anthony immediately informed Plaintiff of what had transpired.
48. Plaintiff then called Defendant FMCC at the telephone number 877-231-8641.
49. Plaintiff was connected with Defendant FMCC's agent, Valerie.
50. Plaintiff informed Valerie of what had transpired—that Defendant PKW's agent, specifically "Shawn Micheals" called him, threatened to disclose details of Plaintiff's alleged debt to Defendant FMCC to various family members, did, in fact, disclose such to Plaintiff's son, Anthony, and, moreover, offered Anthony compensation in exchange for information regarding either Plaintiff's whereabouts or information that would lead to the repossession of Plaintiff's Vehicle.
51. In response, Valerie stated, "Yeah, it's a finder's fee. There's nothing wrong with that."

52. Defendant FMCC's complicity in Defendant PKW's egregious debt collection practices is commercially unreasonable and in violation of Wis. Stat. § 409.607(3).
53. Plaintiff was in disbelief.
54. Before terminating the telephone call, Plaintiff asked Valerie to have another of Defendant FMCC's agents, one who had actually worked with his account, to contact Plaintiff.
55. Though Valerie confirmed that an agent would contact Plaintiff, that never transpired.
56. Upon information and belief, Defendant PKW regularly engages in such conduct and Defendant FMCC regularly condones and authorizes such illegal collection conduct.
57. As a result of Defendants' violations of the FDCPA and Wisconsin law, Plaintiff suffered actual damages in the form of humiliation, embarrassment, anger, stress, frustration and other types of emotional distress and mental anguish.

Class Action Allegations

58. Plaintiff brings this Complaint on behalf of himself and all other Wisconsin consumers similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure.
59. The first class that Plaintiff seeks to certify, hereinafter the "FDCPA Class," is defined as follows:

All Wisconsin consumers who, within one (1) year of the filing of this Complaint, were subjected to Defendant PKW's insidious debt collection practices as described herein.

60. The FDCPA class shall be subject to the following exclusions, the above criterion notwithstanding: (1) Counsel for Plaintiff and the FDCPA Class; (2) Counsel for Defendants; and (3) the assigned Judge, Magistrate Judge, and their clerks and staff.
61. The second class that Plaintiff seeks to certify, hereinafter the “Commercially Unreasonable Practices Class,” is defined as follows:

All Wisconsin consumers who, within three (3) years of the filing of this Complaint, were subjected to Defendant FMCC’s commercially unreasonable practices as described herein.

62. The Commercially Unreasonable Practices Class shall be subject to the following exclusions, the above criterion notwithstanding: (1) Counsel for Plaintiff and the Commercially Unreasonable Practices Class; (2) Counsel for Defendants; and (3) the assigned Judge, Magistrate Judge, and their clerks and staff.
63. This action may properly be maintained as a class action for the FDCPA Class and the Commercially Unreasonable Practices Act Class each satisfy the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23(a)-(b) of the Federal Rules of Civil Procedure for certification.

Numerosity

64. Defendant FMCC represents that it “is a leading automotive financial services company,” providing such services “around the world.” *See*, www.linkedin.com/company/ford-motor-credit-compnay (last access March 4, 2019).

65. Defendant PKW represents that it has hundreds of repossession agents working on its behalf to provide “complete repossession portfolio management solutions [to] major financial institutions.” See, www.americanrecoveryservice.com/about (last accessed March 4, 2019).
66. On or about January 31, 2019, Defendant PKW’s agent threatened to disclose the details of Plaintiff’s alleged debt to Defendant FMCC to Plaintiff’s family members, offered compensation to Plaintiff’s son, Anthony in exchange for information sought, and actually disclosed the details of Plaintiff’s alleged debt to Defendant FMCC to Plaintiff’s son.
67. Such conduct violates numerous sections of the FDCPA.
68. Defendant FMCC may be held accountable for Defendant PKW’s conduct for Defendant FMCC has a nondelegable duty to ensure that collection efforts done at its behest are in accordance with the law.
69. Defendant FMCC’s failure to do so is “commercially unreasonable” and in violation of Wis. Stat. § 409.607(3).
70. Moreover, Defendant FMCC’s complicity in Defendant PKW’s egregious debt collection practices is commercially unreasonable and in violation of Wis. Stat. § 409.607(3).
71. It is plausible that Defendants subjected a large number of Wisconsin consumers to the same or similar conduct.
72. Therefore, it is plausible that joinder of all those Wisconsin consumers into a single lawsuit would be impracticable.

73. The exact number of class members is unknown at this time but, upon information and belief, exceeds 50.
74. However, the exact number of class members, as well as their identities, is readily ascertainable through appropriate discovery, including, but not limited to, Defendants' business records.

Commonality

75. All members of the FDCPA Class and the Commercially Unreasonable Practices Class have had their rights violated by Defendants in the same manner.
76. Common questions of law and fact exist as to the FDCPA Class and the Commercially Unreasonable Practices Class such as:
 - a. Whether Defendants regularly instruct their agents to threaten to disclose the details of a debtor's alleged debt to a debtor's family members or others;
 - b. Whether Defendants regularly instruct their agents to offer compensation in exchange for information that will aid in the recovery of collateral;
 - c. Whether Defendants regularly instruct their agents to actually disclose the details of a debtor's alleged debt to a debtor's family members or others;
 - d. Whether Defendants otherwise authorized such conduct as described herein;
 - e. Whether Defendants' conduct as described herein is in violation of the FDCPA and/or Wisconsin law.
77. Common evidence will be used to resolve the claims asserted by the FDCPA Class and the Commercially Unreasonable Practices Class, such as:

- a. Defendants' policies and procedures regarding the means and manner of collection and, specifically, instructions given to agents regarding disclosure of a debtor's information and/or the offering of compensation in exchange for information.
78. These common questions of law and fact predominate over any questions affecting individual class members and the answers to these common questions of law and fact will advance the adjudication of the litigation as to all class members.

Typicality

79. Plaintiff's claims are typical of the claims brought by the FDCPA Class and the Commercially Unreasonable Practices Class.
80. Plaintiff's claims and the claims brought by the FDCPA Class and the Commercially Unreasonable Practices Class arise from Defendants' same conduct.
81. Accordingly, if brought and adjudicated individually, the claims would require proof of the same substantive facts.
82. Plaintiff has the same claim to statutory relief and has suffered the same injuries as the members of the FDCPA Class and the Commercially Unreasonable Practices Class.
83. Any defenses that Defendants may have regarding liability or quantum of damages with respect to Plaintiff's claims would generally be applicable to the members of the FDCPA Class and the Commercially Unreasonable Practices Class.

Adequacy

84. Plaintiff brings this lawsuit with the intention of stopping Defendants' unlawful practices and to recover for all Wisconsin consumers affected.
85. Plaintiff will fairly and adequately protect the interests of all members of the FDCPA Class and the Commercially Unreasonable Practices Class.
86. Plaintiff's counsel, the Consumer Justice Center, P.A., practices exclusively in the area of consumer rights litigation, having brought both numerous individual and class actions in United States District Courts around the country.
87. Plaintiff and his counsel will continue to vigorously advocate on behalf of the members of the FDCPA Class and the Commercially Unreasonable Practices Class.
88. Neither Plaintiff nor his counsel have an interest adverse to or in conflict with the interests of the members of the FDCPA Class or the Commercially Unreasonable Practices Class.
89. Plaintiff and his counsel are committed to expending the time, energy, and resources necessary to successfully adjudicate this action on behalf of the FDCPA Class and the Commercially Unreasonable Practices Class

Risk of Inconsistent or Dispositive Adjudications

90. Certification is appropriate pursuant to Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure because the prosecution of separate actions for each of the individual class members creates a risk of inconsistent or varying adjudication which would establish differing standards for Defendants and others engaged in vehicle financing and/or the enforcement of security interests.

91. Certification is appropriate pursuant to Rule 23(b)(1)(B) of the Federal Rules of Civil Procedure because the prosecution of separate actions by individual class members would, as a practical matter, be dispositive of the interests of all class members or could substantially impair or impeded their ability to protect their interests.
92. Certification is appropriate pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure because Defendants have acted or refused to act on grounds generally applicable to the members of the FDCPA Class and the Commercially Unreasonable Practices Class.

Superiority

93. Certification is appropriate pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure as a class action is superior to all other available methods to fairly and efficiently adjudicate this action.
94. Individual claims by the class members are wholly impracticable as the costs of such would likely exceed what any individual class member has at stake.
95. Thus, the members of the FDCPA Class and the Commercially Unreasonable Practices Class have little interest in prosecuting any litigation given the small amounts at stake relative to the cost, risk, delay, and uncertainty of recovery.
96. Concentrated litigation would permit similarly situated persons to prosecute their common claims efficiently, without unnecessary duplication of effort and expense and would, therefore, promote judicial economy.

97. The members of the FDCPA Class and the Commercially Unreasonable Practices Class had their rights violated by Defendants in the same manner.
98. Upon information and belief, few members of the FDCPA Class or the Commercially Unreasonable Practices Class are aware that Defendants' actions and inactions were wrongful.
99. The class notice mechanism provides an opportunity for members of the FDCPA Class and the Commercially Unreasonable Practices Class to learn of their rights and seek redress.

JURY TRIAL DEMANDED

100. Plaintiff is entitled to, and hereby demands, a trial by jury. U.S. Const. amend. VII; Fed. R. Civ. P. 38.

CLASS CAUSES OF ACTION

COUNT I.

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT—
15 U.S.C. § 1692 *et seq.***

Against Defendant PKW

101. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
102. On or about January 31, 2019, Defendant PKW threatened to disclose details of Plaintiff's alleged debt to Defendant FMCC to Plaintiff's family members, in violation of 15 U.S.C. §§ 1692d, 1692e, 1692e(5) and 1692f.

103. Shortly thereafter, Defendant PKW offered Plaintiff's son, Anthony compensation in exchange for information to aid in efforts to repossess Plaintiff's Vehicle and actually disclosed details of Plaintiff's alleged debt to Defendant FMCC, in violation of 15 U.S.C. §§ 1692b(2), 1692c(b), and 1692f.
104. Upon information and belief, Defendant PKW regularly engages in such conduct and, therefore, subjected members of the FDCPA Class to such conduct.
105. Plaintiff and the members of the FDCPA Class were damaged by Defendant PKW's conduct.
106. Accordingly, Plaintiff and members of the FDCPA Class are entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1), statutory damages of up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2), and reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

COUNT II.

VIOLATIONS OF WIS. STAT. § 409.607(3)

Against Defendant FMCC

107. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
108. On or about January 31, 2019, Defendant PKW threatened to disclose details of Plaintiff's alleged debt to Defendant FMCC to Plaintiff's family members, in violation of 15 U.S.C. §§ 1692d, 1692e, 1692e(5) and 1692f.
109. Shortly thereafter, Defendant PKW offered Plaintiff's son, Anthony compensation in exchange for information to aid in efforts to repossess Plaintiff's Vehicle and

actually disclosed details of Plaintiff's alleged debt to Defendant FMCC, in violation of 15 U.S.C. §§ 1692b(2), 1692c(b), and 1692f.

110. Upon information and belief, Defendant PKW regularly engages in such conduct.
111. Defendant FMCC may be held fully and completely liable for the conduct of Defendant PKW for it has a non-delegable duty to ensure that collection efforts engaged in on its behest and on its behalf are lawful.
112. Defendant FMCC's failure to do so is "commercially unreasonable" and in violation of Wis. Stat. § 409.607(3).
113. Defendant FMCC's complicity in Defendant PKW's egregious debt collection practices is commercially unreasonable and in violation of Wis. Stat. § 409.607(3).
114. Moreover, despite being actually aware of Defendant PKW's egregious debt collection practices, Defendant FMCC continued to retain Defendant PKW to act on its behalf, which is "commercially unreasonable" and in violation of Wis. Stat. § 409.607(3).
115. Upon information and belief, Defendant FMCC regularly engages in such conduct and, therefore, subjected members of the Commercially Unreasonable Practices Class to such conduct.
116. Accordingly, Plaintiff and the members of the Commercially Unreasonable Practices Class are entitled to recover from Defendant FMCC the resultant damages, to be determined at trial, pursuant to Wis. Stat. § 409.625.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that relief be granted as follows:

- certifying the FDCPA Class and the Commercially Unreasonable Practices Class as set forth herein;
- awarding Plaintiff actual and statutory damages against Defendant PKW for its violations of the FDCPA, pursuant to 15 U.S.C. § 1692k;
- awarding Plaintiff reasonable attorney's fees and costs against Defendant PKW, pursuant to 15 U.S.C. § 1692k;
- awarding members of the FDCPA Class actual and statutory damages, as well as reasonable attorneys' fees and costs, against Defendant PKW, pursuant to 15 U.S.C. § 1692k;
- awarding Plaintiff and members of the Commercially Unreasonable Practices Class their resultant damages, pursuant to Wis. Stat. § 409.625; and
- awarding Plaintiff, members of the FDCPA Class, and members of the Commercially Unreasonable Practices Class such other and further relief as this Court may deem just and proper.

Dated this 8th day of March 2019.

By: s/Thomas J. Lyons Jr.

Thomas J. Lyons, Jr., Esq.

MN Attorney I.D. #: 0249646

Katelyn R. Cartier, Esq.

WI Attorney I.D. #: 1099959

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Email: kcartier@consumerjusticecenter.com

VERIFICATION OF CLASS ACTION COMPLAINT
AND CERTIFICATION BY PLAINTIFF

STATE OF WISCONSIN)
) ss
COUNTY OF POLK_____)

I, Quinton Carlson, having first been duly sworn and upon oath, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Class Action Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Class Action Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Class Action Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Quinton Carlson
Quinton Carlson

Subscribed and sworn to before me
this 7th day of March 2019.

s/Jessica A. Fox
Notary Public

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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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):

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. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – 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.

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

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:

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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

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_____, 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)* _____
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Additional information regarding attempted service, etc: