

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**

Civil Case No.

ANGELA BANEGAS, as an individual and on  
behalf of all others similarly situated,

*Plaintiff,*

vs.

THE PROCTER & GAMBLE COMPANY, an  
Ohio corporation,

*Defendant.*

**CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, ANGELA BANEGAS (“Plaintiff”), individually, and on behalf of all others similarly situated, by and through her undersigned counsel, and pursuant to the Federal Rules of Civil Procedure, hereby files this Class Action Complaint, and alleges against Defendant, THE PROCTER & GAMBLE COMPANY (“P&G” or “Defendant”), as follows:

**INTRODUCTION**

1. P&G prominently labels, markets and advertises its Pampers baby wipes (“Pampers Wipes” or the “Product”) as “natural.” This claim is false, deceptive and likely to mislead a reasonable person because Pampers Wipes contains chemicals that are synthetic, not natural. These chemicals can also cause skin irritation and other problems. Parents seeking natural products for their babies are not receiving the product promised them, but instead are purchasing a misbranded product containing synthetic chemicals. These chemicals include dimethicone, phenoxyethanol, and ethylhexyl glycerin.

2. The packaging for Pampers Wipes is materially the same for all types of packaging, and appears as follows:



3. Plaintiff relied on P&G’s representation that Pampers Wipes are in fact “natural” and that representation was material to her and other Class members’ decision to purchase the Product. In fact, “natural” and “clean” are central to the marketing and sale of the Product.

4. Defendant’s representation that the Product is “natural” is false, misleading, and likely to deceive reasonable consumers.

5. Plaintiff brings this class action to secure, among other things, damages and equitable relief, declaratory relief, restitution, and damages for a Class of similarly situated nationwide purchasers against P&G, for: (1) violation of Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”), FLA. STAT. §§ 501.201, *et seq.*; (2) Breach of Express Warranty; and (3) Unjust Enrichment (alleged in the alternative to Plaintiff’s other causes of action).

**JURISDICTION AND VENUE**

6. This Court has subject-matter jurisdiction over the instant lawsuit pursuant to the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 (2005).

7. Pursuant to 28 U.S.C. § 1332(d)(2)(A), the total claims of the individual members of the Class are in excess of \$5,000,000.00, in the aggregate, exclusive of interest and costs, there are in excess of 100 class members and as set forth below, diversity of citizenship exists under CAFA because Plaintiff is a citizen of Florida, and Defendant is an Ohio corporation with its principal place of business located in Ohio.

8. This Court has personal jurisdiction over P&G because P&G is authorized to conduct business and does conduct business in Florida. Defendant marketed, promoted, distributed, and sold the Pampers Wipes in Florida, and continues to do so, and has sufficient minimum contacts with this State and/or has sufficiently availed itself of the markets in this State through its promotion, sales, distribution, and marketing, to render the exercise of jurisdiction by this Court permissible.

9. Venue is proper pursuant to 28 U.S.C. § 1391 because a substantial part of the events and transactions occurred in this district, Defendant conducts business in, and may be found in, this district, and Plaintiff purchased the Product in this district.

**PARTIES**

10. Plaintiff, ANGELA BANEGAS, is an individual more than 18 years old and is a citizen of Florida, who resides in Broward County, and who purchased Pampers Wipes in Broward County, Florida.

11. Defendant, THE PROCTER & GAMBLE COMPANY, marketed and sold Pampers Wipes in this jurisdiction and in this Judicial District. Defendant is an Ohio

corporation, with its principal place of business located in Ohio.

12. The Product's advertising relied upon by Plaintiff was prepared and/or approved by P&G and its agents, and was disseminated by P&G and its agents through advertising containing the misrepresentations alleged herein.

13. P&G is the owner, manufacturer, and distributor of the Product, and is the company that created and/or authorized the unlawful, fraudulent, unfair, misleading, and/or deceptive advertising for the Product.

### **FACTUAL ALLEGATIONS**

14. There is a strong consumer demand for the products that are natural and free of artificial and synthetic chemicals. This is especially true of products intended to be used on children and infants, such as the baby wipes that are the subject of this Complaint.

15. P&G exploited this consumer demand when it marketed, labeled and sold its wipes as "natural." And it has succeeded. Pampers Wipes is one of the world's leading baby wipes.

16. However, Pampers Wipes is not natural. The Product contains dimethicone, phenoxyethanol, and ethylhexyl glycerin, which are manufactured chemicals not occurring in nature. Moreover, the Food and Drug Administration has determined that phenoxyethanol can depress the central nervous system and may cause vomiting and diarrhea, which can lead to dehydration in infants. *See* <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2008/ucm116900.htm>. Dimethicone is a synthetic chemical of the silicone family that may cause allergic reactions including rash, itching, swelling and difficulty breathing. It is created using petrochemically-derived methanol, a toxic alcohol. The processing can create environmental hazards such as hydrochloric acid. It may react with other chemicals on the skin

and it has been restricted by the Cosmetic Ingredient Review Assessments Board. Ethylhexyl glycerin is an unnatural chemical preservative. It can irritate the skin and eyes.

17. Pampers Wipes also contains several other unnatural chemicals, such as: disodium EDTA, PEG 40 hydrogenated castor oil, sodium benzoate, and sodium citrate.

18. P&G's "natural" claim, which is uniformly, consistently and prominently displayed on the front of each individual package of its Pampers Wipes, is untrue, misleading, and likely to deceive reasonable consumers, including Plaintiff and members of the Class. Reasonable consumers rely on label representations and information in making purchase decisions.

19. P&G unlawfully markets, advertises, sells, and distributes the Product to nationwide purchasers in grocery stores, food chains, mass discounters, mass merchandisers, club stores, convenience stores, drug stores and/or dollar stores as its being "natural" when it is not.

20. P&G's representation that the Product is "natural" is a material representation because consumers attach importance to "natural" claims when making a purchasing decision, particularly when buying products to use on their babies and children. In fact, the Federal Trade Commission has filed complaints against companies for deceptively advertising their products as natural when the products contain artificial ingredients such as dimethicone and phenoxyethanol.

21. P&G markets and advertises Pampers Wipes as "natural" in order to increase sales. P&G knows that its claim that the Product is "natural" is material to consumers. P&G made the deceptive representations regarding the Product with the intent that purchasers would rely on its representation and to induce Plaintiff's and the other Class members' purchase of the Product.

22. In reliance on the representation that the Product was “natural” Plaintiff and other Class members purchased the Product. Plaintiff and other Class members would not have purchased Pampers Wipes or would not have paid the price charged if not for the representation that the Product was “natural.” Plaintiff and other Class members paid for a product that does not have the features it was represented to have.

23. Accordingly, Plaintiff and the other Class members have suffered injury in fact and lost money or property as a result of Defendant’s wrongful conduct.

**Plaintiff Angela Banegas**

24. Plaintiff Angela Banegas has purchased Pampers Wipes an estimated 100 times over the last twelve years. She purchased Pampers Wipes in Broward County, Florida, where she resides, from a number of retail stores, including Babies “R” Us, Inc., Target Corp. and BJ’s Wholesale Club, Inc.

25. Plaintiff purchased Pampers Wipes to use on her three children, the youngest of which is now 16 months old. Plaintiff uses the wipes on her children’s skin, including to wipe their mouth, nose and around their eyes. Plaintiff read the label prior to purchase and bought Pampers Wipes in reliance on P&G’s representation that the Product was “natural.”

26. If Plaintiff had known that Pampers Wipes is not “natural” but contains synthetic and/or artificial chemicals, she would not have purchased the Product or would not have purchased the Product at the price paid. Plaintiff bought and paid for a product that does not have the features it was represented to have.

27. Plaintiff has been damaged and suffered economic loss by paying for a Product that was not sold as advertised and/or that she would not have purchased if not for the false representation.

**CLASS ACTION ALLEGATIONS**

28. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this complaint as if fully set forth herein.

29. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this class action and seeks certification of the claims and certain issues in this action on behalf of a Class defined as:

All persons who purchased Pampers Wipes other than for purpose of resale.

30. Excluded from the Class are Defendant, and Defendant's officers, directors, affiliates, legal representatives, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

31. Based on the annual sales of the Product, members of the Class are so numerous and geographically dispersed that joinder of all Class members is impractical, if not impossible. Plaintiff is informed and believes that the Class contains many tens of thousands of members. The precise number of Class members is unknown to Plaintiff.

32. Defendant's representations that the Product is "natural" were uniformly made so that the questions of law and fact are common to all members of the Class and predominate over questions affecting only individual Class members.

33. Questions of law and fact common to the Class exist that predominate over any individual issues, including, *inter alia*:

- a. Whether Defendant's business practices violated FDUTPA, FLA. STAT. §§ 501.201, *et seq.*;
- b. Whether Defendant made express warranties and breached express warranties;

- c. Whether the Product is “natural”;
- d. Whether the chemicals contained in the Product are “natural”;
- e. Whether the chemicals contained in the Product are unnatural, synthetic or artificial;
- f. Whether the claim “natural” on the Product’s packaging is material to a reasonable consumer;
- g. Whether the claim “natural” on the Product’s packaging and advertising is likely to deceive a reasonable consumer;
- h. Whether Plaintiff and members of the Class have sustained monetary loss and the proper measure of that loss;
- i. Whether Plaintiff and members of the Class are entitled to restitution or disgorgement of Defendant’s profits and to injunctive relief; and
- j. Whether Defendant was unjustly enriched by the sale of the Product.

34. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Class, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class is common to the members of the Class.

35. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class.

36. Plaintiff has retained counsel competent and experienced in both consumer protection and class action litigation.

37. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Absent a class action, it would be highly unlikely that the representative Plaintiff or any other members of the Class or any subclass would be able to

protect their own interests because the cost of litigation through individual lawsuits might exceed expected recovery.

38. Further, given the large number of consumers of the Product, having individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications arising from the same set of facts.

39. A class action is a fair and appropriate method for the adjudication of the controversy, in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the prosecution of numerous individual actions and the duplication of discovery, effort, expense and burden on the courts that individual actions would engender.

40. The benefits of proceeding as a class action, including providing a method for obtaining redress for claims that would not be practical to pursue individually, outweigh any difficulties that might be argued with regard to the management of this class action.

41. Certification also is appropriate because Defendant acted, or refused to act, on grounds generally applicable to both the Class, thereby making appropriate the relief sought on behalf of the Class.

### **FIRST CAUSE OF ACTION**

#### **(Violations of Florida's Deceptive and Unfair Trade Practices Act) (FLA. STAT. §§ 501.201, *et seq.*)**

42. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 41 as if fully set forth herein.

43. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 501.213, Florida Statutes.

44. The express purpose of FDUTPA is to “protect the consuming public . . . from

those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” FLA. STAT. § 501.202(2).

45. Section 501.204(1), Florida Statutes, declares as unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

46. The sale of the Product was a “consumer transaction” within the scope of FDUTPA.

47. Plaintiff is a “consumer” as defined by Section 501.203, Florida Statutes.

48. Defendant’s Product is a good within the meaning of FDUTPA and Defendant is engaged in trade or commerce within the meaning of FDUTPA.

49. Defendant’s unfair and deceptive practices are likely to mislead – and have misled – reasonable consumers, such as Plaintiff and members of the Class.

50. Defendant has violated FDUTPA by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous and substantially injurious to consumers.

51. Specifically, Defendant has represented that the Product is “natural” when, in fact, the Product is made with dimethicone, phenoxyethanol, and ethylhexyl glycerin, which are not natural chemicals.

52. Plaintiff and Class members have been aggrieved by Defendant’s unfair and deceptive practices in violation of FDUTPA, in that they paid money for Defendant’s mislabeled Product.

53. Reasonable consumers rely on Defendant to honestly represent the true nature of its ingredients.

54. Defendant has deceived reasonable consumers, like Plaintiff and members of the Class, into believing the Product was something it was not; specifically that the Product is “natural.”

55. Pursuant to sections 501.211(2) and 501.2105, Florida Statutes, Plaintiff and members of the Class make claims for damages, attorney’s fees and costs. The damages suffered by Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendant. Pursuant to section 501.211(1), Florida Statutes, Plaintiff and the Class seek injunctive relief for, *inter alia*, the Court to enjoin Defendant’s above-described wrongful acts and practices, and for restitution and disgorgement.

56. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant’s violations of FDUTPA.

## **SECOND CAUSE OF ACTION**

### **(Breach of Express Warranty)**

57. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 41 as if fully set forth herein.

58. Defendant has expressly represented that the Product is “natural” when in fact the Product is made with synthetic and/or artificial chemicals including dimethicone, phenoxyethanol, and ethylhexyl glycerin.

59. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time it leaves Defendant’s possession until the Product arrives in stores to be sold to consumers.

60. Plaintiff is informed and believes, and thereon alleges, that Defendant made an express warranty, including that the Product is “natural.”

61. Defendant breached its express warranty by claiming that the Product is “natural” because the Product contains synthetic and/or artificial chemicals including dimethicone, phenoxyethanol, and ethylhexyl glycerin.

62. As a proximate result of the failure of the Product to perform as expressly warranted by Defendant, Plaintiff and members of the Class have suffered actual damages in an amount to be determined at trial, in that they were induced to purchase a product they would not have purchased had they known the true facts about it, and have spent money on a product that was not what it was represented to be and that lacks the value Defendant represented the Product to have.

63. Plaintiff gave timely notice to Defendant of its breach of express warranty individually and on behalf of all members of the Class, by letter sent to Defendant on or about April 22, 2016.

64. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant’s breach of express warranty.

### **THIRD CAUSE OF ACTION**

#### **(Unjust Enrichment)**

65. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 41 as if fully set forth herein.

66. In its marketing and advertising, Defendant has made false and misleading statements and/or omissions regarding the Product, as described herein.

67. Defendant has represented that the Product is “natural” when in fact the Product is made with synthetic and/or artificial chemicals including dimethicone, phenoxyethanol, and ethylhexyl glycerin.

68. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time it leaves Defendant's possession until the Product arrives in stores to be sold to consumers.

69. Plaintiff and Class Members conferred a benefit on Defendant by purchasing the Product. Defendant accepted and retained the benefit in the amount of the purchase price and/or profits it earned from sales of the Product to Plaintiff and other Class members.

70. Defendant profited from its unlawful, unfair, misleading, and deceptive practices and advertising at the expense of Plaintiff and Class members, under circumstances in which it would be unjust for Defendant to be permitted to retain said benefit.

71. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has lost money or property as a result of Defendant's actions, as set forth herein. Defendant is aware that the claims it makes about the Product are false, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class.

72. Plaintiff and Class members do not have an adequate remedy at law against Defendant (in the alternative to the other causes of action alleged herein).

73. Accordingly, Plaintiff and Class members are entitled to restitution in an amount ordered by the court.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually, and on behalf of all others similarly situated, prays for relief pursuant to each cause of action set forth in this Complaint as follows:

1. For an order certifying that the action may be maintained as a class action, appointing Plaintiff as representative of the Class, and designating Plaintiff's attorneys Class counsel;

2. For an award of equitable relief for as follows:
  - (a) Awarding declaratory relief and enjoining Defendant from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the marketing, advertising, or sale of the Product in such manner as set forth in detail above, or from making any claims found to violate FDUTPA or the other causes of action as set forth above;
  - (b) Requiring Defendant to make full restitution of all monies wrongfully obtained as a result of the conduct described in this Complaint;
  - (c) Restoring all monies that may have been acquired by Defendant as a result of such unfair and/or deceptive act or practices; and
  - (d) Requiring Defendant to disgorge all ill-gotten gains flowing from the conduct described herein.
3. For actual damages in an amount to be determined at trial;
4. For an award of attorney's fees and costs;
5. For any other relief the Court might deem just, appropriate, or proper; and
6. For an award of pre- and post-judgment interest on any amounts awarded.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands a jury trial on all issues so triable.

**Respectfully Submitted By,**

Dated: July 7, 2016

/s/ Joseph M. Pustizzi

\_\_\_\_\_  
Joseph M. Pustizzi, Esq.

Fla. Bar No. 70362

**THE LAW OFFICE OF JOSEPH PUSTIZZI, P.A.**

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*Attorneys for Plaintiff*

JS 44 (Rev. 12/12) (Modified by FLSD - April 29, 2013)

**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) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

**I. (a) PLAINTIFFS** Angela Banegas **DEFENDANTS** The Procter & Gamble Company

**(b)** County of Residence of First Listed Plaintiff **Broward** County of Residence of First Listed Defendant  
*(EXCEPT IN U.S. PLAINTIFF CASES)* *(IN U.S. PLAINTIFF CASES ONLY)*

**(c)** Attorneys *(Firm Name, Address, and Telephone Number)* Attorneys *(If Known)*  
 Joseph M. Pustizzi, Esq., Law Office of Joseph Pustizzi, P.A. Ann Marie Mortimer, Esq., Hunton & Williams, LLP  
 3440 Hollywood Blvd., Ste. 415 550 South Hope St., Ste. 2000  
 Hollywood, FL 33021

**(d)** Check County Where Action Arose  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE  HIGHLANDS

**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)*

|  |  |  |  |  |  |
|--|--|--|--|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>                     | <input type="checkbox"/> Citizen of This State                   | <input checked="" type="checkbox"/> 1 PTF <input type="checkbox"/> DEF | <input type="checkbox"/> Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 PTF <input type="checkbox"/> DEF            |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i> | <input type="checkbox"/> Citizen of Another State                | <input type="checkbox"/> 2 PTF <input type="checkbox"/> DEF            | <input type="checkbox"/> Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 PTF <input checked="" type="checkbox"/> DEF |
|  |  | <input type="checkbox"/> Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 PTF <input type="checkbox"/> DEF            | <input type="checkbox"/> Foreign Nation  | <input type="checkbox"/> 6 PTF <input type="checkbox"/> DEF            |

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

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |   |
|--|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Med Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl Ret Inc Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities Exchange<br><input checked="" type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding  2 Removed from State Court  3 Re-filed (See VI below)  4 Reinstated or Reopened  5 Transferred from another district *(specify)*  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment  8 Remanded from Appellate Court

**VI. RELATED/RE-FILED CASE(S)** *(See instructions)* a) Re-filed Case  YES  NO b) Related Cases  YES  NO

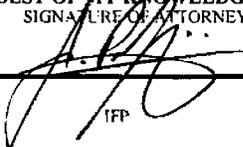
JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

**VII. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause *(Do not cite jurisdictional statutes unless diversity)*

Class Action Fairness Act ("CAFA") 28 USC 1332(d)  
 LENGTH OF TRIAL via \_\_\_\_\_ days estimated *(for both sides to try entire case)*

**VIII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint JURY DEMAND:  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE July 7, 2016 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

|           |        |     |       |           |
|-----------|--------|-----|-------|-----------|
| RECEIPT # | AMOUNT | IFP | JUDGE | MAG JUDGE |
|-----------|--------|-----|-------|-----------|

JS 44 Reverse (Rev. 12/12)

## 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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 I 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.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. 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

**VIII. 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.

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



AO 440 (Rev 06/12) Summons in a Civil Action (Page 2)

Civil Action No.

**PROOF OF SERVICE**

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

This summons for *(name of individual and title, if any)*  
was received by me on *(date)*

I personally served the summons on the individual at *(place)*  
on *(date)* ; or

I left the summons at the individual's residence or usual place of abode with *(name)*  
, a person of suitable age and discretion who resides there,  
on *(date)* , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* , who is  
designated by law to accept service of process on behalf of *(name of organization)*  
on *(date)* ; or

I returned the summons unexecuted because ; or

Other *(specify):*

My fees are \$ for travel and \$ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date:

*Server's signature*

*Printed name and title*

*Server's address*

Additional information regarding attempted service, etc: