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*Attorneys for Plaintiffs
and the Putative Class*

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>11 ASHLEY MELCHOR, CECELIA 12 LAHR, RYAN CHILDERS, ALI 13 KHOSOOI and JOAN WRIGHT, 14 individually and on behalf of others 15 similarly situated, 16 17 Plaintiffs, 18 vs. 19 20 CAPITAL ONE BANK (USA), 21 N.A., 22 23 Defendant.</p>	<p>CASE NO. '22CV1371 RBM BLM</p> <p><u>CLASS ACTION</u></p> <p>COMPLAINT FOR DAMAGES FOR VIOLATIONS OF:</p> <p>THE CALIFORNIA INVASION OF PRIVACY ACT, CAL. PEN. CODE 637.3 ET SEQ.</p> <p>JURY TRIAL DEMANDED</p>
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1 **INTRODUCTION**

2 1. Plaintiffs Ashley Melchor, Cecelia Lahr, Ryan Childers, Ali Khosoosi and Joan
3 Wright (“Plaintiffs”), on behalf of themselves and a Class of similarly situated
4 individuals defined below, bring this Class Action Complaint and Demand for
5 Jury Trial against Defendant Capital One Bank (USA) N.A. (“Defendant”) to put
6 a stop to its unlawful use, examination, and recording of Plaintiffs’ and putative
7 Class members’ biometric voice prints. Plaintiffs, for this Class Action
8 Complaint, allege as follows upon personal knowledge as to Plaintiffs’ own acts
9 and experiences and, as to all other matters, upon information and belief.

10 **NATURE OF THE ACTION**

- 11 2. Defendant utilizes a system that enables it to examine the voice of anyone that calls
12 it to determine the truth or falsity of the callers’ statements. The software combines
13 audio, voice, and artificial intelligence technologies to compare the callers’ voices
14 to a comprehensive database of recordings and metrics.
- 15 3. The system Defendant uses allows it to authenticate or refute the true identity of
16 callers, among other things. The system contains voice recognition software that
17 creates a biometric voice print of each caller. The system then allows Defendant
18 to analyze the callers’ voice prints to determine the truth or falsity of their
19 statements.
- 20 4. In 2020, Defendant’s Chief Information Officer Rob Alexander stated; “We have
21 successfully exited all of our data centers and gone all in on AWS, enabling instant
22 provisioning of architecture and rapid innovation. We are now able to manage data
23 at a much larger scale and unlock the power of machine learning.”¹

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28 ¹ <https://aws.amazon.com/solutions/case-studies/capital-one/>

1 5. Through using AWS, or Amazon Web Services, Defendant has Amazon Connect
2 Voice ID² which enables Defendant to perform real-time caller authentication and
3 fraud risk detection using ML-powered voice analysis.³

4 6. Amazon Connect Voice ID “analyzes speech attributes like rhythm, pitch, and tone
5 to create a digital voiceprint.”⁴

6 7. Defendant then “analyzes incoming audio and compares them with recordings.”⁵

7 8. Defendant does not obtain “express written consent” – or any consent – from any
8 callers before examining and analyzing their voices.

9 9. Recognizing the need to protect its residents from situations like these, California
10 enacted the California Invasion of Privacy Act (“CIPA”), and specifically Cal.
11 Pen. Code § 637.3, to regulate entities that examine or record California residents’
12 voice prints or voice stress patterns without obtaining the residents’ express
13 written consent first.

14 10. Despite this law, Defendant disregards California residents’ statutorily protected
15 privacy rights and unlawfully examines or records their voices in violation of
16 CIPA. Specifically, Defendant has violated (and continues to violate) CIPA
17 because it uses a system which examines or records California residents’ “voice
18 prints or voice stress patterns... to determine the truth or falsity of statements”
19 without their express written consent.

20 PARTIES

21 11. Plaintiffs are natural persons and a residents of the State of California.

22 12. Defendant is a federally chartered bank with its principal place of business located
23 outside of California.

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27 ² <https://aws.amazon.com/connect/customers/>

28 ³ <https://aws.amazon.com/connect/voice-id/?pg=ln&sec=uc>

⁴ <https://aws.amazon.com/connect/voice-id/?pg=ln&sec=uc>

⁵ <https://aws.amazon.com/connect/voice-id/?pg=ln&sec=uc>

JURISDICTION AND VENUE

- 13. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 Class members and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest, fees, and costs, and at least one Class member is a citizen of a state different from Defendant.
- 14. This court has personal jurisdiction over Defendant because Defendant conducts business in this State and within this judicial district and the conduct alleged in this Complaint occurred in, and/or emanated from, this State and within this judicial district. Additionally, Plaintiffs reside in this judicial district.
- 15. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to Plaintiffs’ claims took place within this District.

BACKGROUND

I. The California Invasion of Privacy Act

- 16. The California Legislature enacted the Invasion of Privacy Act to protect certain privacy rights of California residents. The legislature expressly recognized that devices and techniques which create a serious threat to privacy and the free exercise of personal liberties cannot be tolerated in a free and civilized society.
- 17. As part of the Invasion of Privacy Act, the California Legislature introduced Penal Code § 637.3. The purpose of the legislation was to prohibit any person or entity from using;

“any system which examines or records in any manner voice prints or other voice stress patterns of another person to determine the truth or falsity of statements made by such person without his or her express written consent given in advance of the examination or recordation.” Cal. Pen Code § 637.3

- 18. Creating a voice print requires extracting an individual’s phonetic features (including their unique speech patterns, tones, and other characteristics) from their

1 voice. As such, a voice print serves as an audible “fingerprint” which can directly
2 identify an individual and can even reveal the speaker’s behavioral traits.

3 19. The California Legislature intended to protect individuals from the unauthorized
4 examination and recording of their voice prints, especially when it takes place
5 without an individual’s knowledge or consent. Such surreptitious examination
6 poses a serious threat to California residents’ privacy and personal liberties.

7 20. Individuals may bring an action against the violator of this section of CIPA to
8 recover actual damages or \$1,000 for each violation, whichever is greater under
9 Cal. Penal Code §637.3(c).

10 **II. Defendant Violated the California Invasion of Privacy Act**

11 21. No later than 2020, Defendant integrated voice recognition and machine learning
12 into all its call centers.⁶

13 22. On October 14, 2020, Defendant’s Principal Data Scientist, Cailing Dong, stated;
14 “The importance of each word is measured.”⁷

15 23. Defendant recognizes consumers’ identities by (1) making a recording of the
16 initial call with the consumer (2) examining that recording to identify specific
17 stress patterns and other characteristics to create a “voice print” which is entered
18 into a database then (3) examining all subsequent calls from that consumer and
19 comparing the voice prints to those already on file for that consumer.

20 24. Defendant determines the truth or falsity of caller statements (even for first-time
21 callers) by examining patterns. Similar to a polygraph test, there are known
22 audible indications of lying such as (1) change in breathing (2) repeating words
23 or phrases (3) difficulty speaking⁸ (4) change in speech patterns (5) unusual rise
24 or fall in vocal tone⁹ (6) odd inflection (7) context of use of contractions (8) lack

27 ⁶ <https://aws.amazon.com/solutions/case-studies/capital-one/>

28 ⁷ <https://www.capitalone.com/tech/software-engineering/clickstream-data-advances-in-customer-intent-prediction/>

⁸ <https://www.businessinsider.com/11-signs-someone-is-lying-2014-4>

⁹ <https://www.forensicscolleges.com/blog/resources/10-signs-someone-is-lying>

1 of use of personal pronouns¹⁰ (9) using a high-pitched voice (10) sudden change
2 of volume (11) using phrases such as ‘I want to be honest with you,’ ‘honestly’ or
3 ‘let me tell you the truth’ (12) using words such as ‘uh,’ ‘like’ and ‘um’ and (13)
4 slip-ups and corrections¹¹ that can indicate a caller is not being truthful. Such a
5 system is exactly what the California Legislature was attempting to regulate when
6 it required express written consent prior to its use.

7 25. Defendant’s system uses the full audio of a call to determine its characteristics,
8 meaning Defendant analyzes unique acoustic and behavioral features of a caller’s
9 voice, including stress patterns to determine truth or falsity of statements.

10 26. Defendant did not obtain prior express written consent from Plaintiffs or Class
11 members to examine their voices or record their unique voice prints to determine
12 the truth or falsity of their statements in violation of Cal. Penal Code §637.3.

13 **FACTS SPECIFIC TO PLAINTIFFS**

14 27. Over the past two years Plaintiffs have called Defendant’s call center on numerous
15 occasions.

16 28. Starting with their first calls, Defendant began examining and analyzing Plaintiffs’
17 voices to attempt to ascertain the truthfulness of Plaintiffs’ statements.

18 29. Defendant also recorded Plaintiffs’ voices and created “voice prints” associated
19 with each Plaintiff.

20 30. Defendant then automatically input Plaintiffs’ voice prints into its biometric voice
21 print database.

22 31. When Plaintiffs subsequently called Defendant, Defendant utilized a system that
23 examined Plaintiffs’ voices again and compared them to the voice prints it stored
24 in its database from previous calls. Defendant did this to determine the truth or
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28 ¹⁰ <https://www.cnbc.com/2022/04/07/want-to-tell-if-someone-is-lying-to-you-a-body-language-expert-shares-the-biggest-signs-to-look-for.html>

¹¹ <https://time.com/5443204/signs-lying-body-language-experts/>

1 falsity of Plaintiffs’ statements, including to determine the true identity of
2 Plaintiffs.

3 32. Plaintiffs have called Defendant on numerous occasions since Defendant began
4 utilizing its voice analysis system. During at least one of these calls, Defendant
5 examined and recorded Plaintiffs’ voice prints and voice stress patters passively,
6 without Plaintiffs’ knowledge.

7 33. Plaintiffs did not give consent – written or otherwise – to Defendant to collect
8 voice prints and examine Plaintiffs’ voices for any purpose whatsoever.

9 34. Any applicable statute(s) of limitations has been tolled by the “delayed discovery”
10 rule. Plaintiffs did not know (and had no way of knowing) that their voices were
11 recorded for purposes of creating voice prints, or that their voice stress patterns
12 were examined, because Defendant kept this information secret.

13 35. Plaintiffs have been exposed to the risks and harmful conditions created by
14 Defendant’s violations of CIPA alleged herein.

15 36. Plaintiffs seek statutory damages under CIPA as compensation for the injuries
16 Defendant has caused.

17 **STANDING**

18 37. Defendant’s conduct constituted invasions of privacy because it disregarded
19 Plaintiffs’ statutorily protected rights to privacy, in violation of CIPA.

20 38. Defendant caused Plaintiffs to (1) suffer invasions of legally protected interests.
21 (2) The invasions were concrete because the injuries actually existed for Plaintiffs
22 and continue to exist every time they call Defendant. The privacy invasions
23 suffered by Plaintiffs and the Class were real and not abstract. Plaintiffs’ and the
24 Class have a statutory right to be free from voice examination without first
25 providing their express written consent. The voice examinations Defendant
26 performed were meant to determine truth or falsity of statements, similar to a
27 polygraph test. Plaintiffs and Class members were completely unaware they were
28 being subject to such a test. Plaintiffs’ injuries were not divorced from concrete

1 harm in that privacy has long been protected in the form of trespassing laws and
2 the Fourth Amendment of the U.S. Constitution for example. Like here, an
3 unreasonable search may not cause actual physical injury, but is considered serious
4 harm, nonetheless. (3) The injuries here were particularized because they affected
5 Plaintiffs in personal and individual ways. The injuries were individualized rather
6 than collective since each Plaintiff had their unique voices examined without
7 consent during different calls on separate occasions. (4) Defendant’s past invasions
8 were actual and future invasions are imminent next time Plaintiffs call Defendant.
9 Defendant continues to examine voices in California without express written
10 consent. A favorable decision by this court would redress the injuries of Plaintiffs
11 and the Class.

12 CLASS ACTION ALLEGATIONS

13 39. **Class Definition:** Plaintiffs bring this action pursuant to Federal Rules of Civil
14 Procedure 23 and on behalf of themselves and a Class defined as follows:

15 All residents of the State of California that had their voice
16 prints or other voice stress patterns examined or recorded by
17 Defendant to determine the truth or falsity of their statements.

18 40. The following people are excluded from the Class: (1) any Judge or Magistrate
19 presiding over this action and members of their families; (2) Defendant,
20 Defendant’s subsidiaries, parents, successors, predecessors, and any entity in
21 which the Defendant or its parents have a controlling interest and their current or
22 former officers and directors; (3) persons who properly execute and file a timely
23 request for exclusion from the Class; (4) persons whose claims in this matter have
24 been finally adjudicated on the merits or otherwise released; (5) Plaintiffs’ counsel
25 and Defendant’s counsel; and (6) the legal representatives, successors, and assigns
26 of any such excluded persons.

27 41. **Ascertainability and Numerosity:** The exact number of Class members is
28 unknown to Plaintiffs at this time, but Defendant has “43 million accounts and is

1 one of the world's largest consumer franchises"¹² making it one of the biggest
2 banks in the United States and California. Ultimately, members of the Class will
3 be easily identified through Defendant's records.

4 **42. Commonality and Predominance:** There are many questions of law and fact
5 common to the claims of Plaintiffs and the Class, and those questions predominate
6 over any questions that may affect individual members of the Class. Common
7 questions for the Class include, but are not necessarily limited to the following:

- 8 a. Whether Defendant used a system which examined, or recorded Plaintiffs'
9 and the Class's voice prints or voice stress patterns;
- 10 b. Whether Defendant used voice prints or voice stress patterns to determine the
11 truth or falsity of statements made by Plaintiffs and the Class; and
- 12 c. Whether Defendant obtained prior express written consent from Plaintiffs
13 and the Class members.

14 **43. Typicality:** Plaintiffs' claims are typical of the claims of all the other members of
15 the Class. Plaintiffs and the Class members sustained substantially similar injuries
16 as a result of Defendant's uniform wrongful conduct, based upon the same
17 interactions with Defendant that were made without exception as to Plaintiffs and
18 the Class.

19 **44. Adequate Representation:** Plaintiffs will fairly and adequately represent and
20 protect the interests of the Class and have retained counsel competent and
21 experienced in complex litigation and class actions. Plaintiffs have no interests
22 adverse to the Class, and Defendant has no defenses unique to Plaintiffs. Plaintiffs
23 and their counsel are committed to vigorously prosecuting this action on behalf of
24 the members of the Class and have the financial resources to do so. Neither
25 Plaintiffs nor their counsel have any interest contrary to those interests of the of
26 the Class.

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28 ¹² <https://investor.capitalone.com/static-files/0c2d9b75-bd5a-45cf-8c04-5b4d2e505aa3#:~:text=It%20has%2043%20million%20accounts,the%20world's%20largest%20consumer%20franchises>

1 45. **Superiority:** This case is appropriate for class certification because class
2 proceedings are superior to all other available methods for the fair and efficient
3 adjudication of this controversy because joinder of all parties is impracticable. The
4 damage suffered by the individual members of the Class will likely be relatively
5 small, especially given the burden and expense of individual prosecution of the
6 complex litigation necessitated by Defendant’s actions. Thus, it would be virtually
7 impossible for the individual members of the Class to obtain effective relief from
8 Defendant’s misconduct. Even if members of the Class could sustain such
9 individual litigation, it would still not be preferable to a class action because
10 individual litigation would increase the delay and expense to all parties due to the
11 complex legal and factual controversies presented in this Complaint. By contrast,
12 a class action presents far fewer management difficulties and provides the benefits
13 of single adjudication, economies of scale, and comprehensive supervision by a
14 single Court. Economies of time, effort, and expense will be fostered, and
15 uniformity of decisions ensured.

16 **CAUSE OF ACTION**

17 **Violation of Cal. Penal Code § 637.3**

18 **(On Behalf of Plaintiffs and the Class)**

19 46. Plaintiffs incorporate the foregoing allegations as though fully set forth herein.

20 47. CIPA prohibits any person or entity from using “any system which examines or
21 records in any manner voice prints or other voice stress patterns of another person
22 to determine the truth or falsity of statements made by such person without his or
23 her express written consent given in advance of the examination or recordation.”
24 Cal. Penal Code § 637.3(a).

25 48. Defendant is a bank and therefore an “entity” under CIPA. *Id.*

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1 49. Defendant utilizes software that creates a “system” under CIPA because it
2 examines, or records Plaintiffs’ and the Class’s voice prints or other voice stress
3 patterns.

4 50. Defendant utilized the system to examine or record the voice prints of Plaintiffs
5 and the Class when they called Defendant’s customer support lines that were
6 connected to the voice printing and analysis system.

7 51. Defendant examined or recorded Plaintiffs’ and the Class members’ voice prints
8 to determine the truth or falsity of their statements – including, for example, their
9 statements about who they claimed to be.

10 52. Defendant did not obtain prior express written consent from Plaintiffs and the
11 Class to use, examine, or record their voice prints or voice stress patterns for any
12 purpose whatsoever.

13 53. On behalf of Plaintiffs and the Class, Plaintiffs seek: (1) injunctive and equitable
14 relief as is necessary to protect the interests of Plaintiffs and the Class by requiring
15 Defendant to comply with CIPA’s requirements for the use, recording, and
16 examination of voice prints or other voice stress patterns as described herein; and
17 (2) damages of \$1,000 for each violation of CIPA pursuant to Cal. Penal Code §
18 637.3(c).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs, on behalf of themselves and the Class,
21 respectfully requests this Court to enter an order:

22 A. Certifying this case as a class action on behalf of the Class defined above
23 pursuant to Federal Rule of Civil Procedure 23, appointing Plaintiffs as the
24 representatives of the Class, and appointing Plaintiffs’ counsel as Class
25 Counsel;

26 B. Declaring that Defendant’s actions, as described above, violated CIPA;

27 C. Awarding statutory damages of \$1,000 for each violation of CIPA pursuant to
28 Cal. Penal Code § 637.3(c);

- 1 D. Awarding injunctive and other equitable relief as is necessary to protect the
2 interests of the Class;
- 3 E. Awarding Plaintiffs and the Class their reasonable litigation expenses and
4 attorneys' fees;
- 5 F. Awarding Plaintiffs and the Class pre- and post-judgement interest, to the
6 extent allowable; and
- 7 G. Awarding such other and further relief as equity and justice may require.

8 **JURY TRIAL**

9 Pursuant to the Seventh Amendment of the United States Constitution,
10 Plaintiffs demand a trial by jury for all issues so triable.

11
12 Respectfully submitted,

13
14 **SWIGART LAW GROUP**

15
16 Date: September 11, 2022

17 By: s/ Joshua Swigart
18 Joshua B. Swigart, Esq.
19 Josh@SwigartLawGroup.com
20 Attorney for Plaintiffs

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
Ashley Melchor, Cecelia Lahr, Ryan Childers, Ali Khosooi & Joan Wright, individually and on behalf of others
(b) County of Residence of First Listed Plaintiff San Diego
(c) Attorneys (Firm Name, Address, and Telephone Number)
Swigart Law Group, 2221 Camino Del Rio S, Ste 308 San Diego, CA 92108 - 866-219-3343 & Daniel Shay, Esq

DEFENDANTS
Capital One Bank (USA), N.A.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
'22CV1371 RBM BLM

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

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

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

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and categories.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 Transferred from Another District (specify)
[] 6 Multidistrict Litigation - Transfer
[] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Class Action Fairness Act (CAFA), 28 U.S.C. § 1332(d) and California Invasion of Privacy Act (CIPA), Cal. Pen .Code 637.3 et seq.
Brief description of cause:
Illegal examining or recording of voice prints or other voice stress patterns without express written consent.

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

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

DATE 9/11/2022 SIGNATURE OF ATTORNEY OF RECORD s/ Joshua B. Swigart

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
