

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Human Rights Defense Center,

Civil File No. _____

Plaintiff,

vs.

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Sherburne County, Minnesota; Joel Brott,
Sheriff, in his official and individual
capacities; and Does 1–10, in their
individual capacities,

Defendant.

Plaintiff Human Rights Defense Center (“HRDC”), by its undersigned counsel, for its Complaint against Defendants Sherburne County, Minnesota; Joel Brott, Sherriff, in his official and individual capacities; and Does 1–10, in their individual capacities (collectively “Defendants”), state and alleges as follows:

PRELIMINARY STATEMENT

1. HRDC brings this action to enjoin the Sherburne County Jail (the “Jail”) and its employees from unconstitutionally censoring HRDC’s magazines sent to incarcerated persons, and for damages arising from such censorship.

2. HRDC, a not-for-profit charitable organization, sends books, magazines, and other correspondence to persons incarcerated in the Jail. These materials educate incarcerated persons about their legal and civil rights and their options for accessing education while incarcerated. In communicating with such persons, HRDC engages in

core protected speech and expressive conduct on matters of public concern, which are entitled to the highest protection afforded by the First Amendment to the U.S. Constitution.

3. Yet since June 2019, and on an ongoing basis, the Jail and its employees refuse to deliver HRDC's magazines to incarcerated persons in violation of HRDC's First Amendment right to free speech and communication. Further, Jail staff fail to notify HRDC when the Jail censored these mailings, violating HRDC's Fourteenth Amendment rights to notice and an opportunity to challenge censorship.

4. Incarcerated persons may spend years in the Jail's facilities. And yet they have extremely limited access to information from the outside world to make productive use of their period of incarceration and successfully prepare for re-entry to the public. In addition, incarcerated persons at the Jail have even less access to legal materials to inform them of their rights and assist them in their defense.

5. Because of their highly limited access to information inside the Jail, incarcerated persons rely on receiving mailings and books from organizations like HRDC. When the Jail prohibits incarcerated persons from receiving newspapers and magazines, these persons are left in the dark—deprived of the ability to defend themselves in the criminal cases against them or expand their minds through knowledge and education. Curtailing these basic legal and educational rights serves no legitimate penological interest; it only exacerbates the public safety problems associated with the criminal justice system and inadequately preparing persons for re-entry into society.

6. Accordingly, to ameliorate the injuries that the Defendants have inflicted on HRDC and its advocacy efforts, HRDC seeks damages for Defendants' illegal actions and

injunctive relief to ensure that Defendants cease their ongoing violations of HRDC's constitutional rights.

JURISDICTION AND VENUE

7. This action is brought under 28 U.S.C. § 1331, as it arises under the Constitution and laws of the United States, and under 28 U.S.C. § 1343, as it seeks redress for civil-rights violations under 42 U.S.C. § 1983.

8. Venue is proper under 28 U.S.C. § 1391(b). On information and belief, at least one Defendant resides within this judicial district, and the events giving rise to the claims asserted herein occurred within this judicial district.

9. HRDC's claims for relief are predicated upon 42 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities secured to Plaintiff by the First and Fourteenth Amendments to the U.S. Constitution and the laws of the United States.

10. This Court has jurisdiction over claims seeking declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, as well as claims seeking nominal and compensatory damages against all Defendants.

11. HRDC's request for attorneys' fees and costs is predicated upon 42 U.S.C. § 1988, which authorizes the award of attorneys' fees and costs to prevailing plaintiffs in actions brought under 42 U.S.C. § 1983.

PARTIES

12. HRDC is a not-for-profit charitable organization recognized under § 501(c)(3) of the Internal Revenue Code, incorporated in the state of Washington and with

principal offices in Lake Worth, Florida. For more than 30 years, HRDC has focused on public education, advocacy, and outreach on behalf of, and for the purpose of assisting, incarcerated persons who seek legal redress for infringements of their constitutionally guaranteed and other basic human rights. HRDC's mission, if realized, has a salutary effect on public safety.

13. Defendant Sherburne County, Minnesota is a unit of government organized and existing under the laws of the State of Minnesota. Through its Board of Commissioners, Sherburne County delegates its authority for the operation of the Jail to Sheriff Brott.

14. Defendant Joel Brott ("Brott") is the elected Sheriff of Sherburne County, Minnesota. Brott is responsible for overseeing the management and operations of the Jail, and for the hiring, screening, training, retention, supervision, discipline, counseling, and control of the personnel of the Jail who interpret and apply the mail policy to incarcerated persons. As Sheriff, Brott is a final policymaker for the Jail with respect its operations, including for policies governing incoming mail for incarcerated persons. He is sued in his official and individual capacities.

15. The true names and identities of Defendants DOES 1 through 10 are presently unknown to HRDC. Each of DOES 1 through 10 are or were employed by and are or were agents of the Jail when some or all of the challenged mail policies and practices at the Jail were adopted and/or implemented. Each of DOES 1 through 10 are or were personally involved in the adoption and/or implementation of the Jail's mail policies for incarcerated persons, and/or are or were responsible for the hiring, screening, training,

retention, supervision, discipline, counseling, and/or control of the Jail staff who interpret and implement these mail policies. DOES 1 through 10 are sued in their individual capacities. HRDC will seek to amend this Complaint when the true names and identities of DOES 1 through 10 have been ascertained.

16. At all times material to this Complaint, the actions of all Defendants as alleged herein were taken under the authority and color of state law.

FACTUAL ALLEGATIONS

I. HRDC's Publications

17. For more than 30 years, HRDC's mission has been public education, advocacy and outreach on behalf of, and for the purpose of assisting, prisoners who seek legal redress for infringements of their constitutionally guaranteed and other basic human rights. HRDC's mission, if realized, has a salutary effect on public safety.

18. To accomplish its mission, HRDC publishes and distributes books, magazines, and other information containing news and analysis about prisons, jails and other detention facilities, prisoners' rights, court rulings, management of prison facilities, prison conditions and other matters pertaining to the rights and/or interests of incarcerated individuals.

19. HRDC publishes and distributes an award-winning, 72-page monthly magazine titled *Prison Legal News: Dedicated to Protecting Human Rights*, which contains news and analysis about prisons, jails, and other detention facilities, prisoners' rights, court opinions, management of prison facilities, prison conditions, and other matters pertaining to the rights and/or interests of incarcerated individuals.

20. More recently, HRDC also began publishing a second monthly magazine, *Criminal Legal News*. This magazine is 56 pages, and focuses on review and analysis of individual rights, court rulings, and news concerning criminal justice-related issues.

21. HRDC has thousands of subscribers to its monthly magazines in the United States and abroad, including incarcerated persons, attorneys, judges, journalists, libraries, and members of the public. Since its creation in 1990, HRDC has sent its publications to prisoners and law librarians in more than 3,000 correctional facilities across the United States, including death row units and institutions within the Federal Bureau of Prisons, such as the federal Administrative Maximum Facility (“ADX” or “Supermax”) in Florence, Colorado—the most secure prison in the United States. *Prison Legal News* is distributed to prisons and jails within the correctional systems of all 50 states, including to dozens of incarcerated persons housed in facilities in Minnesota.

22. HRDC has attempted to send these important publications to persons incarcerated at the Jail. Yet Defendants maintain mail policies or practices that unconstitutionally prevent individuals incarcerated at the Jail from receiving HRDC’s materials.

II. Defendants’ Mail Policies and Practices

23. According to the Sherburne County Jail mail policy:

“Inmate mail will be checked for contraband prior to distribution.

Examples of items considered to be contraband are:

....

- Newspapers/Magazines: including small clippings or articles”

Sherburne County Jail mail policy, *available at* <https://www.co.sherburne.mn.us/314/Inmate-Phone-Email-Provider-Mail> (last visited Aug. 19, 2020).

24. The Jail’s mail policy has no provision for giving notice to the sender when mail is rejected.

25. According to the Sherburne County Jail Policy and Procedure Manual, magazines are considered contraband and are not allowed in the facility.

26. According to the Sherburne County Jail Policy and Procedures Manual, inmates in general population have access to a daily newspaper. That newspaper, one copy of the *Minneapolis Star Tribune*, is shared amongst all inmates. Inmates in segregation do not have access to the daily newspaper.

27. Inmates do not have access to electronic reading materials.

28. Email access is limited and the jail censors incoming email, removing any articles and prohibiting electronic reading materials.

III. Defendants’ Censorship of HRDC’s Mail

29. Beginning in June 2019, Defendants censored monthly issues of *Prison Legal News* and *Criminal Legal News* sent by HRDC to incarcerated persons in the Jail. Defendants refused, and continue to refuse, to deliver these publications to the incarcerated persons.

30. In January 2020 an inmate suspended his subscription to *Prison Legal News* after the jail refused to deliver it based on the prohibition against magazines. That inmate expressed his continued interest in receiving the publication.

31. In July 2020, HRDC attempted to mail six different types of mail to inmates at the Jail including the following: a copy of *Prison Legal News*; a copy of *Criminal Legal News*; a book titled *Protecting Your Health and Safety*; a book titled *Prisoners Guerrilla Handbook*; an envelope containing HRDC publications; and an envelope with the court ruling *Clement v. California Dept. of Corrections*. Three inmates informed HRDC that a majority of the materials were confiscated and undelivered. One inmate received both copies of the magazines, but nothing else was delivered.

32. Such restrictions on written speech sent to persons incarcerated at the Jail are not rationally related to any legitimate penological interest and violate HRDC's First Amendment right to communicate speech to incarcerated persons.

33. Defendants' policies, practices, and customs are unconstitutional, both facially and as applied to HRDC.

34. Further, Defendants' censorship policies, practices, and customs have a chilling effect on HRDC's future speech and expression directed toward persons incarcerated at the Jail.

35. HRDC will continue to mail copies of its magazines to subscribers, customers, and other individuals imprisoned in the Jail, despite Defendants' unconstitutional censorship. Plaintiff seeks the protection of this Court to ensure that Defendants cease their unlawful misconduct, and either deliver HRDC's written speech or

satisfy due process by providing HRDC with the basis for any censorship so that HRDC may challenge the censorship.

IV. Defendants' Failure to Provide Due Process Notice and an Opportunity to Appeal

36. Defendants failed to provide HRDC with any notice of the rejection of *Prison Legal News*, *Criminal Legal News*, or any other mailings.

37. Further, Defendants failed to provide HRDC with an opportunity to appeal the censorship of its mail.

V. Defendants' Unconstitutional Mail Policies and Practices Are Causing HRDC Ongoing and Irreparable Harm and Damages.

38. Defendants' deprivation of HRDC's constitutional rights, both past and continuing, constitutes irreparable harm.

39. Due to Defendants' actions described above, HRDC has suffered damages, and will continue to suffer damages, including but not limited to: frustration of its ability to disseminate its political message, to recruit new subscribers and supporters, and to advance its mission as a not-for-profit organization; significant diversion and waste of HRDC resources, including staff time; loss of potential subscribers and customers; and damage to its reputation.

40. Defendants' actions and omissions were and are all committed under color of law and with reckless indifference to HRDC's rights.

41. Defendants and their agents are responsible for—or personally participated in—creating and implementing these unconstitutional policies, practices, and customs,

and/or ratifying or adopting them. Further, Defendant Brott is responsible for training and supervising employees whose conduct has injured and continues to injure HRDC.

42. Defendants' unconstitutional policies, practices, and customs are ongoing, and continue to violate HRDC's constitutional rights—causing irreparable harm. Defendants' unconstitutional policies, practices, and customs will continue unless enjoined. As such, HRDC has no adequate remedy at law.

43. In addition to damages, HRDC is entitled to injunctive relief prohibiting Defendants from unconstitutionally censoring and refusing to deliver HRDC's magazines and depriving HRDC of due process of law.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Violation of the First Amendment Right to Free Speech Under 42 U.S.C. § 1983 (Brought Against All Defendants)

44. HRDC repeats and re-alleges each and every allegation set forth above, and incorporates them herein by reference.

45. The acts described above constitute violations of HRDC's rights under the First Amendment to the U.S. Constitution.

46. HRDC has a constitutionally protected liberty interest in communicating with incarcerated individuals by sending its materials, including the magazines *Prison Legal News* and *Criminal Legal News*, to them via U.S. Mail. Defendants' unconstitutional censorship violates HRDC's clearly established right to communicate with these individuals.

47. There is no legitimate penological interest justifying Defendants' unconstitutional censorship of HRDC's magazines.

48. Defendants' conduct is objectively unreasonable and was undertaken recklessly, intentionally, willfully, with malice, and with deliberate indifference to the rights of others.

49. HRDC's injuries and the violations of its constitutional rights were directly and proximately caused by Defendants' policies and practices; and those policies and practices were the moving force behind the violations.

50. The acts described above have caused HRDC to suffer damages, and if not enjoined, will continue to cause HRDC to suffer irreparable harm and damages.

51. HRDC seeks declaratory and injunctive relief, and nominal and compensatory damages against all Defendants. HRDC seeks punitive damages against the individual Defendants in their individual capacities.

SECOND CLAIM FOR RELIEF
Violation of the Fourteenth Amendment Right to Due Process
Under 42 U.S.C. § 1983
(Brought Against All Defendants)

52. HRDC repeats and re-alleges each and every allegation set forth above, and incorporates them herein by reference.

53. The acts described above violate HRDC's rights and the rights of other correspondents who have attempted to or intend to correspond with persons incarcerated in the Jail, under the Fourteenth Amendment of the U.S. Constitution.

54. HRDC has a clearly established right under the Due Process Clause of the Fourteenth Amendment to receive notice of and an opportunity to object and/or appeal Defendants' decisions to prevent Plaintiff's mail from reaching incarcerated persons held in the Jail.

55. Defendants' policy and practice of censoring HRDC's magazines fails to provide Plaintiff with notice of the censorship or an opportunity to be heard. Defendants did not provide constitutionally adequate notice of the censorship of HRDC's magazines, nor did Defendants provide HRDC an opportunity to appeal the censorship decision with a party not involved in that original decision. Thus, Defendants are violating HRDC's clearly established right to due process.

56. Defendants' conduct is objectively unreasonable and was undertaken recklessly, intentionally, willfully, with malice, and with deliberate indifference to the rights of others.

57. HRDC's injuries and the violations of its constitutional rights were directly and proximately caused by Defendants' policies and practices; and those policies and practices were the moving force behind the violations.

58. The acts described above have caused HRDC to suffer irreparable harm and damages, and if not enjoined, will continue to cause HRDC to suffer irreparable harm and damages

59. HRDC seeks declaratory and injunctive relief, and nominal and compensatory damages against all Defendants. HRDC seeks punitive damages against the individual Defendants in their individual capacities.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests relief as follows:

1. A declaration that Defendants' policies and practices violate the First and Fourteenth Amendments to the U.S. Constitution;
2. Preliminary and permanent injunctions preventing Defendants from continuing to violate the First and Fourteenth Amendments to the U.S. Constitution, and providing other equitable relief;
3. Nominal damages for each violation of HRDC's rights by Defendants;
4. Compensatory damages against Defendants in an amount to be proved at trial;
5. Punitive damages against the individual Defendants in their individual capacities, in an amount to be proved at trial;
6. An award of costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988 and other applicable law; and
7. Such further and additional relief as this Court may deem just and equitable.

JURY DEMAND

Plaintiff Human Rights Defense Center hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Dated: August 20, 2020

DORSEY & WHITNEY LLP

By s/ RJ Zayed

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**Pro hac vice applications to be filed*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Human Rights Defense Center

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

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

R.J. Zayed, Alex Hontos, and Donna Reuter, Dorsey & Whitney LLP, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402

DEFENDANTS

Sherburne County, Minnesota; Joel Brott, Sheriff, in his official and individual capacities; and Does 1-10, in their individual capacities

County of Residence of First Listed Defendant Sherburne
(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
- 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)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<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	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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 - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. § 1343; 42 U.S.C. § 1983; 28 U.S.C. § 2201; 28 U.S.C. § 2202

Brief description of cause:
 Declaratory judgment regarding violation of First and Fourteenth Amendments

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

08/20/2020

SIGNATURE OF ATTORNEY OF RECORD

s/ Donna Reuter

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If 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.
 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.