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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FEDERAL TRADE COMMISSION,)
)
)
Plaintiff,)
)
)
v.)
)
)
NEW HOPE PROPERTY LLC, also dba)
New Hope Modifications LLC, **BRIAN**)
MAMMOCCIO, and **DONNA FISHER,**)
)
Defendants.)

Civil No.

**COMPLAINT FOR
PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

PLAINTIFF

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 *et seq.* The FTC is charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable

relief as may be appropriate in each case, including restitution and disgorgement. 15 U.S.C. § 53(b).

DEFENDANTS

5. Defendant New Hope Property LLC, also doing business as New Hope Modifications LLC and New Hope Modifications, (“NHM”) is a New Jersey limited liability company with its principal place of business at 14000 Horizon Way, Mt. Laurel, New Jersey. NHM transacts or has transacted business in the District of New Jersey. At all times material to this Complaint, NHM, acting alone or in concert with others, has advertised, marketed, and/or sold mortgage loan modification services to consumers throughout the United States.
6. Defendant Brian Mammoccio is a manager, officer and/or director of NHM. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of NHM, including the acts and practices set forth in this Complaint. Defendant Mammoccio resides in this District and transacts or has transacted business in this District and throughout the United States.
7. Defendant Donna Fisher is a manager, officer and/or director of NHM. At all times material to this Complaint, acting alone or in concert with others,

she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of NHM, including the acts and practices set forth in this Complaint. Defendant Fisher resides in this District and transacts or has transacted business in this District and throughout the United States.

COMMERCE

8. At all times relevant to this complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

BACKGROUND ON THE HOPE NOW ALLIANCE

9. The Hope Now Alliance is a private-sector, non-profit alliance formed in October 2007 with the encouragement of then President Bush and the Departments of Treasury and Housing and Urban Development. The Hope Now Alliance is a broad-based collaboration between credit and homeownership counselors, lenders, investors, mortgage market participants, and trade associations. The Hope Now Alliance offers free assistance to homeowners who may not be able to pay their mortgages and need help working with their mortgage company or loan servicer. The Hope Now Alliance maintains an Internet website, www.hopenow.com, and a toll-free hotline, 888-995-HOPE. Consumers who contact the Hope Now

Alliance are referred to HUD-approved housing counselors who provide counseling at no cost to consumers.

DEFENDANTS' BUSINESS PRACTICES

10. Since at least August 28, 2007, Defendants have engaged in a course of conduct to advertise, market, offer to sell, and sell to consumers mortgage loan modification and foreclosure relief services. Defendants, using the name New Hope Modifications, market their services to homeowners who are in danger of losing their homes to foreclosure. Defendants maintain at least four Internet websites, www.newhopemodifications.com, www.newhopemodificationsllc.com, www.newhopemitigation.com, and www.newhopemod.com, through which they market their services.
11. Defendants' websites are nearly identical. At the top left of Defendants' websites is their logo: a graphic of a house next to the words "New Hope" and underneath the phrase "For You. For Now. For the Future." To the right is Defendants' toll-free number, "877-373-HOPE."
12. Defendants' websites contain statements to induce consumers to purchase their mortgage loan modification and foreclosure relief services, including:
 - a. Stop Foreclosure Now
Our Experienced Professionals Are Here To Help You
 - b. At **New Hope Modifications LLC** we have the experience and expertise necessary to negotiate successfully with your lender. We

have more than ten years experience in the mortgage industry and already have working relationships with most mortgage companies.

- c. Are you facing Foreclosure or have you had a change in your financial situation and you can no longer afford your mortgage? If you are falling behind on your payments or think you may fall behind in the near future, ***don't wait***. Time is not your friend in this situation, but there is hope. It all starts here. We can help save your home and save you the embarrassment of bankruptcy and sheriff's sale or notice of eviction.
- d. We know how to help you. Put our expertise into action and you could become another one of our countless satisfied customers.
- e. The Fast And Easy Way To ***save your home*** is "Loss Mitigation" which is rescuing many homeowners from foreclosure. Loss Mitigation is a process whereby a homeowner's mortgage is modified and both lender & homeowner are bound by the new terms.
- f. Our experience and familiarity with each lender are the keys to your success and a beneficial resolution. We have skilled negotiators working for you.
- g. The key to our high success rate is constructing a financial plan that you and your lender can approve and, most importantly, that you are able to perform.
- h. Unfortunately homeowners that try to work directly with their lender have a failure rate of over 80%.
- i. Our experience within the loss mitigation departments of major mortgage companies and servicers gives you the advantage needed to secure a plan you can live with.
- j. **I've already talked with my lender and they just want all their money. Can you still help me?**
Yes. Most of our clients have experienced this kind of inflexibility from their lenders before calling us. We get your bank to listen to your needs because they know and trust us. We have mitigated

thousands of home foreclosure cases. That kind of experience gives us credibility with your lender. Over the years we have developed positive working relationships with key people at most banks. Our integrity and professionalism have earned us a reputation that allows us to be heard when no one else can get through the red tape.

k. **Several companies contacted me recently offering help. What makes you different?**

. . . We have some of the most experienced and well respected specialists in the industry whose sole purpose is to save your house, not buy it, sell it, or send you into bankruptcy. . . .

13. Defendants' websites also contain numerous purported customer testimonials touting Defendants' ability to arrange loan modifications and/or stop foreclosures. In introducing the testimonials, Defendants state: "Our experienced professionals have been helping people like you for years . . . Below are a few testimonials from a few of our many satisfied clients." The testimonials include the following statements:

- a. . . . New Hope worked it all out with my bank, and got them to agree to a modification so that I could be back on track, stop foreclosure, and keep my house. THANK YOU!!
- b. . . . I commend the caring specialists at New Hope who took care of everything and worked out a payment I could afford.
- c. Thank you for helping us and guiding us to save our home. . .
- d. I just wanted to take the time to thank you staff for helping to save my house. . .
- e. We just wanted to send you a line to say thanks for your help in saving our home. . . Again, we appreciate the hard work that you put into this to help save our home. We are forever grateful.

- f. I want to take a moment to thank you for all of your assistance in arranging a work out program with my mortgage company. . .
14. Defendants' websites include a toll-free number, 877-373-HOPE and encourage consumers to call to "Get a FREE Consultation." Alternatively, Defendants' websites request consumers to complete a short form and submit the information to Defendants after which a representative calls the consumer. The short form asks consumers for their contact information, lender name, monthly mortgage payment, the number of months behind, and whether there is a foreclosure date.
15. Consumers speak with Defendants' telemarketers when they call the toll-free number in response to Defendants' Internet advertising or when Defendants call consumers after receiving consumers' information via the online form.
16. During the telemarketing sales calls, Defendants' representatives collect information from consumers, including details about the consumers' mortgages and income. After consumers provide Defendants with this information, the telemarketers often claim that the consumers are prime candidates for a modification. Defendants' representatives typically promise consumers that Defendants can help modify consumers' mortgage loans and prevent foreclosure.

17. Defendants' telemarketers instruct consumers that they must pay Defendants' fee up-front. The fee is typically in the amount of consumers' monthly mortgage payment. Defendants typically refer to the fee as a mitigation escrow fee. Consumers who express concern about paying the fee are often told that they can pay the fee instead of their regular mortgage payment, because foreclosure proceedings will be stayed while Defendants negotiate with the lender.
18. In numerous instances, consumers are told that if they are not satisfied with Defendants' service they are entitled to a full refund of the fees paid.
19. In numerous instances, Defendants' representatives create a false aura of legitimacy by misrepresenting that Defendants are part of the Hope Now Alliance.
20. Defendants, however, are not members of, affiliated with, or part of the Hope Now Alliance.
21. In numerous instances after consumers have paid Defendants' fee, Defendants fail to return consumers' telephone calls or provide updates about the status of Defendants' purported communications with the consumers' lenders. In other instances, Defendants misrepresent to consumers that negotiations are proceeding smoothly.

22. In numerous instances, Defendants fail to obtain mortgage loan modifications. In numerous instances, consumers learn from their lenders that Defendants have not even contacted the lender or that Defendants have made only minimal, non-substantive contacts with the lender. Some consumers are able to obtain mortgage loan modifications and avoid foreclosure only through their own efforts and not because of any service provided by Defendants. Consumers who obtain modifications and stop foreclosure through their own efforts sometimes learn that their lenders offer the same settlement terms to consumers who negotiate on their own behalf that they offer through third parties such as Defendants; other consumers learn that their lenders will negotiate only with consumers and not with third parties.
23. Because of their reliance on Defendants' promises, numerous consumers lost not only the substantial fees paid to Defendants, but also opportunities for lower payments as a result of concessions offered directly by the lender. Moreover, in numerous instances, Defendants increase the likelihood of foreclosure by encouraging consumers to pay Defendants' fee rather than make mortgage payments, and encouraging consumers not to accept work out options presented by the consumers' lenders.

24. In numerous instances, when Defendants fail to obtain a mortgage loan modification as promised, Defendants deny refund requests from consumers.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

25. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts and practices in or affecting commerce.”
26. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count I

27. In numerous instances, Defendants have represented to consumers, expressly or by implication, that Defendants will obtain a mortgage loan modification or stop foreclosure in all or virtually all instances.
28. In truth and in fact, Defendants do not obtain a mortgage loan modification or stop foreclosure in all or virtually all instances.
29. Therefore, Defendants’ representation as set forth in Paragraph 27 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S. C. § 45(a).

Count II

30. In numerous instances, Defendants have represented to consumers, expressly or by implication, that Defendants will give refunds to consumers if Defendants fail to obtain a mortgage loan modification or stop foreclosure.

31. In truth and in fact, in numerous of these instances, Defendants do not give refunds to consumers when Defendants fail to obtain a mortgage loan modification or stop foreclosure.
32. Therefore, Defendants' representation as set forth in Paragraph 30 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S. C. § 45(a).

Count III

33. In numerous instances, Defendants have represented to consumers, expressly or by implication, that Defendants are members of, part of, or affiliated with the Hope Now Alliance.
34. In truth and fact, Defendants are not members of, part of, or affiliated with the Hope Now Alliance.
35. Therefore, Defendants' representation as set forth in Paragraph 33 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

36. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices.

Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

37. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief, including but not limited to temporary and preliminary injunctions, an order freezing assets, immediate access, and the appointment of a receiver;

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited to rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

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D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: March 17, 2009

Respectfully submitted,

DAVID C. SHONKA
Acting General Counsel

s/ Gregory A. Ashe

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Attorneys for Plaintiff

CIVIL COVER SHEET

JS 44 (Rev. 12/07, NJ 5/08)

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.)

I. (a) PLAINTIFFS

Federal Trade Commission

(b) County of Residence of First Listed Plaintiff District of Columbia

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

Gregory A. Ashe, Lawrence Hodapp, Stephanie Rosenthal
Federal Trade Commission
600 Pennsylvania Avenue, Room NJ-3158
Washington, DC 29580

DEFENDANTS

New Hope Property, LLC dba New Hope Modifications, LLC,
Brian Mammoccio, and Donna Fisher

County of Residence of First Listed Defendant Burlington, New Jersey

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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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 (Excl. 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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<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 (1395B) <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"/> 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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <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"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

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):
15 U.S.C. 45(a)

Brief description of cause:
Unfair or deceptive acts or practices

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)

(See instructions): JUDGE _____ DOCKET NUMBER _____

Explanation: This case is filed simultaneously with FTC v. Hope Now Financial Services, Corp.

DATE 3/17/09

SIGNATURE OF ATTORNEY OF RECORD Gregory A. Ashe

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. Provide a brief explanation of why the cases are related.

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