

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

**LEGINA AND TODD THOMAS,**

**Plaintiffs,**

**vs.**

**No.:** \_\_\_\_\_

**DR. MARY KAVEN PH.D., JILL STRAIT, and  
DR. ANILLA DEL FABBRO M.D., in their  
individual capacities,**

**Defendants.**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR DAMAGES TO REMEDY FEDERAL  
CIVIL RIGHTS VIOLATIONS**

**Introduction**

LeGina and Todd Thomas bring this Complaint for violations of the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C §§ 1983 and 1988. Specifically, Plaintiffs contend that because they disagreed with Defendants’—employees of the University of New Mexico Children’s Psychiatric Hospital—diagnoses of their twelve year old daughter (hereinafter “M.T.”) and recommendation that they authorize the administration of potent psychotropic medication to her, Defendants accused Plaintiffs of medical neglect and initiated proceedings to override Plaintiffs’ right to make decisions on behalf of M.T. In so doing, Defendants unconstitutionally interfered with Plaintiffs’ relationship to M.T. and their right to direct the care and upbringing of their child. In addition, Plaintiffs contend that Defendants retaliated against them for disagreeing with Defendants’ diagnoses and refusing to authorize Defendants to dispense psychotropic medication to their daughter in violation of the First Amendment.

In short, soon after M.T., a twelve year old girl who did not have a history of mental illness, was transported to the University of New Mexico Children's Psychiatric Hospital for an evaluation, Defendants diagnosed her with depression and likely schizophrenia and began to insist that the Plaintiffs authorize the administration of strong psychotropic drugs to M.T. Thereafter, M.T.'s diagnosis evolved to include psychosis, major depressive disorder, and borderline personality disorder, and Defendants began to insist on prescribing M.T. even more psychotropic medication. For a number of reasons, discussed in detail below, Plaintiffs questioned the Defendants' diagnoses and the propriety of prescribing psychotropic medication with significant and documented side effects as a first treatment option and refused to authorize any such prescription medications to M.T. Because Plaintiffs refused to authorize the administration of prescription medication and questioned Defendants' diagnoses of M.T., Defendants accused Plaintiffs of medical neglect, took temporary custody of M.T., and initiated proceedings to revoke Plaintiffs' right to make medical decisions for M.T. When Plaintiffs' insurance denied continued coverage, however, Defendants abandoned their petition for involuntary commitment and told Plaintiffs to pick up M.T. immediately despite M.T.'s report a day prior that her symptoms were the most pronounced they had been during her multi-week stay.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. § 1343. Venue is proper in this district as Defendants Dr. Anita Del Fabbro M.D., Dr. Mary Kaven Ph.D., and Jill Strait are residents of New Mexico. Venue is proper in this district as all acts complained of occurred in New Mexico.

### **PARTIES**

2. Plaintiffs LeGina Thomas (hereinafter “Mrs. Thomas”) and Todd Thomas (hereinafter “Mr. Thomas”) are residents of the State of New Mexico and are the parents and legal guardians of M.T., a minor.

3. Defendant Dr. Anilla Del Fabbro M.D. (hereinafter “Dr. Del Fabbro”) was, at all relevant times herein a psychiatrist employed by the University of New Mexico Children’s Psychiatric Hospital, a New Mexico state entity.

4. At all times material to this complaint, Defendant Dr. Del Fabbro was acting within the scope of her employment and under color of state law.

5. Defendant Dr. Mary Kaven Ph.D. (hereinafter “Dr. Kaven”) was, at all relevant times herein a psychologist employed by the University of New Mexico Department of Psychiatry, a New Mexico state entity.

6. At all times material to this complaint, Defendant Dr. Kaven was acting within the scope of her employment and under color of state law.

7. Defendant Jill Strait (hereinafter “Ms. Strait”) was, at all relevant times herein a therapist employed by the University of New Mexico Children’s Psychiatric Hospital, a New Mexico state entity.

8. At all times material to this complaint, Defendant Ms. Strait was acting within the scope of her employment and under color of state law.

### **FACTS**

9. On or about April 12, 2010, LeGina and Todd Thomas learned that their minor daughter, M.T., who was twelve years old, may have had sexual contact with a friend’s older brother while sleeping over at her friend’s house a few days prior.

10. Plaintiffs did not know the age of the older brother, if M.T. did in fact have sex with him and, if so, whether the sex was consensual. To ensure that their daughter was not the victim of a sexual assault, they called the Lea County Sheriff's Department to investigate.

11. During that investigation, M.T. told the responding officer she wanted to injure herself. As a result, the responding officer became concerned that M.T. was suicidal, and he requested that another officer conduct a suicide prevention screen. The screening officer felt that M.T. was at risk and transported her to Nor-Lea General Hospital in Lovington, New Mexico, but noted that, when asked, M.T. did not report seeing or hearing things that were not there.

12. After evaluating M.T., Nor-Lea Hospital staff and representatives of the Children, Youth, and Family Department (hereinafter "CYFD") were also concerned that M.T. was threatening to injure herself and that she did not want to return home.

13. A CYFD representative told Mrs. Thomas that if she did not transfer her daughter to the University Of New Mexico Children's Psychiatric Hospital (hereinafter "Children's Psychiatric Hospital") for a mental health evaluation, CYFD would take custody of M.T.

14. Plaintiffs consented to the transfer and the evaluation; and on or about April 13, 2010, M.T. arrived at the Children's Psychiatric Hospital.

15. Plaintiffs explained to the hospital staff during intake that although they were concerned about M.T.'s statements that she had thoughts of injuring herself and wanted to rule out mental illness, they suspected M.T. was not truly suicidal and was claiming she was in order to divert attention from the incident with her friend's older brother. They further explained that M.T. had not been symptomatic until questioned about that incident.

16. Although Plaintiffs questioned the accuracy of M.T.'s self-reports, records indicate that throughout M.T.'s stay Plaintiffs were very concerned about M.T.'s well-being and

made great effort to be involved and informed in order to assist in decision making on M.T.'s behalf.

17. During intake, M.T. first reported that she had attempted suicide thirty times. Then she reported that she attempted suicide three times. Plaintiffs reported that she had never attempted suicide.

18. Throughout M.T.'s stay, M.T.s medical records also reflect disagreement between staff as to whether M.T. was in fact suicidal.

19. A day after M.T. was admitted, on April 14, 2010, Dr. Del Fabbro called Mrs. Thomas to advise her that she believed M.T. was depressed, likely schizophrenic, and that M.T. was experiencing visual and auditory hallucinations. Dr. Del Fabbro also told the Plaintiffs that their insurance was very good and usually approved coverage for any tests or treatments that she recommended.

20. Dr. Del Fabbro recommended M.T. take a selective serotonin reuptake inhibitor ("SSRI") to treat her depression. She further explained that the medication would help with M.T.'s poor grades and behavioral issues at school.

21. In reply, Mrs. Thomas stated that M.T. was doing well in school and that there had not been any behavioral concerns up until this incident. She offered to provide Dr. Del Fabbro with M.T.s Individualized Educational Plan, which documented M.T.s placement in the gifted program in her public school since she was in first grade. Mrs. Thomas also told Dr. Del Fabbro that she would send a copy of M.T.'s most recent report card, which documented that she was doing quite well in school.

22. Mrs. Thomas reiterated that, although she was concerned about M.T.'s suicidal ideation, M.T. had not demonstrated any of the current symptoms until confronted about the

incident with her friend's brother, including any indication that M.T. had been experiencing visual and/or auditory hallucinations; she asked the brand name of the recommended medication so she could research it; and she advised that she did not give permission for the Children's Psychiatric Hospital to dispense and administer psychotropic medicine to M.T. at that time.

23. She further advised Dr. Del Fabbro that, if after testing the doctor's preliminary diagnoses were confirmed, she wanted to explore other treatment options, including counseling, before resorting to psychotropic medication. Dr. Del Fabbro stated that she did not know how long the hospital could treat M.T. if Plaintiffs would not authorize the administration of psychotropic medication to M.T.

24. In addition, Mrs. Thomas asked Dr. Del Fabbro how many of her patients were on psychotropic medication, to which the doctor replied that they all were, otherwise they would not be at the Children's Psychiatric Hospital.

25. After speaking with Dr. Del Fabbro, Mrs. Thomas researched the side effects of SSRIs on the internet. SSRIs carry a black box warning from the Food and Drug Administration ("F.D.A."), the most serious warning the F.D.A. can issue, that SSRIs are known to increase suicidal thoughts and behaviors in children and adolescents.

26. On April 16, 2010, Dr. Del Fabbro called Mrs. Thomas again to express her concern that M.T. reported experiencing visual and auditory hallucinations for years and to recommend that M.T. start taking SSRIs.

27. Mrs. Thomas again refused the psychotropic medication, pointing to both her concerns that M.T. was malingering and the black box warning on SSRIs. Mrs. Thomas stressed that her daughter had not been symptomatic until confronted about the incident with M.T.'s friend's brother and that she believed if M.T. was in fact experiencing visual and auditory

hallucinations she would have noticed and would expect that M.T. would be having trouble focusing and performing in school. Still, she explained that if she were to become confident in the diagnoses, she would consider authorizing psychotropic medication if necessary for the health and safety of M.T.

28. Despite Mrs. Thomas's refusal of SSRIs, a nurse talked to M.T. on April 16, 2010 about SSRIs and why they are helpful.

29. On or about April 16, 2010, Mrs. Thomas faxed Dr. Del Fabbro M.T.'s individualized education plan, a progress report, and a letter from M.T.'s principal, stating that M.T. had not had any behavioral issues at school.

30. Because Mrs. Thomas refused psychotropic medication for M.T., on April 16, 2010, M.T.'s treatment team at the Children's Psychiatric Hospital, which included Defendants Dr. Del Fabbro, Dr. Kaven, and Ms. Strait, determined that going home was not a good option for M.T. and that she should go to a residential treatment facility upon release from the Children's Psychiatric Hospital.

31. Initially, Mrs. Thomas agreed to consider placing M.T. in a residential treatment facility, but the more she communicated with the doctors treating her daughter the more she distrusted their recommendations.

32. On April 21, 2010, Mrs. Thomas explained to M.T.'s therapist, Ms. Strait, that she would not be able to attend a family session in person given finances, Mr. Thomas's work schedule, and her three other children, but asked if video conferencing would be possible.

33. Mrs. Thomas also asked Ms. Strait to see a copy of M.T.'s psychological evaluation, completed on April 20, 2010, by Dr. Kaven, so that she could make an informed decision regarding the administration of psychotropic medications to her daughter. Ms. Strait

told her that she could only get the complete results of the evaluation in person, but she did tell Mrs. Thomas that her daughter had been diagnosed with major depressive disorder, early onset schizophrenia, and borderline personality disorder.

34. Ms. Strait also stated that M.T.'s doctors thought that M.T. may be mentally retarded and because she had been diagnosed with petite mal seizures when she was a toddler they were concerned that the suspected mental retardation, petite mal seizures, and schizophrenia may somehow combine and result in M.T. never returning to reality.

35. Mrs. Thomas explained that she was surprised that the doctors would suspect that M.T., who had been in gifted classes since she was in first grade and had a high IQ, was mentally retarded. She also told Mrs. Strait that M.T. had not had a seizure since she was a toddler and her medical records would reflect that fact.

36. Following this discussion, Mrs. Thomas researched borderline personality and learned that, according to the Diagnostic and Statistical Manual of Mental Disorders, therapists are strongly discouraged from diagnosing borderline personality disorder in adolescence because their personalities are not yet developed.

37. After learning that borderline personality would be a very unusual diagnosis for a twelve year old, Mrs. Thomas called Ms. Strait back to discuss this particular diagnosis. When she asked Ms. Strait to repeat the diagnoses, in case she had misheard the first time, Ms. Strait again stated that M.T. had been diagnosed with borderline personality. Mrs. Thomas then asked about the propriety of diagnosing a twelve year old with the disorder; and Ms. Strait said that she had misspoke, M.T. had only been diagnosed with borderline personality traits.



38. Because Mrs. Thomas felt she had been misled and because she was certain that M.T. was not mentally retarded, she began to lose faith in M.T.'s team's assessment of her daughter.

39. On April 22, 2010, M.T.'s medical records reflect that Dr. Del Fabbro was aggravated with Mrs. Thomas for not allowing M.T. to take psychotropic medication. And because of Plaintiffs continued rejection of the recommendation that their daughter take psychotropic medication, M.T.'s team began to consider referring Plaintiffs to CYFD for medical neglect.

40. On or about April 26, 2010, Dr. Del Fabbro called Mrs. Thomas to discuss her previous, rejected, recommendation that M.T. take SSRIs and her new recommendation that M.T. also take antipsychotics and melatonin. Mrs. Thomas again rejected the recommendations, both old and new. She also reiterated that she would prefer to try other treatments before resorting to pharmaceuticals.

41. During this conversation, Mrs. Thomas stated that she was concerned about the lack of communication from the hospital and that she wanted to see M.T.'s evaluation summary, completed on April 20, 2010. Mrs. Thomas explained that she did not want to approve the administration of psychotropic medication unless she felt confident in the team's diagnoses. Dr. Del Fabbro told her that she would only provide that information if the Plaintiffs drove approximately five hours to receive the information in person. Mrs. Thomas explained that she had three other children at home and did not have child care to accommodate an overnight trip and asked that Dr. Del Fabbro fax the evaluation to her and they could have a phone conversation about their findings. Dr. Del Fabbro refused.

42. On April 27, 2010, Ms. Straits contacted CYFD to voice her concerns that the Plaintiffs' distrusted the Children's Psychiatric Hospital's diagnoses and their refusal to allow the administration of psychotropic medication to M.T.

43. On April 28, 2010, Mrs. Thomas advised Ms. Straits that she would be able to attend an in person meeting with M.T.'s treatment team the following day and would listen to the doctors' explanation of their diagnoses with an open mind, but she was inclined to sign out M.T. against medical advice. She also provided Ms. Straits with her treatment plan for M.T. after she took her home, which included outpatient therapy.

44. Following this conversation Straits contacted CYFD to report Plaintiffs' purported medical neglect of M.T. that same day; Dr. Kaven ordered staff to surreptitiously monitor M.T.'s calls with her family.

45. On April 29, Mrs. Thomas met in person with Dr. Del Fabbro, Dr. Kaven, and therapist, Ms. Straits, to discuss M.T.'s Psychological Evaluation. Dr. Kaven reported that M.T. had major depressive disorder with psychosis, borderline traits, and post-traumatic stress disorder. Despite having told the Plaintiffs that M.T. was schizophrenic from the day after she was admitted forward, the doctors' had abandoned this diagnosis.

46. In this conversation, Dr. Kaven stated that Plaintiffs' insurance was very good because it was willing to pay for anything and everything that other insurance companies would not cover. Dr. Kaven also informed Mrs. Thomas that they had put M.T. on a waiting list for a residential treatment facility without seeking her prior authorization.

47. Mrs. Thomas again explained that she did not believe M.T. was in fact suicidal, she did not believe that M.T. was experiencing visual and auditory hallucinations, and she did not authorize the administration of psychotropic medication to M.T.

48. In reply, Dr. Fabbro told Mrs. Thomas that she was taking emergency medical custody of M.T. because she did not believe Mrs. Thomas was competent to make medical decisions on her behalf. On April 29, 2010, Dr. Del Fabbro placed M.T. on a five day medical hold so that Mrs. Thomas could not sign M.T. out of the Children's Psychiatric Hospital and take her home, citing Plaintiffs' refusal to allow M.T. to take psychotropic medication and Mrs. Thomas's distrust of the doctors' various diagnoses.

49. On April 30, 2010, Dr. Del Fabbro initiated proceedings to commit M.T. to a residential treatment facility because Plaintiffs rejected her recommendations that M.T. take psychotropic medication and be released to a residential treatment facility. That same day, Dr. Kaven called CYFD to allege that the Plaintiffs had medically neglected M.T. for failing to authorize the administration of psychotropic medication to M.T. to treat her purported psychosis.

50. The following day, on May 1, 2010, a female patient entered M.T.'s room while she slept and attacked M.T. M.T. had a bump on her head and a headache the following day as a result of the attack. A nurse notified Mrs. Thomas that her daughter had been assaulted, but she was told that she could not talk to M.T. at that time.

51. When Mrs. Thomas was finally able to speak with M.T. over the phone that same day and asked M.T. about the incident, M.T. told her mother that she could not disclose the details of the assault because doing so would violate the privacy of the patient who attacked her. When her mother pressed for information, an unknown voice interjected that Mrs. Thomas did not need to know the details of the assault.

52. On May 4, 2010, M.T. reported that she was more suicidal than she had been during her entire stay, and her medical records indicated that the treatment plan was to continue M.T.'s hold at the Children's Psychiatric Hospital against Plaintiffs' wishes.

53. On May 4, 2010, M.T.'s involuntary commitment petition was filed and Children's Psychiatric Hospital sent notice of the commitment hearing, set in the Bernalillo County Second Judicial District Court for May 10, 2010, requesting M.T.'s involuntary commitment for a time not to exceed sixty days.

54. On information and belief, on or about May 5, 2010, the Children's Psychiatric Hospital received notice from Plaintiffs' insurance carrier that M.T.'s stay would no longer be covered.

55. On May 5, 2010, despite M.T. professing her highest level of suicidal ideation one day prior, Ms. Straits called Mrs. Thomas to tell her that she needed to pick up M.T. immediately because insurance was no longer paying for M.T.'s treatment at the Children's Psychiatric Hospital. Suddenly, the treatment team felt that there was an adequate safety plan in place to prevent imminent harm to M.T., and the hold was discontinued prior to M.T.'s scheduled court date.

56. Mrs. Thomas picked up M.T. from the Children's Psychiatric Hospital on May 6, 2010 and took her home.

57. Even though M.T.'s medical records indicated that some Children's Psychiatric Hospital staff believed that M.T. was not actually suicidal and Dr. Del Fabbro, Dr. Kaven, and Ms. Straits discharged M.T. and abandoned the petition for involuntary commitment, on May 7, 2010, Dr. Kaven contacted CYFD to again report the Plaintiffs for medically neglecting M.T. because Plaintiffs did not believe she was suicidal or experiencing auditory and visual hallucinations and they refused to authorize the administration of psychotropic drugs.

58. Since May of 2010, M.T. has continued to do well in school and has not demonstrated any signs of mental illness.

## CLAIMS

### **CLAIM FOR DAMAGES NO. 1 RETALIATION AGAINST PROTECTED SPEECH FIRST AMENDMENT VIOLATION**

59. Plaintiffs incorporate by reference the preceding paragraphs as though they were fully stated herein.

60. Defendants accused Plaintiffs of medical neglect and petitioned to involuntarily commit M.T. in retaliation for Plaintiffs protected speech questioning M.T.'s diagnoses and refusal to authorize the administration of prescription medications in violation of the First Amendment to the United States Constitution.

61. By placing M.T. on a hold, accusing Plaintiffs of medical neglect, and petitioning the court to involuntarily commit M.T., the Defendants caused injury to Plaintiffs that would chill a person of ordinary firmness from continuing to refuse to authorize the administration of strong psychotropic medication to M.T. and questioning the Defendants' diagnoses.

62. The adverse actions taken against Plaintiffs were substantially motivated by Plaintiffs refusal to authorize the administration of strong psychotropic medication to M.T. and questioning the Defendants' diagnoses of M.T.

### **CLAIM FOR DAMAGES NO. 2 VIOLATION OF THE RIGHT TO DIRECT THE CARE AND UPBRINGING OF A CHILD GUARANTEED BY THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION**

63. Plaintiffs incorporate by reference the preceding paragraphs as though they were fully stated herein.

64. Defendants violated the Fourteenth Amendment of the United States Constitution, which protects against undue interference with a parent's right to direct the care and upbringing

of a child, when they accused Plaintiffs of medical neglect for questioning their diagnoses and refusing to authorize the administration of psychotropic medication to M.T.

65. Refusal to authorize the administration of potent psychotropic medication and questioning Defendants' diagnoses did not give Defendants reasonable cause to accuse the Plaintiffs of medical neglect.

**CLAIM FOR DAMAGES NO. 3  
VIOLATION OF THE RIGHT TO FAMILIAL ASSOCIATION GUARANTEED BY  
THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE U.S.  
CONSTITUTION**

66. Plaintiffs incorporate by reference the preceding paragraphs as though they were fully stated herein..

67. Defendants violated Plaintiffs right to familial association, guaranteed by the Due Process Clause of the Fourteenth Amendment, when they held M.T. against Plaintiffs wishes.

68. By placing M.T. on a medical hold against Plaintiffs wishes and initiating proceedings to involuntarily commit M.T., Defendants deprived Plaintiffs of the right to associate with M.T.

69. Defendants' release of the hold and abandonment of the petition to involuntarily commit M.T. a day after M.T. reported being the most suicidal she had been throughout her stay demonstrates that the actions Defendants took to deprive Plaintiffs of their right to familial association with M.T. was unjustified.

**PRAYER FOR RELIEF**

**WHEREFORE** Plaintiffs LeGina Thomas and Todd Thomas, on behalf of M.T., respectfully request that the Court enter judgment in their favor including:

A. Compensatory damages against the Defendants in an amount sufficient to remedy the harm their unlawful conduct caused including, but not limited to, the emotional distress and

the reputational harm suffered by Plaintiffs or in the alternative, nominal damages.

B. Punitive damages against the Defendants for Plaintiffs' federal constitutional claims for the Defendants' malicious, reckless, wanton, willful, and knowing indifference to Plaintiffs' constitutional rights in an amount sufficient to deter the Defendants and other hospitals from violating the rights of others;

- C. Attorneys' fees;
- D. All costs associated with the lawsuit; and
- E. Any other relief the Court deems proper.

Respectfully Submitted,

By: /S/: Laura Schauer Ives

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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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number)
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

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

IV. NATURE OF SUIT (Place an "X" in One Box Only)
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 (Excl. 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
PERSONAL INJURY
362 Personal Injury - Med. Malpractice
365 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
PRISONER PETITIONS
510 Motions to Vacate Sentence
Habeas Corpus:
530 General
535 Death Penalty
540 Mandamus & Other
550 Civil Rights
555 Prison Condition
FORFEITURE/PENALTY
610 Agriculture
620 Other Food & Drug
625 Drug Related Seizure of Property 21 USC 881
630 Liquor Laws
640 R.R. & Truck
650 Airline Regs.
660 Occupational Safety/Health
690 Other
LABOR
710 Fair Labor Standards Act
720 Labor/Mgmt. Relations
730 Labor/Mgmt. Reporting & Disclosure Act
740 Railway Labor Act
790 Other Labor Litigation
791 Empl. Ret. Inc. Security Act
IMMIGRATION
462 Naturalization Application
463 Habeas Corpus - Alien Detainee
465 Other Immigration Actions
BANKRUPTCY
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
PROPERTY RIGHTS
820 Copyrights
830 Patent
840 Trademark
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
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit
490 Cable/Sat TV
810 Selective Service
850 Securities/Commodities/Exchange
875 Customer Challenge 12 USC 3410
890 Other Statutory Actions
891 Agricultural Acts
892 Economic Stabilization Act
893 Environmental Matters
894 Energy Allocation Act
895 Freedom of Information Act
900 Appeal of Fee Determination Under Equal Access to Justice
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
7 Appeal to District Judge from Magistrate Judgment

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 F.R.C.P. 23
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.C.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; 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**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 dollar amount (in thousands of dollars) 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.