

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.:

PHILLIP WILLIAMS, individually and on  
behalf of a class of similarly situated  
individuals,

Plaintiff,

v.

BURGER KING CORPORATION, a  
Florida corporation,

Defendant.

\_\_\_\_\_ /

**CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Phillip Williams, both individually and on behalf of similarly situated individuals, brings this Complaint against Burger King Corporation (Defendant) to put a stop to Defendant's misleading practice of selling and marketing its "Impossible" Whopper burger as a meat-free food option. Despite Burger King's representations that the Impossible Whopper uses the trademarked "Impossible Meat" that is well known as a meat-free and vegan meat alternative, Burger King cooks these vegan patties on the same grills as its traditional meat products, thus covering the outside of the Impossible Whopper's meat-free patties with meat by-product. Plaintiff Phillip Williams brings this action to obtain redress for all persons injured by Defendant Burger King's deceptive and unlawful conduct. Plaintiff alleges as follows based upon personal knowledge as to his own acts and experiences, and as to all other matters, upon information and belief, including investigation conducted by his attorneys.

**NATURE OF THE ACTION**

1. Plaintiff brings this class action lawsuit against Defendant for violations of Florida's Deceptive and Unfair Trade Practices Act, section 501.201 et seq., Florida Statutes (the "Act"), and common law, based on Burger King's (Defendant) false and misleading business practices with respect to the marketing and sale of its Impossible Whopper at Burger King restaurants and franchises around America.

2. "Impossible" meat is a trademarked product that is owned independently from Burger King that is widely known across the country as a vegan meat substitute. Due to its impressive meat-like appearance, texture and taste, "Impossible" "meat" is one of the most popular vegan meat alternatives in the country.

3. Plaintiff practices a strict vegan diet, meaning that he does not eat or drink anything that uses animal by-products.

4. "Impossible" meats contain no animal products or animal by-products. "Impossible" meats are also certified Halal and Kosher.<sup>1</sup>

5. On August 8, 2019, Defendant began to offer a version of its most popular and widely advertised "Whopper" burger with the "Impossible" meat, called the "Impossible Whopper." Since then, Defendant has marketed and sold burgers using "Impossible" synthetic meat patties under the descriptive product name "Impossible Whopper" claiming in advertising that the Impossible Whopper is "0% beef" and "100% Whopper".

6. However, unbeknownst to Plaintiff and consumers, the Impossible Whopper is cooked on the same grills as its traditional meat-based products, creating a meat-free patty that is in fact covered in meat by-product.

7. Plaintiff and other consumers purchased the Impossible Whopper, reasonably

---

<sup>1</sup> See [www.cnet.com/news/beyond-meat-vs-impossible-burger-whats-the-difference](http://www.cnet.com/news/beyond-meat-vs-impossible-burger-whats-the-difference).

relying on Defendant's deceptive representations about the Impossible Whopper and believing that the "Impossible" vegan meat patty would be prepared in a manner that maintained its qualities as a vegan (meat-free) burger patty.

8. Plaintiff and consumers pay a premium price to have an Impossible Whopper as opposed to a traditional Whopper for the sole basis of having a meat-free option.

9. Had Plaintiff and other consumers known that the Impossible meat used in Burger King's Impossible Whopper was contaminated by meat by-product, they would not have purchased the Impossible Whopper.

10. On behalf of himself and the proposed Class defined below, Plaintiff seeks an injunction requiring Defendant to plainly disclose that the Impossible Whopper is cooked on the same grill as its other meat; that Burger King's future marketing of its Impossible Whopper comply with Florida's Deceptive and Unfair Trade Practices Act and common laws; as well as an award of actual and compensatory damages to the Class, together with costs and reasonable attorneys' fees.

### **PARTIES**

11. Defendant Burger King Corporation is a Florida corporation with its headquarters located in Miami, Florida, from where it manages the operations of thousands of Burger King fast-food restaurants throughout the United States.

12. At all relevant times, Plaintiff has been a resident and citizen of the state of Georgia.

### **JURISDICTION & VENUE**

13. This Court has diversity jurisdiction under 28 U.S.C. § 1332(d), because (i) at least one member of the putative class is a citizen of a state different from any Defendant, (ii) the amount

in controversy exceeds \$5,000,000 exclusive of interests and costs, and (iii) none of the exceptions under that subsection apply to the instant action.

14. This Court has personal jurisdiction over Defendant because Defendant is incorporated in Florida and Defendant's principle place of business is in Florida.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this judicial district, and Defendant is incorporated and has its principle place of business in Florida.

### **COMMON ALLEGATIONS OF FACT**

16. Burger King is an international restaurant chain that sells hamburgers to consumers throughout the United States, and the world. In order to expand its product offerings and appeal to the growing customer base of vegan consumers, in April 2019 corporate executives at Burger King's headquarters chose to offer a Whopper burger using "Impossible" meat patties at certain Burger King locations, calling it the "Impossible Whopper."

17. According to advertising created and/or approved by its corporate office for distribution online, in print, and elsewhere, Burger King's Impossible Whopper is "0% beef and 100% Whopper."

18. Despite the foregoing representations, Burger King's standard procedure is to cook its "Impossible" vegan meat patties on the same grills as its traditional meat patties, thus contaminating the vegan product with meat (including beef) by-products.

19. Defendant has no disclosures on its menus that would notify a consumer prior to their purchase of the Impossible Whopper that it was cooked in a manner that would result in meat by-products on the burger.

20. Customers, such as Plaintiff, who maintain a vegan diet specifically purchased Burger King's Impossible Whopper based on Defendant's representations that it would be a meat-free food.

21. Defendant, through its unfair and deceptive practices in offering its Impossible Whopper, monetarily benefits from consumers who legitimately believed that they were paying a premium for a meat-free alternative.

22. Indeed, there are numerous consumer complaints posted online from customers who have been outraged upon finding out that that the Impossible Whopper is prepared on the same grills as Burger King's traditional meat products.

23. On or around August 2019, after hearing about Burger King's Impossible Whopper through social media advertisements and word of mouth, and having no knowledge about how Burger King actually prepares the Impossible Whopper, Plaintiff decided to visit a local Burger King in Atlanta, Georgia to try the new product.

24. Plaintiff went to the location's drive-through and ordered an Impossible Whopper with no mayonnaise.

25. While waiting in the drive-through Plaintiff observed no signage indicating that the Impossible patty was cooked on the same grill as Burger King's meat products, nor was Plaintiff notified by Burger King that the Impossible patty would be prepared in the same grills as its traditional meat products. Plaintiff only saw Defendant's representations that the Impossible Whopper was made with the "Impossible" vegan and meat-free burger patty.

26. After checking that his Impossible Whopper did not contain mayonnaise, Plaintiff proceeded to eat the Impossible Whopper believing that it was a meat-free option.

27. However, Plaintiff had been duped by Burger King's deceptive practices into eating

a meat-free Whopper Patty that was in fact covered in meat by-products.

28. Apart from being misled into consuming meat and/or meat by-products, Plaintiff also suffered monetary damages in the amount that he paid to purchase the product.

29. Plaintiff, like the other members of the Class, reasonably believed that the Impossible Whopper was in fact “0% beef” and, therefore, did not contain any meat or meat by-products. Plaintiff would not have purchased the Impossible Whopper if he knew that it was cooked in such a manner that it was coated in meat by-products.

30. Defendant’s actions in advertising and selling to Plaintiff and the other members of the Class its meat-free Impossible Whopper without disclosing that the Impossible patty is cooked on the same grills as its traditional meat products, violates Plaintiff’s common law rights as well as the Act.

### **CLASS ACTION ALLEGATIONS**

31. Plaintiff seeks class certification under Rule 23 of the Federal Rules of Civil Procedure for the following class of similarly situated individuals: All individuals within the United States who purchased Burger King’s Impossible Whopper.

32. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant, and any immediate family member of such judge, officer or director.

33. Upon information and belief, given that the Impossible Whopper was made available in Burger King locations across the country, there are thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable.

34. Plaintiff’s claims are typical of the claims of the Class he seeks to represent, because the factual and legal bases of Defendant’s liability to Plaintiff and the Class is the same,

and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class. As alleged herein, Plaintiff and the Class have all suffered damages as a result of Defendant's unfair and deceptive business practices.

35. Common questions of law and fact exist as to all members of the Class, and such questions predominate over questions affecting Plaintiff or individual members of the Class. Common questions for the Class include, but are not limited, to the following:

- (a) Whether Defendant's Impossible Whopper was advertised and sold as being meat-free;
- (b) Whether Defendant's Impossible Whopper was in fact prepared in such a way that upon serving it contained meat by-products;
- (c) Whether Defendant engaged in fraudulent, false, deceptive and/or unfair conduct and business practices in advertising and selling its meat-free Impossible Whopper that in fact contained meat by-products;
- (d) Whether Plaintiff and the members of the Class have suffered damages from Defendant's conduct;
- (e) Whether Defendant was unjustly enriched by receiving profits from its sales of its Impossible Whopper at a higher cost than its traditional Whopper; and
- (f) Whether Defendant should be enjoined from engaging in such conduct in the future.

36. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions, and Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the members of the Class and have the financial resources to

do so. Neither Plaintiff nor his counsel has any interest adverse to those of the other members of the Class.

37. Defendant has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class in advertising and selling its Impossible Whopper burger, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

38. The factual and legal bases of Defendant's liability to Plaintiff and to the other members of the Class are the same, resulting in injury to Plaintiff and to all of the other members of the Class as a result of Defendant's deceptive sales and marketing of its Impossible Whopper burger.

39. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitive and would have no effective remedy. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

**FIRST CAUSE OF ACTION**  
**Breach of Contract**  
**(On behalf of Plaintiff and the Class)**

40. Plaintiff hereby incorporates by reference the allegations set forth in Paragraphs 1–39 above as if fully set forth herein.

41. Defendant advertised to Plaintiff and the other members of the Class that an Impossible Whopper contained “Impossible” meat that was meat-free and vegan.



42. Defendant sold its Impossible Whopper at a premium sum in exchange for a meat-free Whopper Burger.

43. Plaintiff, like the other members of the Class, purchased Defendant's Impossible Whopper from Burger King specifically because it was advertised and represented as a meat-free option.

44. However, Defendant failed to disclose or put Plaintiff and the other Class Members on notice that its meat-free Impossible Whopper was in fact cooked and prepared on the same grills as its traditional meat products, thus contaminating it with meat by-product.

45. Neither Plaintiff nor the other Class members received a meat-free or Impossible Whopper from Burger King when they purchased the Impossible Whopper because the "Impossible" patty is cooked in a manner that covers it in meat by-products.

46. Plaintiff and the other Class members would not have purchased Defendant's Impossible Whopper had they known that it was cooked on the same grills as its traditional meat products and, as a result, contained meat by-products.

47. As a direct and proximate result of Defendant's breach of contract, Plaintiff and the other members of the Class have been harmed and have suffered damages by purchasing a product that they would not have otherwise bought or otherwise paid a premium for.

**SECOND CAUSE OF ACTION**  
**Violation of Florida's Deceptive and Unfair Trade Practices Act**  
**(On behalf of Plaintiff and the Class)**

48. Plaintiff hereby incorporates by reference the allegations set forth in Paragraphs 1–39 above as if fully set forth herein.

49. Plaintiff and the other Class members are "consumers" within the meaning section 501.203(7), Florida Statutes because they are individuals.

50. Burger King was engaged in “trade or commerce” within the meaning of section 501.203(8), Florida Statutes because it was advertising and offering for sale the Impossible Whopper burgers at issue.

51. Burger King’s corporate headquarters are in Florida, and the unlawful conduct alleged herein, including the advertising and disclosures made at Burger King locations throughout the country, was directed, originated, and/or approved from Burger King’s corporate headquarters.

52. The Impossible Whopper is advertised and represented as being “0% Beef” and containing a meat-free vegan beef patty made from “Impossible” meat.

53. As described above, Plaintiff and the other members of the Class purchased Burger King’s Impossible Whopper in reliance upon Burger King’s representations that it contained a meat-free vegan “Impossible” meat patty. Plaintiff, as did other reasonable consumers and the Class, understood that an “Impossible Whopper,” and inclusion of “Impossible meat,” meant that the Impossible Whopper would be free of any meat, including any meat by-product.

54. However, Burger King failed to, or did not adequately, disclose that the Impossible patties used to make the Impossible Whopper are in fact prepared and cooked on the same grills as Burger King’s traditional meat products and covered in meat by-product and are thus, not meat-free.

55. Burger King’s conduct of selling a meat-free Impossible Whopper that is in fact covered in meat by-products constitutes unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices within the meaning of section 501.204, et seq., Florida Statutes.

56. Plaintiff and the other members of the Class were injured by Defendant’s deceptive and unfair conduct described above because they would not have purchased Defendant’s

Impossible Whopper had they known that it was not in fact meat-free, or would have otherwise not paid a premium to purchase it. Plaintiffs and the other members of the Class therefore suffered actual damages within the meaning of section 501.211, Florida Statutes.

**THIRD CAUSE OF ACTION**  
**Unjust Enrichment**  
**(On behalf of Plaintiff and the Class)**

57. Plaintiff hereby incorporates by reference the allegations set forth in Paragraphs 1–39 above as if fully set forth herein.

58. Plaintiff and the other members of the Class purchased Burger King’s Impossible Whopper because it was represented as containing an “Impossible” brand vegan burger patty that was meat-free.

59. Plaintiff and the other members of the Class have conferred substantial benefits to Defendant when they purchased Burger King’s “Impossible Whopper.”

60. Burger King failed to disclose to Plaintiff and the other members of the Class how it prepared its Impossible Whoppers and that the “Impossible” patties in the burgers were prepared on the same grills as Defendant’s traditional meat products and thus were not in fact meat-free.

61. Despite numerous reviews and consumer outrage upon learning that the Impossible Whopper was contaminated with meat by-product, Defendant kept payments from numerous consumers, including Plaintiff and the other members of the Class.

62. Defendant’s retention of the payments and premiums received from Plaintiff and the other members of the Class is unconscionable, and unless these payments are reimbursed, Defendant Burger King will be unjustly enriched.

63. As the direct and proximate result of Burger King's unjust enrichment, Plaintiff and the Class are entitled to restitution of all profits, benefits, and other advantages attained by Defendant through the unlawful and deceptive conduct described herein.

### **REQUEST FOR RELIEF**

Plaintiff, on behalf of himself and the Class, requests the following relief:

- A. Certifying the Class as defined above, appointing Plaintiff as class representative and the undersigned as class counsel;
- B. Declaring that Defendant's actions, as set forth herein, are unconscionable and force Burger King to return all benefits gained, profits received, etc. from its deceptive marketing and sale of its Impossible Whopper so as to make full restitution to Plaintiff and the Class;
- C. Declaring that Defendant be financially responsible for actually providing a meat-free "Impossible" meat patty when selling its "Impossible Whoppers" to consumers;
- D. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiff and the Class;
- E. Awarding actual compensatory and any other damages the Court sees fit to the Class members;
- F. Awarding reasonable attorneys' fees, costs, and other litigation expenses;
- G. Awarding pre- and post-judgment interest, as allowable by law; and
- H. Awarding such further and other relief as the Court deems just and equitable.

### **JURY DEMAND**

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: November 18, 2019

PHILLIP WILLIAMS, individually and on behalf of  
a class of similarly situated individuals

/s/ David P. Healy

One of His Attorneys

David P. Healy (940410)  
Dudley, Sellers, Healy, Heath & Desmond, PLLC  
SunTrust Financial Center  
3522 Thomasville Rd., Suite 301  
Tallahassee, Florida 32309  
Tel: (850) 222-5400  
Fax: (850) 222-7339  
dhealy@davidhealylaw.com

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

**I. (a) PLAINTIFFS****DEFENDANTS**

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

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.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability		<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<b>PERSONAL PROPERTY</b>	<b>LABOR</b>	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 196 Franchise	<b>CIVIL RIGHTS</b>	<b>Habeas Corpus:</b>		<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 463 Alien Detainee	<b>IMMIGRATION</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 462 Naturalization Application	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<b>Other:</b>	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State Statutes	
	<input type="checkbox"/> 448 Education	<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 Re-filed (See VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation Transfer ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Multidistrict Litigation - Direct File ☐ 9 Remanded from Appellate Court

**VI. RELATED/RE-FILED CASE(S)**

(See instructions): a) Re-filed Case ☐ YES ☐ NO b) Related Cases ☐ YES ☐ NO

JUDGE:

DOCKET NUMBER:

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

**VII. CAUSE OF ACTION**

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

**VIII. 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

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

/s/ David P. Healy (940410)

FOR OFFICE USE ONLY

RECEIPT # AMOUNT 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.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.** Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

**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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. 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

**VIII. 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.

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