

**UNITED STATES DISTRICT COURT
Southern District of Florida
Miami-Dade Division**

Case Number: 1:16-cv-21296

SETAI HOTEL ACQUISITION LLC

Plaintiff,

v.

MIAMI BEACH LUXURY RENTALS
INC., a Florida corporation; and ALLEN
TULLER, an individual,

Defendants.

COMPLAINT

Plaintiff Setai Hotel Acquisition LLC (“SHA”) files this Complaint against Defendants Miami Beach Luxury Rentals Inc., a Florida corporation (“Luxury Rentals”), and Allen Tuller (“Tuller”) (Luxury Rentals and Tuller may hereinafter be collectively referred to as “Defendants”).

Jurisdiction and Venue

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331. Some of SHA’s claims arise under the Constitution and laws of the United States. Specifically, some of SHA’s claims involve trademarks recorded on the Principal Register of the United States Patent and Trademark Office (“USPTO”) and therefore arise under the Federal Trademark Act (the “Lanham Act”) of July 5, 1946, as amended, 15 U.S.C. §§ 1051 *et seq.* This Court therefore has original subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338.

2. This Court has supplemental subject matter jurisdiction over the state law claims

contained herein pursuant to 28 U.S.C. § 1367.

3. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims in this case occurred within the Southern District of Florida and Defendants are domiciled in the Southern District of Florida.

Parties

4. SHA is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business at 2001 Collins Avenue, Miami Beach, Florida 33139.

5. Upon information and belief, Defendant Miami Beach Luxury Rentals Inc. is a corporation organized and existing under the laws of the State of Florida with its principal place of business at 1040 Biscayne Blvd., #2301, Miami, Florida 33132.

6. Upon information and belief, Tuller is a resident of Miami-Dade County in the State of Florida.

Factual Allegations Common to All Counts

7. The Setai® Hotel and Residences a/k/a The Setai® Miami Beach a/k/a The Setai® South Beach (“The Setai”) is a world famous high rise luxury hotel and condominium located at 2001 Collins Avenue, Miami Beach, Florida 33139. The Setai® opened in 2004, is the tenth tallest building on Miami Beach, is a member of The Leading Hotels of the World®, and set the record for the most expensive sale of a home in Miami Beach in 2013 when one of its penthouses sold for \$27 million – the second time that unit set the Miami Beach sales record. See <http://blogs.wsj.com/developments/2013/01/15/penthouse-sells-for-27-million-setting-record-for-miami-beach/> (last accessed Mar. 18, 2016). The Setai® has been profiled by numerous media outlets, including The Huffington Post, HGTV, Maxim, The Miami New

Times, The New York Post, Forbes, and The Daily Mail.

8. The United States Patent and Trademark Office (“USPTO”) issued Trademark Registration Number 2,506,974 on November 13, 2001 for “The Setai” (the “’974 Mark” or the “Setai Mark”). The ’974 Mark was renewed on May 2, 2007 and on May 21, 2012, and is now incontestable. A copy of the ’974 Mark registration is annexed hereto as **Exhibit 1**. The ’974 Mark was registered in, *inter alia*, International Class 042 for hotel and resort services. The ’974 Mark was originally registered to Metropolitan Development Group, LLC, which subsequently assigned the ’974 Mark to Lehman Brothers Holdings, Inc., which, in turn, assigned the ’974 Mark to BPI LUX S.a.r.l. and Alexandre von Furstenberg Living Trust. All assignments were timely recorded with the USPTO.

9. SHA is the sole and exclusive licensee of the ’974 Mark pursuant to a License Agreement from BPI LUX S.a.r.l. and Alexandre von Furstenberg Living Trust dated February 27, 2015.

10. SHA and its predecessors in interest have successfully advertised and promoted The Setai® by using and exploiting the ’974 Mark. The Setai’s® fame and international renown are partially a result of extensive marketing efforts that have been undertaken, including exploitation of the ’974 Mark.

11. Luxury Rentals operates a website using the domain name <http://www.miamibeachluxuryrentals.com> (the “Infringing Website”). The Infringing Website is registered and apparently owned by Tuller.

12. Luxury Rentals purports to provide “‘5-star’ private accommodations at the Setai Resort and Spa. . . . for up to 70%* off the published hotel rates.” *See* <http://www.miamibeachluxuryrentals.com> (last accessed Apr. 11, 2016). Tuller purports to be

the Owner of Luxury Rentals.

13. Upon information and belief, Tuller personally directs the actions of Luxury Rentals and is personally involved in the counterfeiting, infringement, and dilution of the '974 Mark, as he owns the domain name through which Luxury Rentals engages in such counterfeiting, infringing, and diluting activities. Additionally, Tuller is a corporate officer of Luxury Rentals.

14. Luxury Rentals offers to rent rooms and/or units at a variety of hotels, including The Setai®. In so doing, Luxury Rentals uses the '974 Mark without permission. Such unauthorized use counterfeits and infringes the '974 Mark, dilutes the '974 Mark, and causes a likelihood of confusion in the minds of the consuming public. Luxury Rentals has created an impression of affiliation, authorization, sponsorship, or cooperation with SHA and/or The Setai® when, in fact, no such relationship exists.

15. SHA has retained undersigned counsel to represent it in this civil action and has obligated itself to pay reasonable attorneys' fees therefore, which fees are recoverable against Defendants.

COUNT I
Trademark Counterfeiting pursuant to 15 U.S.C. §§ 1114, 1116, and 1117
(Against all Defendants)

16. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

17. Defendants use a counterfeit of the '974 Mark because they use the '974 Mark in commerce without authorization.

18. Defendants use a counterfeit Setai Mark in commerce in connection with the sale, offering or sale, distribution, advertising, or use of hotel and resort services.

19. Defendants' use of a counterfeit Setai Mark is likely to create confusion, or cause a mistake, or deceive.

20. Defendants' acts have caused actual confusion in the market.

21. Defendants act intentionally and with actual knowledge that, or reckless disregard for whether, their conduct infringes upon SHA's rights.

22. Defendants' use of a counterfeit Setai Mark is willful.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the '974 Mark pursuant to 15 U.S.C. § 1116;
- b. treble damages pursuant to 15 U.S.C. § 1117(b), or statutory damages pursuant to 15 U.S.C. § 1117(c);
- c. attorneys' fees pursuant to 15 U.S.C. § 1117(a); and
- d. any and all other relief this Court deems appropriate.

COUNT II
Trademark Infringement pursuant to 15 U.S.C. §§ 1114
(Against all Defendants)

23. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

24. Defendants infringe the '974 Mark because they use the '974 Mark or a confusingly similar mark in commerce without authorization.

25. Defendants use a confusingly similar Setai Mark in commerce in connection with the sale, offering or sale, distribution, advertising, or use of hotel and resort services.

26. Defendants' use of a confusingly similar Setai Mark is likely to create confusion, cause a mistake, or deceive.

27. Defendants' acts have caused actual confusion in the market.

28. Defendants act intentionally and with actual knowledge that, or reckless disregard for whether, their conduct infringes upon SHA's rights.

29. Defendants' use of a counterfeit Setai Mark is willful.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the '974 Mark pursuant to 15 U.S.C. § 1116;
- b. treble damages pursuant to 15 U.S.C. § 1117, or statutory damages pursuant to 15 U.S.C. § 1117;
- c. attorneys' fees pursuant to 15 U.S.C. § 1117; and
- d. any and all other relief this Court deems appropriate.

COUNT III

Unfair Competition under the Lanham Act, 15 U.S.C. § 1125(a) (Against all Defendants)

30. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

31. Defendants' use in commerce of a mark that is the same and/or confusingly similar to the '974 Mark in connection with Defendants' goods and services constitutes a false designation of origin and/or a false or misleading description or representation of fact, which is likely to cause confusion, cause mistake, or deceive as to affiliation, connection, or association with SHA, or as to the origin, sponsorship, or approval of Defendants' goods and services or commercial activities by SHA.

32. Defendants' use in commerce of The Setai Mark and/or a mark confusingly similar thereto with the knowledge that SHA owns and has used, and continues to use, its trademarks constitutes intentional conduct by Defendants to make false designations of origin and false descriptions about Defendants' activities.

33. As a direct and proximate result of such unfair competition, SHA has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the '974 Mark pursuant to 15 U.S.C. § 1116;
- b. treble damages pursuant to 15 U.S.C. § 1117, or statutory damages pursuant to 15 U.S.C. § 1117;
- c. attorneys' fees pursuant to 15 U.S.C. § 1117; and
- d. any and all other relief this Court deems appropriate.

COUNT IV
Common Law Trademark Infringement
(Against all Defendants)

34. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

35. By virtue of having used and continuing to use the Setai Mark, SHA has acquired common law trademark rights in the Setai Mark.

36. Defendants' use of a mark that is the same as and/or confusingly similar to the Setai Mark infringes SHA's common law trademark rights in its Setai Mark and is likely to cause confusion, mistake, or deception among consumers who will believe that Defendants' activities originate from, are affiliated with, or are endorsed by SHA when, in fact, they are not.

37. As a direct and proximate result of such unfair competition, SHA has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the Setai Mark;
- b. damages; and
- c. any and all other relief this Court deems appropriate.

COUNT V
Common Law Unfair Competition
(Against all Defendants)

38. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

39. By virtue of having used and continuing to use the Setai Mark, SHA has acquired common law trademark rights in the Setai Mark.

40. Defendants' use of a mark that is the same as and/or confusingly similar to the Setai Mark infringes SHA's common law trademark rights in its Setai Mark and is likely to cause confusion, mistake, or deception among consumers who will believe that Defendants' activities originate from, are affiliated with, or are endorsed by SHA when, in fact, they are not.

41. Defendants have been and are being unjustly enriched by their wrongful misappropriation of the Setai Mark and/or a mark confusingly similar thereto.

42. As a direct and proximate result of such unfair competition, SHA has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the Setai Mark;
- b. damages; and
- c. any and all other relief this Court deems appropriate.

COUNT VI
Trademark Dilution
(Against all Defendants)

43. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

44. The '974 Mark is famous and distinctive.

45. The '974 Mark has been used in commerce by SHA.

46. Defendants have inappropriately used the '974 Mark or marks confusingly similar thereto in commerce.

47. Defendants' actions have blurred the famous '974 Mark.

48. Defendants' actions have tarnished the famous '974 Mark.

49. Defendants' inappropriate use of the '974 Mark, or marks confusingly similar thereto, occurred after the '974 Mark became famous.

50. Defendants' inappropriate use of the '974 Mark, or marks confusingly similar thereto, is likely to cause dilution of the '974 Mark's distinctive quality through blurring and/or tarnishment.

WHEREFORE, SHA seeks:

- a. a temporary and a permanent order enjoining Defendants from unauthorized use of the Setai Mark;
- b. damages; and
- c. any and all other relief this Court deems appropriate.

COUNT VII
Tortious Interference
(Against all Defendants)

51. SHA adopts and realleges paragraphs 1 through 15 above as if fully set forth herein.

52. The Setai® is governed, *inter alia*, by the Declaration of Setai Resort & Residences, as amended (the “Declaration”).

53. The Declaration is a valid contract between SHA and the owners of the private residences at the Setai® (the “Unit Owners”).

54. The Declaration provides that SHA has the exclusive right to provide hotel and/or transient rental services to the Setai® and to the Unit Owners including, without limitation, check-in services, daily services, concierge and marketing services.

55. The Declaration is a publicly recorded document, recorded in Book 21981, Page 2159 in the Official Records of Miami-Dade County, Florida. The Defendants knew, should have known and/or recklessly disregarded the terms of the Declaration between the Setai® and the Unit Owners.

56. Defendants took actions intended to induce a breach or disruption of the Declaration by, *inter alia*, encouraging Unit Owners to use Defendants for transient rental services such as check-in services, daily services, concierge and marketing services instead of SHA. And the Unit Owners in fact breached the Declaration as a result of Defendants’ actions.

57. There was no legal justification for Defendants’ actions.

58. As a direct and proximate result of Defendants’ aforementioned actions, SHA has suffered, and will continue to suffer, material and ongoing damages.

WHEREFORE, SHA seeks:

- a. damages; and
- b. any and all other relief this Court deems appropriate.

Dated: April ___, 2016

SHUTTS & BOWEN LLP
Counsel for Plaintiff
Setai Hotel Acquisition LLC
1100 CityPlace Tower
525 Okeechobee Boulevard
West Palm Beach, FL 33401
Telephone: (561) 835-8500
Facsimile: (561) 650-8530

By: /s/Daniel J. Barsky
Daniel J. Barsky
Florida Bar No. 25713
Daniel F. Benavides
Florida Bar No. 81675

EXHIBIT 1

Int. Cls.: 36, 37 and 42

Prior U.S. Cls.: 100, 101, 102, 103 and 106

United States Patent and Trademark Office

Reg. No. 2,506,974

Registered Nov. 13, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

THE SETAI

METROPOLITAN DEVELOPMENT GROUP, LLC
(NEW YORK LIMITED LIABILITY COMPAN-
NY)

392 FIFTH AVENUE
NEW YORK, NY 10018

FOR: REAL ESTATE MANAGEMENT, IN CLASS
36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-30-2000; IN COMMERCE 5-30-2000.

FOR: REAL ESTATE DEVELOPMENT AND CON-
STRUCTION, IN CLASS 37 (U.S. CLS. 100, 103 AND
106).

FIRST USE 5-30-2000; IN COMMERCE 5-30-2000.

FOR: HOTEL AND RESORT SERVICES, IN CLASS
42 (U.S. CLS. 100 AND 101).

FIRST USE 5-30-2000; IN COMMERCE 5-30-2000.

SER. NO. 76-211,473, FILED 2-16-2001.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

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

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

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 received 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 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.

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 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 \$ _____.

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:

for the

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

V.

Civil Action No.

Defendant(s)

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

Within 21 days after service of this summons on you (not counting the day you received 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 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.

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 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 \$ _____ .

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:

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"/> 376 Qui Tam (31 USC 3729(a)) <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.