

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

\_\_\_\_\_ Civ. \_\_\_\_\_

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**PAIRSYS, INC,**

a New York Corporation,

**TIYA BHATTACHARYA,**

individually and as an officer of Pairsys, Inc.,

and

**UTTAM SAHA,**

individually and as an officer of Pairsys, Inc.,

Defendants.

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED

SEP 30 2014

LAWRENCE K. BAERMAN, CLERK  
ALBANY

*1:14-cv-1192 TJM/CFH*

**PLAINTIFF FEDERAL TRADE COMMISSION'S 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 Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, as amended, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, 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), and the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, as amended.

### **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), 53(b), 57b, 6102(c), and 6105(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b), (c), and (d), and 15 U.S.C. § 53(b).

### **PLAINTIFF**

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces 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 also enforces the Telemarketing Act, 15 U.S.C. §§ 6101-6108, as amended. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the TSR and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A)-(B), 57b, 6102(c), and 6105(b).

**DEFENDANTS**

6. Defendant Pairsys, Inc. (“Pairsys”), is a New York corporation with its principal place of business in Albany, New York. Pairsys transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Pairsys has advertised, marketed, distributed or sold computer security services to consumers throughout the United States.

7. At all times material to this Complaint, acting alone or in concert with others, Defendant Uttam Saha (“Saha”) has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Pairsys, including the acts and practices set forth in this Complaint. Saha resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

8. At all times material to this Complaint, acting alone or in concert with others, Defendant Tiya Bhattacharya (“Bhattacharya”) has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Pairsys, including the acts and practices set forth in this Complaint. Bhattacharya resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

**COMMERCE**

9. At all times material 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.

## **DEFENDANTS' BUSINESS ACTIVITIES**

### **Overview**

10. Defendants operate a telemarketing scheme that tricks consumers into spending approximately \$149 - \$249 to fix non-existent problems with their computers. By exploiting consumers' legitimate concerns about Internet threats like spyware and viruses, Defendants scare consumers into believing that their computers are infected or corrupted. Defendants do not present genuine evidence of the computers being infected or corrupted, and instead present either innocuous system information or messages they have generated in order to scare consumers.

### **Defendants Lure Consumers to Purchase Their Services**

11. Since at least February 2012, the Defendants have been cold calling consumers as well as taking inbound calls in the United States and other English speaking countries and falsely claiming that they are calling on behalf of a well-known company such as Microsoft.

12. After the Defendants have tricked the consumers into thinking they are dealing with a well-known company, the Defendants scare consumers into believing that they have viruses, malware, or system corruption on their computers, regardless of the actual state of the consumers' computers.

13. To mislead the consumers into believing that their computers are infected with viruses or other malware, the Defendants persuade consumers to allow Defendants to install remote access software. Sometimes, Defendants warn consumers about the harm that will come to their computer if they do not allow Defendants remote access to fix the computers.

14. After gaining remote access, Defendants run a local scan on the consumers' computers and then persuade consumers that many errors and vulnerabilities exist on consumers' computers, whether or not any errors or vulnerabilities, in fact, exist on the consumers' computers.

15. Defendants continue their deception by focusing the consumers' attention on a list of innocuous files, emphasizing the risk these files supposedly pose, and stressing the urgent need for consumers to buy the Defendants' products and services to prevent consumers' computers from crashing or having other problems associated with viruses or malware.

16. For example, sometimes, Defendants bring consumers' attention to a discovered "error" with rundll32.exe and consumers' network firewalls. Defendants show consumers a popup that they claim indicates that consumers' network firewalls have crashed. Partially visible in the command prompt (the window with white text on a black background) is the command "Rundll32.exe found network firewall crashed." The Defendants' claim that the popup is indicative of an error is false and deceptive. A screenshot of a sample image shown to consumers is below:



17. The top line of the popup reads “There was a problem starting found.”

Defendants issue a command that creates the popup.

18. Defendants show consumers this screen image and others to mislead consumers that they require Defendants’ services because the consumers’ computers are slow, infected, or corrupted. These claims are baseless, and the screen images shown to mislead consumers do not reflect the existence of viruses or malware.

19. Computers that are completely free of viruses or other malware will create warning and error messages during normal operation. Defendants mislead consumers who do not understand these messages’ technical significance into believing that their computers are severely compromised.

20. Defendants then attempt to sell consumers illusory long-term “security” or “technical support” services and perform unnecessary “repairs.” Defendants charge consumers approximately \$149 to \$249 for these services.

21. Defendants assert they have fixed the non-existent problems. In reality, Defendants merely charged consumers for repair products and services the consumers did not need.

#### **The Role of Uttam Saha**

22. Uttam Saha is Chairman and President of Pairsys. He is also an authorized signatory on the company’s financial accounts.

23. Saha has responded to complaints filed by consumers with the Better Business Bureau (“BBB”) in New York. Some of these BBB complaints allege that Pairsys either expressly told or implicitly led consumers to believe that Pairsys is affiliated with a well-known company like Microsoft. Others involve claims that Pairsys tells consumers that their computers are in danger of crashing or have other problems associated with viruses or malware, and that those consumers need the software and services of Pairsys to avoid such a result.

#### **The Role of Tiya Bhattacharya**

24. Tiya Bhattacharya is the Chief Executive Officer and Vice President of Pairsys and is an authorized signatory on the company’s financial accounts. She is the registered owner of the Pairsys.com domain name, and her credit card was used to pay for this domain name through GoDaddy.

**VIOLATIONS OF THE FTC ACT**

25. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or 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**

**Deceptive Representations**

27. In numerous instances, in connection with the marketing, offering for sale, and selling computer security or technical support services, Defendants represent or have represented, expressly or by implication, through a variety of means, including telephone calls and Internet communications, that they have detected security or performance issues on consumers’ computers, including viruses, spyware, or system errors.

28. In truth and fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 27, Defendants have not detected security or performance issues on consumers’ computers.

29. Therefore, Defendants’ representations as set forth in Paragraph 27 are false, misleading, or were not substantiated at the time they were made, and thus, they constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**Count II**

**Deceptive Representations**

30. In numerous instances, in the course of marketing, offering for sale, and selling computer security or technical support services, the Defendants represent or have



represented, expressly or by implication, through a variety of means, including telephone calls and Internet communications, that they are from, affiliated with, or calling on behalf of a well-known company such as Microsoft.

31. In truth and in fact, Defendants are not from, affiliated with, or calling on behalf of a well-known company.

32. Therefore, the Defendants' representations as set forth in Paragraph 30 are false or misleading, and thus, they constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATIONS OF THE TELEMARKETING SALES RULE**

33. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter.

34. The Defendants are sellers or telemarketers engaged in "telemarketing" as defined by the TSR, 16 C.F.R. § 310.2(aa), (cc), and (dd).

35. The TSR prohibits any seller or telemarketer from making a false or misleading statement to induce any person to pay for goods or services or to induce a charitable contribution. 16 C.F.R. § 310.3(a)(4).

36. Among other things, amendments made to the TSR in 2003 established a do not call registry (the "National Do Not Call Registry"), maintained by the FTC, of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the National Do Not Call Registry without charge either through a toll-free telephone call or over the Internet at *donotcall.gov*.

37. The FTC allows sellers, telemarketers, and other permitted organizations to access the National Do Not Call Registry over the Internet at *telemarketing.donotcall.gov*, to pay the fee(s) if required, and to download the numbers not to call.

38. Under the TSR, “outbound telephone call” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution. 16 C.F.R. § 310.2(v).

39. The TSR prohibits sellers and telemarketers from calling any telephone number within a given area code unless the seller on whose behalf the call is made has paid the annual fee for access to the telephone numbers within that area code that are included in the National Do Not Call Registry. 16 C.F.R. § 310.8.

40. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c) and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **Count III**

#### **Deceptive Telemarketing Calls in Violation of the TSR**

41. In numerous instances, in the course of telemarketing their goods and services, Defendants have made false and misleading statements, directly or by implication, to induce consumers to pay for goods or services, including, but not limited to, misrepresentations that they have detected security or performance issues on consumers’ computers, including viruses, spyware, or system errors.

42. Defendants’ acts or practices, as described in Paragraph 41 above, are

deceptive telemarketing acts and practices that violate the TSR, 16 C.F.R. §310.3(a)(4).

**Count IV**

**Deceptive Telemarketing Calls in Violation of the TSR**

43. In numerous instances, in the course of telemarketing their goods and services, Defendants have made false and misleading statements, directly or by implication, to induce consumers to pay for goods or services, including, but not limited to, misrepresentations that they are from, affiliated with, or calling on behalf of a well-known company such as Microsoft.

44. Defendants' acts or practices, as described in Paragraph 43 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. §310.3(a)(4).

**Count V**

**Failing to Pay the National Registry Fees**

45. In numerous instances, in connection with telemarketing, Defendants have initiated, or caused others to initiate, an outbound telephone call to a telephone number within a given area code when Defendants had not, either directly or through another person, paid the required annual fee for access to the telephone numbers within that area code that are included in the National Do Not Call Registry, in violation of the TSR, 16 C.F.R. § 310.8.

**CONSUMER INJURY**

46. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the TSR. 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**

47. 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 any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

48. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from the Defendants' violations of the TSR, including the rescission or reformation of contracts, and the refund of money.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the TSR, 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, and an order providing for the turnover of business records, an asset freeze, immediate access to business premises, the appointment

of a Receiver, and the disruption of domain and telephone services;

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

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

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.

Respectfully submitted,

**JONATHAN E. NUECHTERLEIN**  
General Counsel

Dated: September 30, 2014



**GIDEON E. SINASOHN**

Special Northern District of New York

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Attorney for Plaintiff

**FEDERAL TRADE COMMISSION**

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

1:14cv1192 TJM / CFH

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**  
Federal Trade Commission

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Federal Trade Commission  
225 Peachtree Street, NE, Suite 1500  
Atlanta, GA 30303

**DEFENDANTS**  
Pairsys, Inc., Tiya Bhattacharya, Uttam Saha

County of Residence of First Listed Defendant Albany  
(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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<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 checked="" 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	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	LABOR	
<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	<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	<b>Habeas Corpus:</b> <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 <b>Other:</b> <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	<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	<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	SOCIAL SECURITY	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<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	

**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):  
Section 5(a) of the FTC Act, 15 U.S.C. Sec. 45(a) and the Telemarketing Sales Rule, 16 C.F.R. Part 310

Brief description of cause:  
Deceptive Business Practices

**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: September 30, 2014

SIGNATURE OF ATTORNEY OF RECORD: *Sharon E. Senaseln*

FOR OFFICE USE ONLY: RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP: waived JUDGE: TJM MAG. JUDGE: CFH

STANDARD

**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.