

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BUC-EE'S, LTD.

Plaintiff,

V.

**AMJAD PANJWANI,
SHEPHERD RETAIL, INC. AND
HARLOW FOOD, INC.**

Defendants.

CIVIL ACTION NO. 4:15-CV-03704

JURY REQUESTED

PLAINTIFF'S ORIGINAL COMPLAINT AND
APPLICATION FOR PRELIMINARY AND PERMANENT
INJUNCTION

Plaintiff, Buc-ee's, Ltd. ("Buc-ee's") files this Original Complaint and Application for Preliminary and Permanent Injunction against Defendants Amjad Panjwani, Shepherd Retail, Inc. and Harlow Food, Inc.

I. NATURE OF ACTION

1. This is a civil action to (i) temporarily and permanently enjoin acts of the following: trade dress infringement under 15 U.S.C. § 1125(a), statutory trademark infringement under 15 U.S.C. § 1114, violations of the Texas Anti-Dilution Statute, Texas Business and Commerce Code § 16.29, common law trademark infringement, unjust enrichment, unfair competition and misappropriation; and (ii) recover damages, profits, treble damages or profits, attorneys' fees, and costs.

2. This case involves Defendants advertising, promoting, and actively constructing a new travel center store in Atascosa, Texas, and BBQ locations in the San Antonio area known as

“Choke Canyon” that attempts to copy the concept, design, and trade dress of Plaintiff’s convenience stores and travel centers. Defendants’ actions are creating, and will continue to cause, confusion in the marketplace because their infringing store design copies the look and feel of Buc-ee’s stores, and the Defendants are marketing their business using an alligator logo that infringes on the federally registered trademarks of Buc-ee’s. As the United States Supreme Court recognized in *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763 (1992), protectable trade dress includes the shape and general appearance of an establishment, including the decor, the menu and other features reflecting on the total image. Defendants’ conduct is unlawful and Plaintiff seeks the full range of remedies provided by law.

3. Defendants have infringed and diluted Plaintiff’s trade dress rights developed and used by Plaintiff in connection with the operation of its convenience stores. Defendants have also attempted to unfairly compete by the intentional and unauthorized use of Plaintiff’s trade dress. Finally, Defendants have copied and usurped the trademarks that make Buc-ee’s stores immediately identifiable and unique.

II.

JURISDICTION AND VENUE

4. This Court possesses subject matter jurisdiction over this action pursuant to the Lanham Act, 15 U.S.C. § 1051 et seq., and 28 U.S.C. §§ 1331, 1338(a). The Court also possesses supplemental jurisdiction over Plaintiff’s state law claim under 28 U.S.C. §§ 1338 and 1367.

5. The Court possesses personal jurisdiction over the parties, and venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events or omissions giving rise to the claim occurred in this District.

III.
PARTIES

6. Plaintiff Buc-ee's, Ltd. is a Texas limited partnership with its principal place of business at 327 FM 2004, Lake Jackson, Texas 77566.

7. Defendant Amjad Ranjwani is an individual and is the owner of Shepherd Retail, Inc. and Harlow Food, Inc., and may be served with process at 20922 Creek River, San Antonio, Texas 78529.

8. Defendant Shepherd Retail, Inc. ("Shepherd") is a Texas company and is the owner operator of Choke Canyon Travel Centers, and may be served with process by serving its registered agent Amjad Ranjwani at 20922 Creek River, San Antonio, Texas 78529.

9. Defendant Harlow Food, Inc. ("Harlow") is a Texas company and is the operator of Choke Canyon Bar B Que, and may be served with process by serving its registered agent Amjad Ranjwani at 7103 Harlow Drive, San Antonio, Texas 78218.

IV.
FACTUAL BACKGROUND

10. Over the last three decades, Buc-ee's has offered quality convenience store services and merchandise to the public under the Buc-ee's brand and Buc-ee's beaver logo through facilities providing a distinctive overall commercial impression or appearance (hereinafter the "Buc-ee's Trade Dress"). As a result of such use, Buc-ee's has become a household name across Texas and other states. Buc-ee's started as a single convenience store in Lake Jackson, Brazoria County, Texas, and has grown to twenty-seven stores operating across Texas.

11. Buc-ee's has established its footprint across the State, operating in such cities as New Braunfels, Bastrop, Madisonville, Luling, and of course Lake Jackson. Buc-ee's has

prided itself in providing premium goods and services to its customers, standing by its motto of “Clean, Friendly, and In Stock.SM” The original iconic Buc-ee’s trademarks have been in continuous service since July 1, 1982.

A. The Buc-ee’s Marks

12. On March 23, 2010, and August 2, 2011, Buc-ee’s registered BUC-EE’S with the United States Patent and Trademark Office under Registration Numbers 3763277 and 4007063. On May 29, 2007, and August 2, 2011, Buc-ee’s registered the Buc-ee’s beaver logo with the United States Patent and Trademark Office under Registration Numbers 3246893 and 4007064.

13. Buc-ee’s uses its distinctive marks in connection with the marketing and sale of its goods and services, including among other items, retail gasoline, t-shirts, mugs, general merchandise, novelties, stuffed animals, and food products. The beaver logo consists of a smiling buck-toothed beaver with a red heart-shaped tongue on a yellow circle wearing a red hat pointing to the right (hereinafter the “Beaver Mark”). The Beaver Mark is as follows:



14. The artistic font used in BUC-EE’S is also distinct, with rounded and curved lettering (hereafter the “BUC-EE’S Mark”). The BUC-EE’S Mark is as follows:

BUC-EE’S

15. Buc-ee's also uses other combinations of the Beaver Mark and BUC-EE'S Mark in the promotion of its business, and all of the trademarks are of significant value to Buc-ee's (hereinafter the Beaver Mark and BUC-EE'S Mark shall be referred to collectively as the "BUC- EE'S Marks"). When used in combination, the BUC-EE'S Marks appear as follows:



B. The Buc-ee's Trade Dress

16. As the United States Supreme Court recognized in *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763 (1992), protectable trade dress includes the shape and general appearance of a business and restaurant, including the decor, the menu, and other features reflecting on the total image of the facility. The Buc-ee's Trade Dress was designed to provide customers with a unique, rustic, Texan-themed appearance that is both suggestive of Texas-living and, at the same time, distinctive to Buc-ee's and which differentiates Buc-ee's from other convenience store providers.

17. The features of the Buc-ee's Trade Dress that help distinguish the Buc-ee's convenience stores (and thereby help to identify and distinguish the Buc-ee's convenience stores from the stores of others) include, but are not limited to, the following:

- (a) Consistent use of bell-gabled roof lines;
- (b) Use of a red, white, yellow and black color scheme in store signage;

- (c) Use of stone siding on the exterior of the store;
- (d) Consistent use of a specific and distinctive fountain drink set up in the interior of the stores;
- (e) In-store computer ordering kiosks;
- (f) Horse-shoe shaped in-store carving stations;
- (g) Open counter deli stations;
- (h) Freshly prepared signature food choices;
- (i) Consistent, prominent use of the BUC-EE'S Marks in signage above and on the products offered for sale;
- (j) Large square footage;
- (k) Numerous fuel pumps;
- (l) Abundant and oversized parking spaces;
- (m) Oversized bathrooms;
- (n) A multitude of cashier stations;
- (o) Entrances from three of the four sides of the building.
- (p) Antique-looking displays;
- (q) Country-themed signage; and
- (r) Khaki paint colors.

18. The features of the Buc-ee's Trade Dress together with the overall presentation of goods and services combine to yield a distinctive concept that suggests a Texas-themed simplicity and welcoming vibe that distinguishes the Buc-ee's stores from other competing convenience stores.

19. Buc-ee's has expended considerable effort and money advertising and promoting its unique convenience store experience, products and services under its distinctive trade dress and concept.

20. As a result of such efforts, the products and services of Buc-ee's offered under the Buc-ee's Trade Dress and concept have become favorably accepted by the consuming public, and the Buc-ee's Trade Dress is recognized as a designation of the quality convenience store services and products offered by Buc-ee's under the Buc-ee's Trade Dress.

21. Buc-ee's has, through such efforts, developed enormous goodwill in the Buc-ee's Trade Dress and concept. The Buc-ee's Trade Dress and concept, and the goodwill associated with the Buc-ee's Trade Dress and concept, are valuable property rights of Buc-ee's.

C. Defendants' Unlawful Actions

22. In December of 2015, Buc-ee's received inquiries from vendors and customers asking whether Buc-ee's was aware of a convenience store known as the Choke Canyon Travel Center and their advertising. Upon further investigation, Buc-ee's went to the Facebook page for Choke Canyon Travel Center and their travel center location and learned that it was being operated by Defendant Shepherd and also discovered the use of the same logo by Choke Canyon Bar B Que, owned and operated by Harlow Food, Inc. and both at the direction of Defendant Amjad Panjwani. Plaintiff further discovered the use of a logo by the Defendants (the "Choke Canyon Logo") that is a copy of, or at the very least suggestive of, the Buc-ee's logo. Below is a copy of Choke Canyon's Logo compared to the BUC-EE'S Marks:



23. Defendants' anthropomorphic and cartoon representation of the alligator as shown above in connection with a convenience store copies the most important aspects of the iconic BUC-EE'S Marks. Specifically, besides Defendants' improper use of a friendly smiling cartoon animal, Defendants have copied the BUC-EE'S Marks with: (i) the use of a black circle encompassing the alligator (compare to the black circle around the beaver), (2) use of a yellow background (compare to the yellow surrounding the beaver), (3) use of the red-colored tongue of the alligator (compare to the red hat on the beaver), (4) prominent use of sharply drawn black edges for the alligator mascots (compare to the sharp crisp black edges defining the beaver, and (5) the use of letters in raised block font in the name "CHOKE CANYON" (compare to letters and block font of **BUC-EE'S**).

24. Defendants also utilize a trade dress purposely similar to and reminiscent of the Buc-ee's Trade Dress, which will be confusingly similar to or likely to cause confusion with the Buc-ee's Trade Dress. Moreover, a convenience store Defendants plan to open is within close proximity of a Buc-ee's store located in New Braunfels, Texas and Luling, Texas and will share the same client base, leading to further consumer confusion.

25. The following non-exhaustive list of the many elements of what appears to be the Choke Canyon trade dress that simulates the Buc-ee's Trade Dress demonstrates the copying by Defendants of the Buc-ee's Trade Dress:

- (a) Use of a red, white, yellow and black color scheme in store signage;
- (b) Use of a roofing design substantially similar to that employed by Buc-ee's;
- (c) Use of stone siding;
- (d) Use of khaki paint;
- (e) Use of a specific fountain drink set up that, by description, emulates that of Buc-ee's;
- (f) Large square footage;
- (g) Numerous fuel pumps;
- (h) Abundant and oversized parking spaces;
- (i) Oversized bathrooms;
- (j) A multitude of cashier stations;
- (k) Freshly prepared signature food choices; and
- (l) Prominent use of the animal-themed logos and marks depicted in identical color schemes to those of the BUC-EE'S Marks in store signage.

26. On information and belief, Defendants also copied the Buc-ee's Trade Dress when preparing their website, which includes descriptions of the Choke Canyon store and offerings therein reminiscent of Buc-ee's unique, rustic, Texas-themed look and feel.

27. Defendants' blatant copying of the Buc-ee's Trade Dress show that Defendants' actions are willful, knowing, and committed with the intent of benefiting from the goodwill and concept of Buc-ee's and the Buc-ee's Trade Dress and will cause Defendants'

store and the goods and services offered by Defendants to be likely to be confused or mistaken for those of Buc-ee's.

28. In addition, Defendants have intentionally packaged and promoted t-shirts and products in a manner that results in confusion to the consumer and further infringes upon the marks of Buc-ee's.

THEIRS:



OURS:





29. Defendants' intentional and unauthorized actions further constitute infringement and dilution of the BUC-EE'S Marks and an attempt to unfairly compete in violation of Federal and State law, and constitute statutory and common law trademark infringement and dilution and unfair competition.

D. Injury to Buc-ee's

30. Defendants' unauthorized use of a trade dress confusingly similar to the Buc-ee's Trade Dress will allow Defendants to receive the benefit of the goodwill built up at the great labor and expense by Buc-ee's in the Buc-ee's Trade Dress, and further will allow

Defendants to gain acceptance for their convenience store services and products based not on their own merits, but on an association with the reputation and goodwill of Buc-ee's.

31. Defendants' unauthorized use of a trade dress confusingly similar to the Buc-ee's Trade Dress constitutes an invasion of Buc-ee's valuable property rights in a manner that unjustly enriches Defendants.

32. Defendants' use of a trade dress confusingly similar to the Buc-ee's Trade Dress falsely indicates to the purchasing public that the Defendants and/or their convenience store services and products are in some manner connected with, sponsored by, affiliated with, or related to Buc-ee's and/or its convenience store services and products.

33. Use by Defendants of a trade dress confusingly similar to the Buc-ee's Trade Dress places the valuable reputation and goodwill of Buc-ee's in the hands of Defendants, over whom Buc-ee's has no control.

34. The above-mentioned activities of Defendants are likely to cause confusion, or to cause mistake, or to deceive customers or potential customers wishing to purchase services or products sponsored by, associated with, or affiliated with Buc-ee's.

35. This action is being brought to prevent any further infringement and dilution of Buc-ee's intellectual property rights under federal and Texas law and to compensate Buc-ee's for the harm caused by Defendants' willful actions.

V.
COUNT I -- FEDERAL TRADE DRESS
AND TRADEMARK INFRINGEMENT UNDER 15 U.S.C. SECTION 1125(A)

36. Buc-ee's incorporates the allegations set forth in Sections I through IV, *supra*.

37. The acts of Defendants complained of above constitute a false designation of origin and false representation in commerce in violation of 15 U.S.C. § 1125(a). Defendants'

use of a trade dress confusingly similar to the Buc-ee's Trade Dress falsely represents that Defendants are licensed or sponsored by Buc-ee's, or that Defendants are in some manner affiliated with Buc-ee's.

38. Defendants' infringing conduct has been willful, making this an exceptional case under 15 U.S.C. § 1117.

39. Defendants have infringed and continue to infringe the BUC-EE'S Marks, which are federally registered. Defendants' actions are in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114. Because of Defendants' infringement, Buc-ee's has been injured and damaged, and is entitled to recover damages, profits, and cost pursuant to 15 U.S.C. § 1117.

40. Defendants are using the BUC-EE'S Marks with full knowledge of Buc-ee's rights, and in bad faith and willful and deliberate intent to trade on Buc-ee's substantial recognition, reputation, and goodwill. In view of the willful nature of Defendants' infringement and unfair competition, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

VI.
COUNT II - FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. SECTION
1125(A)

41. Buc-ee's incorporates the allegations set forth in Sections I through V, *supra*.

42. Defendants, in connection with goods or services or any container for goods, used in commerce words, terms, names, symbols, devices, or any combination thereof a false designation of origin, false or misleading description of fact, or false or misleading representation of fact which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Buc-ee's with Defendants, or as to the origin, sponsorship, or approval of Defendants' use of the Buc-ee's Trade Dress, in violation of 15 U.S.C. § 1125(a).

43. Defendants' unauthorized use of the Buc-ee's Trade Dress has had, and unless restrained, will continue to have the consequent result of saturating and overwhelming the market, thereby causing Buc-ee's to lose the value of its trade dress, cause damage to Buc-ee's integrity, and cause Buc-ee's to lose control over its goodwill and reputation

VII.

COUNT III -- COMMON LAW INFRINGEMENT

44. Buc-ee's incorporates the allegations set forth in Sections I through VI, *supra*.

45. The acts of Defendants complained of above constitute common law trademark infringement under state common law.

VIII.

COUNT IV – COMMON LAW UNFAIR COMPETITION

46. Buc-ee's incorporates the allegations set forth in Sections I through VII, *supra*.

47. The acts of Defendants complained of above constitute common law unfair competition under state common law.

IX.

COUNT V – FEDERAL AND STATE UNFAIR COMPETITION AND STATE DILUTION

48. Buc-ee's incorporates the allegations set forth in Sections I through VIII, *supra*.

49. Buc-ee's asserts causes of action for unfair competition pursuant to 15 U.S.C. § 1125(a) (Section 43(a) of the Lanham Act) as well as pursuant to Texas common law. Additionally, Buc-ee's asserts a cause of action for dilution pursuant to Texas Business & Commerce Code § 16.29.

50. Defendants' acts complained of above are likely to injure Buc-ee's business reputation or to dilute the distinctive quality of the Buc-ee's Trade Dress.

51. Defendants' unauthorized activities are likely to weaken or otherwise jeopardize Plaintiff's highly valuable rights. Pursuant to Federal Law and Texas Business & Commerce Code § 16.29, Buc-ee's is entitled to bring this action to enjoin Defendants from injuring Buc-ee's business reputation or diluting the distinctive quality of the BUC-EE's Marks and the Buc-ee's Trade Dress.

52. Buc-ee's will be irreparably injured unless such action is enjoined by this Court as provided by Texas law.

53. Defendants' dilution has been willful, making this case eligible for an award of exemplary damages under Texas law.

X.
MISAPPROPRIATION

54. Buc-ee's incorporates the allegations set forth in Sections I through IX, *supra*.

55. The acts of Defendants complained of above constitute misappropriation in violation of the laws of the State of Texas.

XI.
APPLICATION FOR
PRELIMINARY AND PERMANENT INJUNCTION

56. Buc-ee's incorporates the allegations set forth in Sections I through X, *supra*.

57. There is a substantial likelihood that Buc-ee's will prevail on its claims against Defendants, based on Defendants' unlawful use of the Buc-ee's Trade Dress in connection with the promotion and sale of retail convenience store items.

58. Defendants' actions complained of above are jeopardizing, and, if allowed to proceed, will continue to jeopardize the goodwill of Buc-ee's in its valuable name, concept, and trade dress. Such acts have caused, are causing and will continue to cause,

irreparable injury to Buc-ee's and the consuming public, and the threatened injury outweighs any hypothetical damage that the proposed injunction may cause Defendants. Finally, the public interest favors the issuance of an injunction in this case.

59. Unless the acts of Defendants complained of above are restrained by this Court, they will be continued and will continue to cause irreparable injury to Buc-ee's and to the public, for which there is no adequate remedy at law.

60. Buc-ee's seeks a preliminary injunction against Defendants, prohibiting them from any and all use of the Buc-ee's Trade Dress, any of the BUC-EE'S Marks, and any other Buc-ee's marks, names and/or logos that are confusingly similar in name, typeface, font, color, or appearance to the Buc-ee's Trade Dress, the BUC-EE'S Marks, or any other Buc-ee's marks, names and/or logos, or any derivation thereof directly or indirectly, for itself, or through, on behalf of, or in conjunction with the sale or offer of any convenience store items by Defendants until further order from this Court.

61. Buc-ee's is willing to post bond in an amount to be determined by the Court.

XII.
TRIAL BY JURY

62. Buc-ee's hereby requests a trial by jury.

XIII.
PRAYER

For the reasons stated above, Plaintiff prays that this Court:

(a) enter a temporary restraining order and a preliminary and permanent injunction prohibiting Defendants and their respective officers, directors, agents, servants, employees, attorneys, related companies, licensees, and all persons acting for, with, by, through, and under any of them, from any and all use of the Buc-ee's Trade Dress, the BUC-EE'S Marks,

and any other Buc-ee's marks, names and/or logos, or any derivation thereof directly or indirectly, for itself, or through, on behalf of, or in conjunction with the sale or offer of any convenience store products or services by Defendants;

(b) enter judgment in favor of Buc-ee's for actual and statutory damages in an amount to be determined by the Court, to that such damages be trebled to the extent the trier of fact determines that any of Defendants acts are found to be willful and in intentional disregard of Buc-ee's known rights;

(c) enter judgment in favor of Buc-ee's for Defendants' profits, pursuant to 15 U.S.C. § 1117;

(d) award Buc-ee's all costs of the action and reasonable attorneys' fees pursuant to the provisions of 15 U.S.C. § 1117; and

(e) award such other relief as the Court deems appropriate.

Dated: December 15, 2015

By /s/ H. Tracy Richardson, III
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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

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

(c) Attorneys (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 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 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 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 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 <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	CIVIL RIGHTS <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	PRISONER PETITIONS 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):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.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.