

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
SCRANTON DIVISION**

CAMERON COX and RAYMOND
RAPKO on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

H&R BLOCK, INC.,
HRB TAX GROUP, INC., and
HRB TECHNOLOGY LLC,

Defendants.

CASE NO.:

**CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs, Cameron Cox and Raymond Rapko (herein “Plaintiffs”), by and through undersigned counsel, on behalf of themselves and all other persons similarly situated, sues Defendants, H&R Block, Inc., HRB Tax Group, Inc. and HRB Technology, LLC (hereinafter collectively referred to as “Defendants” or “H&R Block”) and for their Class Action Complaint alleges, upon information and belief and based on the investigation to date of their counsel, as follows:

INTRODUCTION

1. This is a class action on behalf of all persons in the Commonwealth of Pennsylvania against H&R Block Inc., and their subsidiaries who are in breach of contractual obligations, resulting in their erroneous and negligent preparation of tax returns estimated to be in excess of 600,000, with the result that tax refunds were delayed up to six weeks beyond the time when they would have been otherwise paid.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d) (diversity jurisdiction) and the Class Action Fairness Act, in that (i) there is complete diversity (Plaintiffs are citizens of Pennsylvania and Defendants are domiciled and incorporated in a state other than Pennsylvania), (ii) the amount in controversy exceeds \$5,000,000.00 (Five Million Dollars) exclusive of interests and costs, and (iii) there are 100 or more members of the proposed Class.

3. Defendants conduct substantial business in Pennsylvania, including the sale, marketing and distribution of H&R Block tax services, and have sufficient contacts with Pennsylvania or otherwise intentionally avails themselves of the laws and markets of Pennsylvania, so as to sustain this Court's jurisdiction over Defendants.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391, *et seq.* because a substantial part of the events or omissions giving rise to this claim occurred in the Commonwealth of Pennsylvania and in this District, and Defendants are subject to personal jurisdiction in this District.

5. As a result of Defendants' commerce throughout Pennsylvania, either directly or indirectly through third parties or related entities, the Defendants have benefitted from the laws of Pennsylvania and profited from Pennsylvania commerce.

PARTIES

6. Plaintiff Cameron Cox, at all relevant times hereto, is a resident of 418 Fairchild St., Nanticoke, Pennsylvania.

7. Plaintiff Raymond Rapko, at all relevant times hereto, is a resident of 103 Gross Drive, Aliquippa, Pennsylvania.

8. Defendant H&R Block, Inc. is a corporation organized and existing under the laws of the State of Missouri, with its headquarters located in Kansas City, Missouri.

9. Defendant HRB Tax Group, Inc. is a corporation organized and existing under the laws of the State of Missouri with its headquarters located in Kansas City, Missouri. Defendant HRB Tax Group, Inc. does business under the assumed name of “H&R Block.”

10. Defendant HRB Technology, LLC is a limited liability company organized and existing under the laws of the State of Missouri with its headquarters located in Kansas City, Missouri.

11. Defendants in their Client Service Agreement (“CSA”) represent that “If we prepare your tax return(s), HRB Technology LLC (“HRBT”), an affiliate of HRB Tax Group Inc., will provide you technology services pursuant to this CSA” in order to facilitate e-filing and other tax preparation-related technology services (collectively “Facilitation Services”) on your behalf.”

COMMON FACTUAL ALLEGATIONS

12. Defendants are in the business of tax preparation services.

13. Defendants offer a tax preparation service and software for consumers (formerly called “TaxCut”) entitled “At Home.”

14. Defendants’ software costs between \$19.99 and \$79.99 depending on the version.

15. Defendants advertise, market and promote the software for consumers to use to prepare their own taxes.

16. Defendants have developed, marketed and sold their tax preparation services and

software with a “100% Satisfaction Money Back Guarantee.”¹ The guarantee states in that “[i]f you are dissatisfied with the software for any reason within 60 days, H&R Block will refund the full purchase price you paid for H&R Block or its authorized reseller for the software.”

17. Plaintiffs and all other putative Class Members were the direct beneficiaries of the guarantee and received and relied upon such guarantee made by Defendants.

18. H&R Block Technology improperly filled out, improperly transmitted (or both) IRS Form 8863 used to claim educational credits. Form 8863 is used to claim tax credits for qualified expenses paid to postsecondary education institutions. There are two education credits: The American Opportunity credit, as well as the lifetime learning credit.

19. The IRS requires that Form 8863 be completely filled out. H&R Block left mandatory fields blank, resulting in widespread errors.

20. On information and belief, H&R Block failed to answer IRS form 8863 questions #22-26 with a “yes” or “no” response.

21. The error affected returns prepared by Defendants which included filing form 8863 before February 22, 2013.

22. The error affecting returns has delayed the tax returns of Plaintiffs and putative members beyond the 21 day turnaround represented by Defendants.²

23. H&R Block has confirmed its negligence in the preparation of forms filed before February 22, citing a change in the way the IRS processes certain yes or no questions on the form. It used to be an acceptable to leave a field blank to indicate “no,” but now preparers must

¹ <http://www.hrblock.com/why-hr-block/our-guarantees.html> Last Retrieved 3/28/13.

² <http://blogs.hrblock.com/2013/01/21/faq-when-can-i-file-my-2012-taxes-what-factors-affect-how-quickly-ill-receive-my-refund/> Last Retrieved 3/29/13.

enter an “N.”³

24. The IRS has stated that Defendants’ tax-preparation software defect caused more than 600,000 returns prepared by Defendants to be filed incorrectly.

25. On information and belief, the tax software defect is limited to H&R Block.

26. On March 22, 2013, Bill Cobb, President and CEO of H&R Block issued the following statement pertaining to the faulty tax returns:

Let me set the record straight about the Form 8863 issue that has affected you, our valued clients: we made a mistake when the tax return was sent to the IRS. And you deserve an apology, an explanation, and to know what we’re doing about it.

Here’s what happened: this year’s tax season started later than any in history (January 30th), followed by a further delay in form 8863 not being accepted until February 14. Not good for everyone. When the IRS began accepting the form, we immediately sent your returns, with the intention of getting you your refund as quickly as possible. In our zeal to move so quickly, we missed a step. Specifically there was a disconnect in the transmission of form 8863 from our delivery system to the IRS E-file system, and this caused the delay many of you are experiencing. We fixed the transmission issue right away, but couldn’t undo it for those that had already been sent.

I want to make it clear that this was absolutely not the fault of your tax professional; your return was prepared accurately. This was an issue with the form transmission. This was our mistake — and I sincerely apologize. I want you to know that we hear the frustration of those impacted by this issue loud and clear, and we’re working every avenue we can to get your refund to you as fast as possible.

We have been and remain in daily communication with the IRS, who are doing everything they can to speedily process all returns. We know that clients are beginning to see progress, funding dates are being communicated and refunds are definitely being funded. But we also recognize that in an

³ <http://consumerist.com/2013/03/12/irs-hr-block-causing-refund-delays-after-bungling-600000-tax-returns/> Last Retrieved 3/28/13.

already delayed season, it's still not as fast as we want, and we're not letting up until every client has his or her refund.

We are also committing to more frequent and regular updates with you as we have news to share, and we know we can do a better job here too.

Finally, I know an apology won't put your tax refund in your hands right away, and many of you still have questions. But right now, our singular focus is to get you that refund, and we have all hands on deck to help make this right.⁴

27. Defendants did not offer compensation to Plaintiffs or any putative class members for the tax preparation errors solely caused by the conduct of H&R Block and its subsidiaries.

28. All persons affected by this error suffered harm as a result, including, but not limited to: a delay in receiving tax return refunds, with the consequential loss of time value of money.

29. In reliance on the representation that his tax return would be accurately prepared and filed, Cameron Cox used H&R Block software and had his return filed on January 29, 2013.

30. In reliance on the representation that his tax return would be accurately prepared and filed, Raymond Rapko used H&R Block software and had his return filed on February 8, 2013.

31. Cameron Cox and Raymond Rapko as well as all Plaintiffs and putative class members have opted-out of H&R Block's arbitration provisions.

32. Plaintiffs' and putative class members' returns required IRS Form 8863.

33. Plaintiffs and the putative class members were entitled to a refund, which included the tax credit claimed on Form 8863.

34. Plaintiffs' and putative class members' returns were filed and transmitted prior to

⁴ <http://blogs.hrblock.com/2013/03/22/a-message-from-ceo-bill-cobb-on-form-8863-delay/> Last Retrieved 3/28/13.

February 22, 2013.

35. Plaintiffs and putative class members paid for the tax preparation services of H&R Block and received incorrectly prepared tax returns as a result.

36. As a result of the errors and omissions set forth above, Plaintiffs' and putative class members' returns were improperly filed, transmitted, and subsequently any tax refunds were delayed.

CLASS ACTION ALLEGATIONS

37. Plaintiffs bring this class action pursuant to Federal Rule of Civil Procedure 23, and case law thereunder on behalf of themselves and all others similarly situated, with the Class defined as follows:

All individuals in the Commonwealth of Pennsylvania that have opted-out of H&R Block arbitration, who had returns prepared for them by H&R Block Inc. or its subsidiaries and franchisees, for the year 2012, which included Form 8863, which were filed before February 22, 2013, and where H&R Block Inc. determined that the taxpayer was entitled to a refund.

38. Excluded from the Class are: (a) any Judge or Magistrate presiding over this action and members of their families; and (b) all persons who properly execute and file a timely request for exclusion from the Class.

39. *Numerosity*: The Class is composed of thousands of persons geographically dispersed throughout the Commonwealth of Pennsylvania, the joinder of whom in one action is impractical. Moreover, upon information and belief, the Class is ascertainable and identifiable from Defendants' records.

40. *Commonality*: The critical question of law and fact common to the Plaintiffs and the Class that will materially advance the litigation is whether Defendants erroneously and

negligently prepared Form 8863 included with 600,000 tax returns prepared by Defendants, with the result that tax refunds were delayed up to six weeks beyond the time when they would have been otherwise paid.

41. Furthermore, other questions of law and fact common to the Class that exist as to all members of the Class and predominate over any questions affecting only individual members of the Class include the following:

- a. Whether Defendants erroneously and negligently prepared Form 8863 included with 600,000 tax returns;
- b. Whether Defendants breached their contract with Plaintiffs and the members of the class;
- c. Whether the failure to accurately, correctly and completely fill out Form 8863 constituted a breach of contract;
- d. Whether the failure to accurately, correctly and completely fill out Form 8863 was negligent;
- e. Whether Defendants made false or misleading statements, or representations of facts;
- f. Whether Defendants violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law;
- g. Whether Plaintiffs and Class members are entitled to the entry of final and injunctive relief and declaratory relief regarding Defendants' representations regarding the accuracy of its software and/or the correcting software;
- h. Whether Defendants were unjustly enriched at the expense of plaintiffs and Class members and
- i. Whether the plaintiffs and class members are entitled to monetary damages, statutory, punitive and/or exemplary damages and if so, the appropriate amount.

42. *Typicality*: Plaintiffs' claims are typical of the claims of the members of the Class, as all such claims arise out of Defendants' erroneous and negligent conduct with 600,000 tax returns, with the result that tax refunds were delayed up to six weeks beyond the time when they would have been paid. All of the claims are based on the same facts and legal theories.

43. *Adequate Representation*: Plaintiffs will fairly and adequately protect the interests of the members of the Class and has no interests antagonistic to those of the Class. Plaintiffs retained counsel experienced in the prosecution of complex class actions, including but not limited to consumer class actions.

44. *Predominance and Superiority*: This class action is appropriate for certification because questions of law and fact common to the members of the Class predominate over questions affecting only individual members, and a Class action is superior to other available methods for the fair and efficient adjudication of this controversy, since individual joinder of all members of the Class is impracticable. Should individual class members be required to bring separate actions, this Court and/or courts throughout Pennsylvania would be confronted with a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single court.

COUNT I
NEGLIGENCE

45. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained above as if fully rewritten herein.

46. Defendants erroneously and negligently completed and filed Form 8863 for the tax returns of putative class members throughout the United States.

47. Defendants owed Plaintiffs and the members of the Class the duty to accurately and correctly prepare tax returns for Plaintiffs and the members of the Class including Form 8863.

48. Defendants breached that duty by erroneously and negligently completing and filing Form 8863 for the tax returns of Plaintiffs and putative class members throughout the United States.

49. As a direct and proximate result of Defendants' negligence, Plaintiffs and putative class members are not receiving their tax refunds before the 21 day turnaround as represented by Defendants.

50. As a direct and proximate result of Defendants' negligence, Plaintiffs and the Class have sustained damages, including the costs of suit, appropriate damages, and further relief that this Court deems proper.

COUNT II
BREACH OF CONTRACT

51. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained above as if fully rewritten herein.

52. Plaintiffs and putative class members contracted with Defendants for the preparation of tax returns, so that any refunds available would be paid within 21 days of the IRS' acceptance of the tax returns.

53. Defendants breached their contracts for the preparation of tax returns by making the error described herein.

54. All Plaintiffs and putative class members have been damaged similarly, if not identically, in that they have not received the value of the contract their bargained for (as

provided in the Client Service Agreement; have not received refunds owed them as result of the faulty tax returns, and have not received any interested on the delayed refund monies.

COUNT III
VIOLATION OF PENNSYLVANIA UNFAIR TRADE PRACTICES AND
CONSUMER PROTECTION LAWS

55. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained above as if fully rewritten herein.

56. The conduct described above and throughout this Complaint constitutes unfair methods of competition or unfair or deceptive acts or practices in violation of Section 201-2(4)(v), (vii) & (xxi) of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (hereinafter, "UTPCPL"), 73 Pa. C.S.A. §§ 201-1, *et seq.*

57. In violation of the UTPCPL, Defendants engaged in unlawful practices, including deception, misrepresentation, unfair practices, and/or concealment, suppression or omission of material fact in connection with its sale of merchandise.

58. As a direct and proximate cause of Defendants' behavior, Plaintiffs and putative class members have been damaged similarly, if not identically, in that they have not received refunds owed them as result of the faulty tax returns, and have not received any interested on the delayed refund monies.

59. Defendant acted willfully, knowingly, intentionally, unconscionably and with reckless indifference when it committed these acts of consumer fraud.

60. As a result of the acts of consumer fraud described above, Plaintiffs and the Class have suffered ascertainable loss for which Defendant is liable to Plaintiff and the Class for treble their ascertainable losses, plus attorney's fees and costs, along with equitable relief prayed for herein in this Complaint.

COUNT IV
UNJUST ENRICHMENT

61. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained above as if fully rewritten herein.

62. Substantial benefits have been conferred on Defendants by Plaintiffs and the Class by purchasing and using H&R's "At Home" Tax Preparation software, and Defendants have knowingly and willingly accepted, retained and enjoyed these benefits.

63. Defendants' acceptance and retention of these benefits under the circumstances make it inequitable for Defendants to retain the benefit without payment of the value to the Plaintiffs and the Class.

64. Plaintiffs and the Class are entitled to recover from Defendants all amounts wrongfully collected and improperly retained by Defendants, plus interest thereon.

65. As a direct and proximate result of Defendants' wrongful conduct and unjust enrichment, Plaintiffs and the Class are entitled to restitution from, and institution of, a constructive trust disgorging all profits, benefits, and other compensation obtained by Defendants, plus attorneys' fees, costs, and interest thereon.

COUNT V
INJUNCTIVE AND DECLARATORY RELIEF

66. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained above as if fully rewritten herein.

67. Defendant's conduct is improper and deceptive and has caused injury to Plaintiffs and the Class.

68. The grounds for an injunction are set forth herein, including the fact that Plaintiffs and the Class have a likelihood of success on the merits.

69. Irreparable harm will be done if the injunction is denied.

70. The balance of inequities is in favor of granting the injunction and Plaintiffs and the Class have been injured by Defendant's actions and will continue to be injured absent the requested injunctive relief.

71. A legitimate dispute, wherein consumers claim they overpaid the underpayment of estimated tax penalty and Defendant denies the same, exists and the early resolution of these legal rights will resolve some or all of the other issues in this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for a judgment against Defendants as follows:

1. For an order certifying the Class, pursuant to Rule 23, appointing Plaintiffs as representative of the Class, and appointing the law firms representing Plaintiffs as counsel for the Class;

2. For compensatory damages, and all other damages allowable under the law, sustained by Plaintiffs and the Class;

6. For payment of costs of suit herein incurred;

7. For both pre-judgment and post-judgment interest at the maximum rate allowable at law on any amounts awarded;

8. For payment of reasonable attorneys' fees and expert fees as may be allowable under applicable law; and

9. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all claims so triable.

Respectfully submitted,

By: /s/ Charles E. Schaffer

Charles E. Schaffer
Brian F. Fox (To be admitted *Pro Hac Vice*)
LEVIN, FISHBEIN, SEDRAN & BERMAN
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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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Cameron Cox and Raymond Rapko on behalf of themselves and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Levin, Fishbein, Sedran & Berman
510 Walnut Street - Suite 500, Philadelphia, PA 19106
(215) 592-1500

DEFENDANTS

H&R Block, Inc., HRB Tax Group, Inc. and HRB Technology, LLC

County of Residence of First Listed Defendant St. Louis County, MO
(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 checked="" 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 checked="" 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)

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 checked="" 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"/> 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"/> 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"/> 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	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<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	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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332(d)

Brief description of cause:
Breach of Contract, Negligence

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS IN excess of \$5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
04/25/2013

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 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 clerk(s) 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 six 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.
- 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.