

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

CHARLES NEWMAN, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

COMPLYRIGHT, INC.,

Defendant.

---

) Case No.: 18-cv-1258

) **CLASS ACTION COMPLAINT**

) **Jury Trial Demanded**

**INTRODUCTION**

1. This class action seeks redress for negligence because of the failure of ComplyRight, Inc. to implement and maintain reasonable security measures over personally identifiable information.

**JURISDICTION AND VENUE**

2. The Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1332(d)(2), because (a) there are 100 or more Class members, (b) at least one Class member is a citizen of a state that is diverse from Defendants' citizenship, and (c) the matter in controversy exceeds \$5,000,000, exclusive of interest and costs.

3. The Court has personal jurisdiction over Defendant because Plaintiff's claims arise out of Defendant's contacts with Wisconsin.

4. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to the claims emanated from activities within this District.

## **PARTIES**

5. Plaintiff Charles Newman is a citizen of the State of Wisconsin who resides in Milwaukee County.

6. Defendant ComplyRight, Inc. (“ComplyRight”) is a Minnesota corporation with its principal place of business in Pompano Beach, Florida.

## **FACTS**

7. ComplyRight offers a suite of legal compliance services for small businesses. On its website, it states: “At ComplyRight, our mission is to free employers from the burden of tracking and complying with the complex web of federal, state, and local employment laws, so they can stay focused on managing and growing their businesses.” Their services range “[f]rom hiring and training to time tracking and recordkeeping, to labor law posting and tax information reporting.” In a 2017 news release, ComplyRight boasted that it “has partnered with millions of businesses of all sizes.”

8. In the course of providing its services to such organizations, ComplyRight has acquired personally identifiable information of numerous individuals — including, their name, address, telephone number, email address, and Social Security number (the “Personal Information”)

9. As a result of ComplyRight’s failure to implement and maintain reasonable security measures to protect Personal Information from unauthorized access, the Personal Information of Plaintiff and other Class members was accessed and viewed by unauthorized individuals while being maintained on ComplyRight’s website (the “Data Breach”) at some point between April 20, 2018 to May 22, 2018, if not earlier.

10. Upon information and belief, as a result of the Data Breach, Plaintiff's and the other Class members' Personal Information, and perhaps more information, is now in the hands of unknown persons who intend to use it for criminal or nefarious purposes. On information and belief, the unauthorized persons will sell the Personal Information to exploit and injure Plaintiff and the other Class members, to commit identity theft and identity fraud, and commit other acts injurious and detrimental to Plaintiff and the other Class members.

11. Notwithstanding such vulnerabilities, ComplyRight touts its security and industry and regulatory certifications in order to engender trust with potential clients.

12. Its website, located at <https://www.complyright.com/products/tax-solutions> (last visited July 19, 2018), displays the following:

**TACKLING SECURITY FROM EVERY ANGLE**

Keeping your data safe from start to finish is a top concern for us.  
That's why we take a multi-pronged approach to data protection, and even invest in third-party audits and certifications to ensure our processes and technologies meet the strictest security standards.

|   |   |   |
|---|---|---|
|  <p><b>STATE-OF-THE-ART DATA ENCRYPTION</b><br/>Advanced data encryption technology keeps your sensitive data safe while in transit and at rest.</p> |  <p><b>SOC 2 CERTIFICATION</b><br/>We are compliant and SOC 2-certified by the American Institute of Certified Public Accountants (AICPA).</p> |  <p><b>HIPAA COMPLIANCE</b><br/>Annual audits ensure that we comply with federally mandated standards for securing protected health information.</p> |
|---|---|---|

13. ComplyRight's website boasts about its State of the Art Encryption: "As a leading IRS-authorized provider of 1099, W-2, and ACA form processing services, we employ the latest, most sophisticated technologies and best practices to ensure your sensitive data is protected end-to-end. These exacting measures and adherence to strict security standards ensure a superior level of data security and protection."

14. The site also states:

ComplyRight Tax Solutions uses advanced 256-bit encryption technology to block the interception of sensitive data over the internet. Encryption alters the data before it is transmitted, making it unreadable until it is unlocked with a special cyber code after it is delivered to the authorized recipient. Data is password-protected and encrypted as soon as it's entered online and stays encrypted through the entire print, mail, and e-file process.

- High-grade transport encryption protects electronic transmissions to the IRS and other government agencies
- Includes encryption at rest to safeguard information stored in our systems
- Effectively blocks interception of sensitive data

15. The website also boasts about its SOC-2 certification, stating,

As a SOC-2-certified organization, we can promise:

- Security – Our system is protected against unauthorized access, use, or modification
- Availability – Our system is available for operation and use as committed or agreed upon
- Processing integrity – Our data processing is complete, valid, accurate, timely and authorized
- Confidentiality – Confidential information is protected as committed or agreed upon
- Privacy – Our processes for collecting, using, retaining, disclosing, and disposing of personal information conform with the commitments in our privacy notice, and with criteria established by the AICPA.

16. ComplyRight runs the website efile4biz.com, which also boasts state-of-the-art security. In order to convey the strength of its security, it says it is Geotrust and SOC certified, in HIPAA compliance, and authorized as an IRS e-file provider.

17. The website pays lip service to the need for adequate security to protect against the cyber threats facing its business, but only to lure potential clients:

Due to the increasing threat of data breaches and identity theft in today's digitally focused world, you may question the security of e-filing. . . . As an industry leader and pioneer in online 1099, W-2, and ACA form processing, we employ the latest, most sophisticated security measures. The result is a level of data protection that would thwart even the most determined cyber criminals.

When it comes to risk-free e-filing, be aware that the IRS doesn't regulate how recipient data is handled. Instead, it's entirely up to the service provider. In turn, it's up to you to ask the right questions to be certain you're entrusting your 1099, W-2 and ACA recipient data to a security-conscious provider.

18. Plaintiff and the other Class members had their Personal Information entrusted in the wrong hands. Despite these assurances and representations, ComplyRight failed to implement and maintain reasonable data security practices in accordance with its representations and the obligations it owes under the law.

19. On July 13, 2018, ComplyRight sent a letter out to Plaintiff and numerous other persons stating that Personal Information was accessed and viewed by unauthorized individuals. The letter warned recipients that "your personal information that was accessed and/or viewed, [] may have been downloaded or otherwise acquired by an unauthorized user."

20. The letter admits that the Data Breach occurred from April 20, 2018 to May 22, 2018, but it may have gone on much longer, and it may have exposed more information than enumerated in the letter.

21. The letter further states:

We are writing with important information about a recent security incident involving some of your personal information that was maintained on our website. Your personal information was entered onto our website by, or on behalf of, your employer or payer to prepare tax related forms, for example, Forms 1099 and W-2. We wanted to provide you with information regarding the incident, share the steps we have undertaken since discovering the incident, and provide guidance on what you can do to protect yourself.

*What Happened?*

On or about May 22, 2018 we initially learned of a potential issue involving our website. Upon learning of the potential issue, we disabled the platform and remediated the issue on the website.

*What We Are Doing*

In addition, we commenced a prompt and thorough investigation using external cybersecurity professionals. The forensic investigation concluded that there was unauthorized access to our website, which occurred between April 20, 2018 and May 22, 2018. After the extensive forensic investigation, a sophisticated review of our website, and analysis of potentially impacted individuals, on June 14, 2018 we discovered that some of your personal information was accessed and/or viewed. Although the forensic investigation determined that your information was accessed and/or viewed on the website, it could not confirm if your information was downloaded or otherwise acquired by an unauthorized user. We are not aware of any report of identity fraud as a direct result of this incident. Nevertheless, out of an abundance of caution we wanted to make you aware of the incident.

*What Information Was Involved?*

Your personal information that was accessed and/or viewed, and may have been downloaded or otherwise acquired, by an unauthorized user included your name, address, telephone number, email address, and Social Security number.<sup>1</sup>

22. Upon information and belief, Plaintiff and the other Class members' Personal Information was accessed, viewed, downloaded, acquired, and stolen by unauthorized persons from ComplyRight's website. The letter leaves open the possibility that other information was also compromised.

23. The letter is insufficient to comply with ComplyRight's obligations to provide adequate and timely notification of the Data Breach under the law. ComplyRight awaited a sophisticated and extensive forensic investigation when timely notification of the Data Breach was of the essence. ComplyRight kept the incident secret from Plaintiff and the other Class

---

<sup>1</sup> By quoting from ComplyRight's letter, Plaintiff does not intend to endorse the representations, nor concede in any way that the representations made therein are accurate or true. They are quoted merely to show that the statements were made and Plaintiff received them.

members for nearly 2 months. Data thieves had 3 months from the alleged beginning of the Data Breach until notification to perpetrate fraud using the Personal Information with no victim aware of the threat.

24. The letter did not identify the number of affected individuals. Upon information and belief over 600,000 individuals were affected, including over 12,000 individuals residing in the state of Wisconsin.

25. Impacted individuals from around the country took to social media to raise concerns and questions about ComplyRight's confusing and concerning letter. ComplyRight's failure to provide any details to trusted news media or on its own website concurrently with the issuance of the letter created confusion and distrust among letter recipients, who largely have no idea who or what ComplyRight is, and suspect that the letter is fraudulent because they can find no mention of the incident online or in the news.

26. By all appearances, ComplyRight refuses to respond to concerned individuals or news media, except through a heavily backlogged call center.

27. It did not take long for misinformation to spread online. Theories abound about the actual nature of the breach, whether it is legitimate or not, whether it is associated with other entities, or whether their employers ever actually used ComplyRight or any third party services related to tax preparation at all. This misinformation that filled in the void of ComplyRight's silence allows for phishing and other scams to seize advantage of those already victimized by the Data Breach.

28. Justifiably wary of scams, some victims report spending an entire day attempting to confirm that the Data Breach was legitimate and uncover new details. For instance, an individual posted to the subreddit r/personalfinance:<sup>2</sup>

I did further research, called the company hotline provided as well as the company directly, called TransUnion, spent a day calling everyone. There was a real hack, it does not sound like it was TurboTax (this was something the customer service person from ComplyRight told me). ComplyRight handles employer end e-filing, not employee. So, the information was entered by your employer, and then hacked through ComplyRight. Honestly I'm very disappointed with the hotline provided by ComplyRight. The first thing they do is ask for more private information, and honestly they basically just read the letter off to me over and over again.

TransUnion confirmed that they own the website mytrueidentity.com, which is the url provided in the letter. I signed up for the service, which now I'm thinking I shouldn't have because I imagine it waives my right to any other sort of recourse. If anyone else is able to get more information, please provide it!

29. Late Wednesday, July 18, 2018, only after Plaintiff and a substantial number of other recipients received their letters, ComplyRight provided largely the same information in an inconspicuous and difficult to access webpage on its website establishing some sort of authenticity to the letter, but by then it was too little, too late.

30. As a direct and foreseeable result of ComplyRight's failures, Plaintiff and the other Class members' Personal Information was placed onto unsecure and vulnerable online locations maintained by ComplyRight. The Personal Information (and perhaps more) was accessed, viewed, obtained, downloaded, and is now in the hands of unknown individuals intent on using the information to harm Plaintiff and the other Class members.

#### **Data Breaches Lead to Identity Theft**

31. According to the U.S. Department of Justice Bureau of Justice Statistics, an estimated 17.6 million people were victims of one or more incidents of identity theft in 2014.<sup>3</sup>

---

<sup>2</sup> [https://www.reddit.com/r/personalfinance/comments/8zeeha/information\\_stolen/](https://www.reddit.com/r/personalfinance/comments/8zeeha/information_stolen/)

32. The Federal Trade Commission (“FTC”) cautions that identity theft wreaks havoc on consumers’ finances, credit history and reputation and can take time, money, and patience to resolve. Identity thieves use stolen personal information for a variety of crimes, including credit card fraud, phone or utilities fraud, and bank/finance fraud.<sup>4</sup>

33. Personal Information is such a valuable commodity to identity thieves that once the information has been compromised, criminals often trade the information on the “cyber black-market” for a number of years.<sup>5</sup> As a result of recent large-scale data breaches, identity thieves and cyber criminals have openly posted stolen private information directly on various Internet websites, making the information publicly available.

34. In fact, “[a] quarter of consumers that received data breach letters [in 2012] wound up becoming a victim of identity fraud.”<sup>6</sup>

**The Monetary Value of Privacy Protections and Personal Information**

35. At an FTC public workshop in 2001, then-Commissioner Orson Swindle described the value of a consumer’s personal information:

The use of third party information from public records, information aggregators and even competitors for marketing has become a major facilitator of our retail economy. Even [Federal Reserve] Chairman [Alan] Greenspan suggested here

---

<sup>3</sup> See *Victims of Identity Theft*, 2014, DOJ, at 1 (2015), available at <https://www.bjs.gov/content/pub/pdf/vit14.pdf> (last visited July 19, 2018).

<sup>4</sup> The FTC defines identity theft as “a fraud committed or attempted using the identifying information of another person without authority.” 16 CFR § 603.2. The FTC describes “identifying information” as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including, among other things, “[n]ame, social security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number.” *Id.*

<sup>5</sup> Companies, in fact, also recognize Personal Information as an extremely valuable commodity akin to a form of personal property. See John T. Soma et al., *Corporate Privacy Trend: The “Value” of Personally Identifiable Information (“PERSONAL INFORMATION”) Equals the “Value” of Financial Assets*, 15 RICH. J.L. & TECH. 11, at \*3–4 (2009).

<sup>6</sup> *One in Four that Receive Data Breach Letters Affected By Identity Theft*, available at <https://blog.kaspersky.com/data-breach-letters-affected-by-identity-theft/> (last visited July 19, 2018).

some time ago that it's something on the order of the life blood, the free flow of information.<sup>7</sup>

36. Commissioner Swindle's 2001 remarks are even more relevant today, as consumers' personal data functions as a "new form of currency" that supports a \$26 billion per year online advertising industry in the United States.<sup>8</sup>

37. The FTC has also recognized that consumer data is a new (and valuable) form of currency. In an FTC roundtable presentation, another former Commissioner, Pamela Jones Harbour, underscored this point:

Most consumers cannot begin to comprehend the types and amount of information collected by businesses, or why their information may be commercially valuable. Data is currency. The larger the data set, the greater potential for analysis—and profit.<sup>9</sup>

38. Recognizing the high value that consumers place on their Personal Information, many companies now offer consumers an opportunity to sell this information. The idea is to give consumers more power and control over the type of information that they share and who ultimately receives that information. And, by making the transaction transparent, consumers will make a profit from their personal information.<sup>10</sup> This business has created a new market for the sale and purchase of this valuable data.<sup>11</sup>

---

<sup>7</sup> Federal Trade Commission Public Workshop, *The Information Marketplace: Merging and Exchanging Consumer Data*, available at [https://www.ftc.gov/sites/default/files/documents/public\\_events/information-marketplace-merging-and-exchanging-consumer-data/transcript.pdf](https://www.ftc.gov/sites/default/files/documents/public_events/information-marketplace-merging-and-exchanging-consumer-data/transcript.pdf) (last visited July 19, 2018).

<sup>8</sup> See Julia Angwin & Emily Steel, *Web's Hot New Commodity: Privacy*, *The Wall Street Journal*, <http://online.wsj.com/article/SB10001424052748703529004576160764037920274.html> (last visited July 19, 2018).

<sup>9</sup> *Statement of FTC Commissioner Pamela Jones Harbour—Remarks Before FTC Exploring Privacy Roundtable*, (Dec. 7, 2009), <http://www.ftc.gov/speeches/harbour/091207privacyroundtable.pdf> (last visited July 19, 2018).

<sup>10</sup> Steve Lohr, *You Want My Personal Data? Reward Me for It*, *The New York Times*, <http://www.nytimes.com/2010/07/18/business/18unboxed.html> (last visited July 19, 2018).

<sup>11</sup> See *Web's Hot New Commodity: Privacy*, <http://online.wsj.com/article/SB10001424052748703529004576160764037920274.html> (last visited July 19, 2018).

39. Consumers place a high value not only on their personal information, but also on the privacy of that data. Researchers have already begun to shed light on how much consumers value their data privacy, and the amount is considerable. Indeed, studies confirm that the average direct financial loss for victims of identity theft in 2014 was \$1,349.”<sup>12</sup>

40. The value of Plaintiff’s and Class members’ Personal Information on the black market is substantial. By way of the Data Breach, ComplyRight has deprived Plaintiff and Class members of the substantial value of their Personal Information. Rather than have an unknown third party realize the value of her Personal Information, Plaintiff would choose to realize that value himself.

**Damages Sustained by Plaintiff and the Other Class Members**

41. Plaintiff and other members of the Class have suffered injury and damages, including, but not limited to: (i) an increased risk of identity theft and identity fraud; (ii) improper disclosure of their Personal Information, which is now in the hands of criminals; (iii) the value of their time spent mitigating the increased risk of identity theft and identity fraud; (iv) the value of their time and expenses associated with mitigation, remediation, and sorting out the risk of fraud and actual instances of fraud; and (v) deprivation of the value of their Personal Information, for which there is a well-established national and international market.

42. Plaintiff and the other Class members have suffered and will continue to suffer additional damages based on the opportunity cost and value of time that Plaintiff and the other Class members have been forced to expend and must expend in the future to monitor their financial accounts and credit files as a result of the Data Breach.

---

<sup>12</sup> See *Victims of Identity Theft*, 2014, DOJ, at 1 (2015), available at <https://www.bjs.gov/content/pub/pdf/vit14.pdf> (last visited July 19, 2018).

43. Acknowledging the damage to Plaintiff and Class members, ComplyRight is instructing consumers to “remain vigilant in reviewing . . . financial account statements and credit reports for fraudulent or irregular activity.” Plaintiff and the other Class members now face a greater risk of identity theft.

### **COUNT I – NEGLIGENCE**

44. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

45. ComplyRight owed to Plaintiff and the other Class members a duty to exercise reasonable care in handling and using the Personal Information in its custody, including:

- a. to exercise reasonable care in obtaining, retaining, securing, safeguarding, deleting, and protecting Personal Information in its possession;
- b. to protect Personal Information in its possession using reasonable and adequate security procedures that are compliant with industry-standard practices and the practices and certifications represented on its website which it voluntarily undertook duties to implement; and
- c. to implement processes to quickly detect a data breach and to timely act on warnings about data breaches, including promptly and sufficiently notifying Plaintiff and the other members of the Class of the Data Breach.

46. ComplyRight, a purported expert in legal compliance, knew or should have known the risks of collecting and storing Personal Information and the importance of maintaining secure systems. ComplyRight knew of the many breaches that targeted other entities in the years preceding the Data Breach, as illustrated by its own representations alleged herein.

47. Given the nature of ComplyRight's business, the sensitivity and value of the information it maintains, and the resources at its disposal, ComplyRight should have identified the vulnerabilities to its systems and prevented the Data Breach from occurring.

48. Defendant owed these duties to Plaintiff and the other Class members because Plaintiff and the other Class members are a well-defined, foreseeable, and probable class of individuals whom Defendant should have been aware could be injured by Defendant's inadequate security protocols. Defendant actively solicited Plaintiff and the other Class members' personal information.

49. Additionally, under Wis. Stat. § 134.98, Defendant owed to Plaintiff and the other Class members a duty to notify them within a reasonable timeframe of any breach to the security of their personal information.

50. ComplyRight breached the duties it owed to Plaintiff and Class members in several ways, including:

- a. by failing to implement adequate security systems, protocols and practices sufficient to protect Personal Information and thereby creating a foreseeable, unreasonable risk of harm;
- b. by failing to comply with the minimum industry data security standards and its own assurances of superior data security standards;
- c. by negligently performing voluntary undertakings to secure and protect the Personal Information it solicited and maintained; and
- d. by failing to timely and sufficiently discover and disclose to consumers that their Personal Information had been improperly acquired or accessed, and providing

misleading and unfounded suggestions that their information (and by extension their identity) is not in the immediate peril it is in fact in.

- e. But for ComplyRight's wrongful and negligent breach of the duties it owed to Plaintiff and the other Class members, their Personal Information would not have been compromised.

51. The injury and harm that Plaintiff and the other Class members suffered was the direct and proximate result of ComplyRight's negligent conduct. Plaintiff and the other Class members have suffered actual damages including improper disclosure of their Personal Information, lost value of their Personal Information, lost time and money incurred to mitigate and remediate the effects of the Data Breach, including the increased risk of identity theft that resulted and continues to face them.

52. Plaintiff's and the other Class members' injuries were proximately caused by ComplyRight's violations of the common law duties enumerated above, which was conducted with reckless indifference toward the rights of others, such that an award of punitive damages is warranted.

### **CLASS ALLEGATIONS**

53. Plaintiff brings this action on behalf of a Class, consisting of:

All persons residing in Wisconsin whose Personal Information was contained on ComplyRight's website during the Data Breach that occurred from at least April 20, 2018 through May 22, 2018, including all persons who were sent the July 13, 2018 letter informing them of the Data Breach. Excluded from the foregoing class are Defendant and its affiliates, parents, subsidiaries, employees, officers, agents, and directors. Also excluded is any judicial officer presiding over this matter and the members of their immediate families and judicial staff.

54. The Class is so numerous that joinder is impracticable. On information and belief, there are more than 12,000 class members.

55. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

The predominant common questions include:

- a. Whether ComplyRight had a duty to protect Plaintiff and Class members' Personal Information;
- b. Whether ComplyRight knew or should have known of the susceptibility of their data security systems to a data breach;
- c. Whether ComplyRight's security measures to protect their systems were reasonable in light of the measures recommended by data security experts;
- d. Whether ComplyRight was negligent in failing to implement reasonable and adequate security procedures and practices;
- e. Whether ComplyRight's failure to implement adequate data security measures allowed the breach to occur;
- f. Whether ComplyRight's conduct, including their failure to act, resulted in or was the proximate cause of the breach of its systems, resulting in the loss of the Personal Information of Plaintiff and Class members;
- g. Whether Plaintiff and Class members are entitled to relief.

56. Plaintiff's claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

57. Plaintiff will fairly and adequately represent the interests of the Class members. Plaintiff has retained counsel experienced in consumer class action cases including data breach litigation.

58. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

**JURY DEMAND**

59. Plaintiff hereby demands a trial by jury.

**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

- (a) actual damages;
- (b) statutory damages;
- (c) punitive damages;
- (d) injunctive relief;
- (e) attorneys' fees, litigation expenses and costs of suit; and
- (f) such other or further relief as the Court deems proper.

Dated: August 14, 2018

Respectfully submitted,

/s/ John D. Blythin

**ADEMI & O'REILLY, LLP**

Shpetim Ademi (SBN 1026973)  
John D. Blythin (SBN 1046105)  
Mark A. Eldridge (SBN 1089944)  
3620 East Layton Avenue  
Cudahy, WI 53110  
(414) 482-8000  
(414) 482-8001 (fax)  
sademi@ademilaw.com  
jblythin@ademilaw.com  
meldridge@ademilaw.com

**BARNOW AND ASSOCIATES, P.C.**

Ben Barnow (IL Bar 0118265)

Erich P. Schork (IL Bar 6291153)

One North LaSalle Street, Suite 4600

Chicago, IL 60602

Tel: (312) 621-2000

Fax: (312)-641-5504

b.barnow@barnowlaw.com

e.schork@barnowlaw.com

# 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.)

Place an X in the appropriate Box:  Green Bay Division  Milwaukee Division

### I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

### DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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)

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

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

| CONTRACT  | TORTS  |   | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|---|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance  | <b>PERSONAL INJURY</b>   | <b>PERSONAL INJURY</b>  | <input type="checkbox"/> 610 Agriculture                                 | <input type="checkbox"/> 422 Appeal 28 USC 158                   | <input type="checkbox"/> 400 State Reapportionment                                     |
| <input type="checkbox"/> 120 Marine   | <input type="checkbox"/> 310 Airplane                          | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice         | <input type="checkbox"/> 620 Other Food & Drug                           | <input type="checkbox"/> 423 Withdrawal 28 USC 157               | <input type="checkbox"/> 410 Antitrust   |
| <input type="checkbox"/> 130 Miller Act   | <input type="checkbox"/> 315 Airplane Product Liability        | <input type="checkbox"/> 365 Personal Injury - Product Liability        | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <b>PROPERTY RIGHTS</b>   | <input type="checkbox"/> 430 Banks and Banking   |
| <input type="checkbox"/> 140 Negotiable Instrument                                | <input type="checkbox"/> 320 Assault, Libel & Slander          | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 630 Liquor Laws                                 | <input type="checkbox"/> 820 Copyrights                          | <input type="checkbox"/> 450 Commerce  |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment    | <input type="checkbox"/> 330 Federal Employers' Liability      | <b>PERSONAL PROPERTY</b>  | <input type="checkbox"/> 640 R.R. & Truck                                | <input type="checkbox"/> 830 Patent                              | <input type="checkbox"/> 460 Deportation   |
| <input type="checkbox"/> 151 Medicare Act   | <input type="checkbox"/> 340 Marine                            | <input type="checkbox"/> 370 Other Fraud                                | <input type="checkbox"/> 650 Airline Regs.                               | <input type="checkbox"/> 840 Trademark                           | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations            |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 345 Marine Product Liability          | <input type="checkbox"/> 371 Truth in Lending                           | <input type="checkbox"/> 660 Occupational Safety/Health                  | <b>SOCIAL SECURITY</b>   | <input type="checkbox"/> 480 Consumer Credit   |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits        | <input type="checkbox"/> 350 Motor Vehicle                     | <input type="checkbox"/> 380 Other Personal Property Damage             | <input type="checkbox"/> 690 Other                                       | <input type="checkbox"/> 861 HIA (1395ff)                        | <input type="checkbox"/> 490 Cable/Sat TV  |
| <input type="checkbox"/> 160 Stockholders' Suits                                  | <input type="checkbox"/> 355 Motor Vehicle Product Liability   | <input type="checkbox"/> 385 Property Damage Product Liability          | <b>LABOR</b>   | <input type="checkbox"/> 862 Black Lung (923)                    | <input type="checkbox"/> 810 Selective Service   |
| <input type="checkbox"/> 190 Other Contract                                       | <input type="checkbox"/> 360 Other Personal Injury             |   | <input type="checkbox"/> 710 Fair Labor Standards Act                    | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                  | <input type="checkbox"/> 850 Securities/Commodities/Exchange                           |
| <input type="checkbox"/> 195 Contract Product Liability                           |  |   | <input type="checkbox"/> 720 Labor/Mgmt. Relations                       | <input type="checkbox"/> 864 SSID Title XVI                      | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            |
| <input type="checkbox"/> 196 Franchise  |  |   | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act      | <input type="checkbox"/> 865 RSI (405(g))                        | <input type="checkbox"/> 890 Other Statutory Actions                                   |
|   | <b>REAL PROPERTY</b>   | <b>CIVIL RIGHTS</b>   | <input type="checkbox"/> 740 Railway Labor Act                           | <b>FEDERAL TAX SUITS</b>   | <input type="checkbox"/> 891 Agricultural Acts   |
| <input type="checkbox"/> 210 Land Condemnation                                    | <input type="checkbox"/> 441 Voting                            | <b>PRISONER PETITIONS</b>   | <input type="checkbox"/> 790 Other Labor Litigation                      | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 892 Economic Stabilization Act                                |
| <input type="checkbox"/> 220 Foreclosure  | <input type="checkbox"/> 442 Employment                        | <input type="checkbox"/> 510 Motions to Vacate Sentence                 | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609         | <input type="checkbox"/> 893 Environmental Matters                                     |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                               | <input type="checkbox"/> 443 Housing/Accommodations            | <b>Habeas Corpus:</b>   | <b>IMMIGRATION</b>   |  | <input type="checkbox"/> 894 Energy Allocation Act                                     |
| <input type="checkbox"/> 240 Torts to Land  | <input type="checkbox"/> 444 Welfare                           | <input type="checkbox"/> 530 General                                    | <input type="checkbox"/> 462 Naturalization Application                  |  | <input type="checkbox"/> 895 Freedom of Information Act                                |
| <input type="checkbox"/> 245 Tort Product Liability                               | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 535 Death Penalty                              | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee              |  | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 290 All Other Real Property                              | <input type="checkbox"/> 446 Amer. w/Disabilities - Other      | <input type="checkbox"/> 540 Mandamus & Other                           | <input type="checkbox"/> 465 Other Immigration Actions                   |  | <input type="checkbox"/> 950 Constitutionality of State Statutes                       |
|   | <input type="checkbox"/> 440 Other Civil Rights                | <input type="checkbox"/> 550 Civil Rights                               |  |  |  |
|   |  | <input type="checkbox"/> 555 Prison Condition                           |  |  |  |

### 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 IFF \_\_\_\_\_ 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.

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of Wisconsin

|                     |   |                  |
|---------------------|---|------------------|
| <i>Plaintiff(s)</i> | ) |                  |
|                     | ) |                  |
|                     | ) |                  |
|                     | ) |                  |
| v.                  | ) | Civil Action No. |
|                     | ) |                  |
|                     | ) |                  |
| <i>Defendant(s)</i> | ) |                  |

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff’s attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*STEPHEN C. DRIES, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

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

This summons and the attached complaint for *(name of individual and title, if any)*:  
\_\_\_\_\_

were received by me on *(date)* \_\_\_\_\_.

I personally served the summons and the attached complaint on the individual at *(place)*:  
\_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons and the attached complaint 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 and the attached complaint on *(name of individual)* \_\_\_\_\_ who is designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.: