

**KAZEROUNI LAW GROUP, APC**  
 Abbas Kazerounian, Esq. (SBN: 249203)  
 ak@kazlg.com  
 Jason A. Ibey, Esq. (SBN: 284607)  
 jason@kazlg.com  
 245 Fischer Avenue, Suite D1  
 Costa Mesa, California 92626  
 Telephone: (800) 400-6808  
 Facsimile: (800) 520-5523

**LAW OFFICE OF DANIEL G. SHAY**  
 Daniel G. Shay, Esq. (SBN: 250548)  
 danielshay@tcpafdcpa.com  
 409 Camino Del Rio South, Ste 101B  
 San Diego, CA 92108  
 Telephone: (619) 222-7429  
 Facsimile: (866) 431-3292

[Additional Attorneys for Plaintiff on Signature Page]

*Attorneys for Plaintiff,*  
Ophelia Augustine

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**OPHELIA AUGUSTINE,  
Individually and On Behalf of All  
Others Similarly Situated,**

**Plaintiff,**

**vs.**

**CAPITAL ONE BANK USA,  
N.A.,**

**Defendant.**

**Case No: '18CV180 CAB JLB**

**CLASS ACTION**

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF:**

- 1. UNLAWFUL RECORDING  
OF CELLULAR  
COMMUNICATIONS  
UNDER CALIFORNIA  
PENAL CODE SECTION  
632.7;**
- 2. INVASION OF PRIVACY  
INTRUSION INTO PRIVATE  
AFFAIRS**

**JURY TRIAL DEMANDED**

**Kazerouni Law Group, APC**  
Costa Mesa, California

**INTRODUCTION**

- 1  
2 1. Ophelia Augustine (“Plaintiff”), individually and on behalf of all others  
3 similarly situated California residents (“Class Members”), brings this action for  
4 damages and injunctive relief against Capital One Bank USA, N.A. (hereinafter,  
5 referred to as “Defendant” or “Capital One”), and its present, former, or future  
6 direct and indirect parent companies, subsidiaries, affiliates, agents, related  
7 entities for unauthorized recordings of conversations with Plaintiff and Class  
8 Members without any notification nor warning to Plaintiff or Class Members in  
9 violation of the California Invasion of Privacy Act, Cal. Pen. Code § 630, *et seq.*  
10 (“CIPA”).
- 11 2. The California State Legislature passed CIPA in 1967 to protect the right of  
12 privacy of the people of California, replacing prior laws that permitted the  
13 recording of telephone conversations with the consent of one party to the  
14 conversation. California Penal Code § 632.7 was added to CIPA in 1992 due to  
15 specific privacy concerns over the increased use of cellular and cordless  
16 telephones. Section 632.7 prohibits intentionally recording all communications  
17 involving cellular and cordless telephones, not just confidential  
18 communications.
- 19 3. Plaintiff makes these allegations on information and belief, with the exception of  
20 those allegations that pertain to Plaintiff, or to Plaintiff’s counsel, which  
21 Plaintiff alleges on her personal knowledge.
- 22 4. Unless otherwise stated, all the conduct engaged in by Defendant took place in  
23 California.
- 24 5. All violations by Defendant were knowing, willful, and intentional, and  
25 Defendant did not maintain procedures reasonably adapted to avoid any such  
26 violation.
- 27 6. Unless otherwise indicated, the use of Defendant’s names in this Complaint  
28 includes all agents, employees, officers, members, directors, heirs, successors,

1 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of  
2 the named Defendant.

3 **Jurisdiction and Venue**

4 7. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff seeks  
5 \$5,000 in damages for each violation of the CIPA, which, when aggregated  
6 among a proposed class number in the tens of thousands, exceeds the  
7 \$5,000,000 threshold for federal court jurisdiction. Further, Plaintiff is  
8 domiciled in a different state than that of the Defendant, providing jurisdiction  
9 under 28 U.S.C. § 1332(d)(2)(A). Therefore, the elements of the Class Action  
10 Fairness Act of 2005 (“CAFA”) are met, and this Court has jurisdiction.

11 8. Venue is proper in the United States District Court for the Southern District of  
12 California pursuant to 28 U.S.C. §§ 1391(b) because Defendant, at all times  
13 herein mentioned, was doing business in the County of San Diego, State of  
14 California. Further, venue is proper in this district because Plaintiff has resided  
15 in this district at all times herein mentioned such that a substantial part of the  
16 events giving rise to the claim occurred in this district.

17 **Parties**

18 9. Plaintiff is, and at all times mentioned herein was, an individual citizen and  
19 resident of the State of California, City of San Diego, in this judicial district.

20 10. Plaintiff is informed and believes, and thereon alleges, that Capital One Bank  
21 USA, N.A. is, and at all times mentioned herein was, a national bank with its  
22 principal place of business in Virginia.

23 11. Plaintiff alleges that at all times relevant herein Defendant conducted business in  
24 the State of California, in the County of San Diego, within this judicial district.  
25 Defendant is, and at all times mentioned herein was, a “person”, as defined by  
26 Cal. Pen. Code § 632(b).

27 ///

28 ///

**FACTUAL ALLEGATIONS**

- 1
- 2 12. On or around June 8, 2017, at 11:25 a.m., Defendant called Plaintiff on her
- 3 cellular telephone ending in “9532”. Defendant called from the telephone
- 4 number 800-955-6600.
- 5 13. During the call, Defendant’s representative identified as “Jerry” spoke with
- 6 Plaintiff for about three minutes regarding her Capital One Platinum Mastercard
- 7 account ending in “8561”. The parties discussed private account and financial
- 8 information along with legal matters.
- 9 14. At the end of the call, Plaintiff asked Defendant, if the call was being recorded
- 10 and Defendant responded, affirmatively..
- 11 15. At no point during the outset of the telephone conversation did Defendant
- 12 advise Plaintiff that Defendant was or would be recording the conversation, nor
- 13 did Plaintiff consent to the call being recorded.
- 14 16. Upon information and belief, Defendant records all of its telephone calls,
- 15 including the call between Plaintiff and Defendant described above.
- 16 17. Plaintiff was personally affected by Defendant’s aforementioned conduct
- 17 because Plaintiff was shocked and upset that Defendant recorded one or more
- 18 cellular telephone conversations with Plaintiff without Plaintiff’s knowledge or
- 19 consent.
- 20 18. California Penal Code § 632.7(a) is very clear in its prohibition against such
- 21 unauthorized tape recording without the consent of the other party to the
- 22 conversation: “Every person who, without the consent of all parties to a
- 23 communication, intercepts or receives and intentionally records, or assists in the
- 24 interception or reception and intentional recordation of, a communication
- 25 transmitted between two cellular radio telephones, a cellular radio telephone and
- 26 a landline telephone, two cordless telephones, a cordless telephone and a
- 27 landline telephone, or a cordless telephone and a cellular radio telephone
- 28 [violates this section]”. California Penal Code § 637.2 permits Plaintiff to bring

- 1 this action for any violation of California Penal Code § 632.7(a) and provides  
2 for statutory damages of \$5,000.00 for each violation.
- 3 19. Defendant recorded or otherwise made an unauthorized connection to the  
4 Plaintiff's conversations with Defendant and its employees in violation of  
5 California's statutory and common law against such unlawful intrusions into a  
6 person's private affairs, including the California Constitution's prohibition in  
7 Article 1, Section 1.
- 8 20. This suit seeks only damages and injunctive relief for recovery of economic  
9 injury and it expressly is not intended to request any recovery for personal injury  
10 and claims related thereto.
- 11 21. Plaintiff is informed and believes, and thereon alleges, that Defendant  
12 intentionally recorded a communication transmitted between a cellular radio  
13 telephone and a landline telephone without Plaintiff's consent as prohibited by  
14 California Penal Code § 632.7(a).
- 15 22. Defendant violated Plaintiff's constitutionally protected privacy rights by failing  
16 to advise or otherwise provide notice at the beginning of the recorded  
17 conversations with Plaintiff that the call would be recorded and Defendant did  
18 not try to obtain the Plaintiff's consent before such recording.
- 19 23. The recording or other unauthorized connection was done over the telephone,  
20 without Plaintiff's prior knowledge or consent. Plaintiff was damaged thereby,  
21 as detailed herein, in at least an amount permitted by the statutory damages  
22 mandated by California Penal Code § 637.2(a).
- 23 24. Defendant, and its employees and agents, surreptitiously recorded the call made  
24 by Defendant to Plaintiff. At no time before the call was Plaintiff warned, told,  
25 advised or otherwise given any indication by Defendant, its employees or  
26 agents, that the call would be recorded.
- 27 25. As a result thereof, Plaintiff has been damaged as set forth in the Prayer for  
28 Relief herein.

1 26. Plaintiff seeks statutory damages and injunctive relief under California Penal  
2 Code § 637.2.

3 **CLASS ACTION ALLEGATIONS**

4 27. Plaintiff brings this lawsuit as a class action on behalf of herself and Class  
5 Members of the proposed Class pursuant to Federal Rules of Civil Procedure  
6 23(a) and (b)(3) and/or (b)(2). This action satisfies the numerosity,  
7 commonality, typicality, adequacy, predominance, and superiority requirements  
8 of those provisions.

9 28. Plaintiff proposes the following Class consisting of and defined as follows:

10 All persons in California whose cellular telephone  
11 conversations were recorded without their consent by  
12 Defendant and/or its agent/s within the one year prior to the  
13 filing of the Complaint.

14 29. Excluded from the Class are: (1) Defendant, any entity or division in which  
15 Defendant has a controlling interest, and its legal representatives, officers,  
16 directors, assigns, and successors; (2) the judges to whom this case is assigned  
17 and the Judge's staff; and (3) those persons who have suffered personal injuries  
18 as a result of the facts alleged herein.

19 30. Plaintiff reserves the right to redefine the Class and to add subclasses as  
20 appropriate based on discovery and specific theories of liability

21 31. Numerosity: The Class Members are so numerous that joinder of all members  
22 would be unfeasible and impractical. The size of the Class is unknown to  
23 Plaintiff at this time; however, given that, on information and belief, Defendant  
24 called thousands of class members and recorded those calls during the class  
25 period, it is reasonable to presume that the members of the Class are so  
26 numerous that joinder of all members is impracticable. The disposition of their  
27 claims in a class action will provide substantial benefits to the parties and the  
28 Court.

1 32. Commonality: There are common questions of law and fact as to Class Members  
2 that predominate over questions affecting only individual members, including,  
3 but not limited to:

- 4 • Whether, within the statutory period, Defendant recorded any call with the  
5 Class Members;
- 6 • Whether Defendant had, and continues to have, a policy during the  
7 relevant period of recording telephone calls made to the Class Members;
- 8 • Whether Defendant’s policy or practice of recording telephone  
9 communications with Class Members constitutes an invasion of privacy  
10 and a violation of Cal. Penal Code § 632.7;
- 11 • Whether Plaintiff and the Class Members were damaged thereby, and the  
12 extent of damages for such violation; and
- 13 • Whether Defendant should be enjoined from engaging in such conduct in  
14 the future.

15 33. Typicality Plaintiff’s conversations were unlawfully recorded without a warning  
16 of such recording, and thus, her injuries are typical to Class Members.

17 34. Plaintiff and Class Members were harmed by the acts of Defendant in at least  
18 the following ways: Defendant, either directly or through its agents, illegally  
19 recorded the Plaintiff and Class Members’ conversations with Defendant, and  
20 Defendant invaded the privacy of said Plaintiff and Class. Plaintiff and Class  
21 Members were damaged thereby.

22 35. Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the  
23 interests of each Class Member with whom she is similarly situated, as  
24 demonstrated herein. Plaintiff’s attorneys, the proposed class counsel, are versed  
25 in the rules governing class action discovery, certification, and settlement. In  
26 addition, the proposed class counsel is experienced in handling claims involving  
27 consumer actions and violations of the California Penal Code section 632.7.  
28 Plaintiff has incurred, and throughout the duration of this action, will continue to

1 incur costs and attorneys' fees that have been, are, and will be, necessarily  
2 expended for the prosecution of this action for the substantial benefit of each  
3 Class Member.

4 36. Predominance: Questions of law or fact common to the Class Members  
5 predominate over any questions affecting only individual members of the Class.  
6 The elements of the legal claims brought by Plaintiff and Class Members are  
7 capable of proof at trial through evidence that is common to the Class rather  
8 than individual to its members.

9 37. Superiority: A class action is a superior method for the fair and efficient  
10 adjudication of this controversy because:

- 11 a. Class-wide damages are essential to induce Defendants to comply with  
12 California law.
- 13 b. Because of the relatively small size of the individual Class Members'  
14 claims, it is likely that only a few Class Members could afford to seek  
15 legal redress for Defendant's misconduct.
- 16 c. Management of these claims is likely to present significantly fewer  
17 difficulties than those presented in many class claims.
- 18 d. Absent a class action, most Class Members would likely find the cost  
19 of litigating their claims prohibitively high and would therefore have  
20 no effective remedy at law.
- 21 e. Class action treatment is manageable because it will permit a large  
22 number of similarly situated persons to prosecute their common claims  
23 in a single forum simultaneously, efficiently, and without the  
24 unnecessary duplication of effort and expense that numerous individual  
25 actions would endanger.
- 26 f. Absent a class action, Class Members will continue to incur damages,  
27 and Defendant's misconduct will continue without remedy.
- 28



1 38. Plaintiff and the Class Members have all suffered and will continue to suffer  
2 harm and damages as a result of Defendant’s unlawful and wrongful conduct. A  
3 class action is also superior to other available methods because as individual  
4 Class Members have no way of discovering that Defendant recorded their  
5 telephone conversations without Class Members’ knowledge or consent.

6 39. The Class may also be certified because:

- 7 • The prosecution of separate actions by individual Class Members would  
8 create a risk of inconsistent or varying adjudication with respect to  
9 individual Class Members, which would establish incompatible standards  
10 of conduct for Defendant;
- 11 • The prosecution of separate actions by individual Class Members would  
12 create a risk of adjudications with respect to them that would, as a  
13 practical matter, be dispositive of the interests of other Class Members  
14 not parties to the adjudications, or substantially impair or impede their  
15 ability to protect their interests; and
- 16 • Defendant has acted or refused to act on grounds generally applicable to  
17 the Class, thereby making appropriate final and injunctive relief with  
18 respect to the members of the Class as a whole.

19 40. This suit seeks only damages and injunctive relief for recovery of economic  
20 injury on behalf of Class Members and it expressly is not intended to request  
21 any recovery for personal injury and claims related thereto. Plaintiff reserves  
22 the right to expand Class definitions to seek recovery on behalf of additional  
23 persons as warranted as facts are learned in further investigation and discovery.

24 41. The joinder of Class Members is impractical and the disposition of their claims  
25 in the Class action will provide substantial benefits both to the parties and to the  
26 court. The Class Members can be identified through Defendant’s records.

27 ///

28 ///

**FIRST CAUSE OF ACTION  
ILLEGAL RECORDING OF CELLULAR PHONE CONVERSATIONS  
UNDER CALIFORNIA PENAL CODE § 632.7**

- 42. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
- 43. At all relevant times hereto, Defendant had and followed a policy and practice of using a telecommunications system that enabled it to surreptitiously record cellular telephone communications between Defendant and Plaintiff and Class Members.
- 44. At all relevant times hereto, Defendant intentionally and surreptitiously recorded cellular telephone calls between Defendant and Plaintiff and Class Members.
- 45. At all relevant times hereto, Defendant had and followed a policy and practice of not advising or warning Plaintiff and Class Members that their cellular telephone communications with Defendant would be recorded.
- 46. Defendant failed to obtain consent of Plaintiff and Class Members prior to recording any of their cellular telephone conversations.
- 47. This conduct by Defendant violated section 632.7(a) of the California Penal Code.
- 48. Plaintiff and Class Members are entitled to recovery actual and statutory damages in the amount of \$5,000.00 per violation of Cal. Pen. Code § 632.7.
- 49. Plaintiff’s counsel is also entitled to attorneys’ fees and costs pursuant to Cal. Code of Civ. Proc. § 1021.5.

**SECOND CAUSE OF ACTION  
INVASION OF PRIVACY INTRUSION INTO PRIVATE AFFAIRS**

- 50. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
- 51. At all relevant times hereto, Plaintiff and Class Members had a reasonable expectation of privacy.
- 52. At all relevant times hereto, Defendant had and followed a policy and practice of using a telecommunications system that enabled it to surreptitiously record

1 cellular telephone communications between Defendant and Plaintiff and Class  
2 Members.

3 53. At all relevant times hereto, Defendant intentionally and surreptitiously recorded  
4 cellular telephone calls between Defendant and Plaintiff and Class Members.

5 54. At all relevant times hereto, Defendant had and followed a policy and practice of  
6 not advising or warning Plaintiff and Class Members that their cellular  
7 telephone communications with Defendant would be recorded.

8 55. Defendant failed to obtain consent of Plaintiff and Class Members prior to  
9 recording any of their cellular telephone conversations, thus intentionally  
10 intruding on Plaintiff’s and Class Members’ reasonable expectation of privacy.

11 56. This intentional intrusion was a substantial factor in causing Plaintiff and Class  
12 Members harm.

13 57. Plaintiff’s counsel is also entitled to attorneys’ fees and costs pursuant to Cal.  
14 Code of Civ. Proc. § 1021.5.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff and the Class Members pray that judgment be entered  
17 against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- 18 • Certify the Class as requested herein;
- 19 • Appoint Plaintiff to serve as the Class Representative for the Class;
- 20 • Appoint Plaintiff’s Counsel as Class Counsel in this matter for the Class;

21  
22 In addition, Plaintiff and the Class Members pray for further judgment as follows  
23 against Defendant:

24 **ILLEGAL TELEPHONE RECORDING OF CELLULAR PHONE CONVERSATIONS**  
25 **UNDER CALIFORNIA PENAL CODE § 632.7**

- 26 • Special, general, compensatory and punitive damages;

27  
28

- 1 • As a result of Defendant’s violation of California Penal Code Sections 630 *et*
- 2 *seq.*, Plaintiff seeks statutory damages of \$5,000.00 pursuant to California Penal
- 3 Code § 637.2(a);
- 4 • Reasonable attorneys’ fees pursuant to Cal. Code of Civ. Proc. § 1021.5;
- 5 • Injunctive relief to prevent the further occurrence of such illegal acts pursuant to
- 6 California Penal Code § 637.2(b);
- 7 • An award of costs to Plaintiff and;
- 8 • Any other relief the Court may deem just and proper including interest.

9 **INVASION OF PRIVACY**  
10 **INTRUSION INTO PRIVATE AFFAIRS**

- 11 • Special, general, compensatory and punitive damages;
- 12 • Reasonable attorneys’ fees pursuant to Cal. Code of Civ. Proc. § 1021.5;
- 13 • Injunctive relief, prohibiting such conduct in the future; and,
- 14 • Any other relief the Court may deem just and proper.

15 **TRIAL BY JURY**

16 58. Pursuant to the seventh amendment to the Constitution of the United States of  
17 America, Plaintiff and Class Members are entitled to, and demand, a trial by  
18 jury.

19  
20 Respectfully submitted,  
21 **KAZEROUNI LAW GROUP, APC**

22  
23 Date: January 26, 2018

24 By: s/Abbas Kazerounian  
25 Abbas Kazerounian, Esq.  
26 ak@kazlg.com  
27 *Attorney for Plaintiff*  
28

1 **Additional Plaintiff's Counsel:**

2 **HYDE & SWIGART**

3 Joshua B. Swigart, Esq. (SBN: 225557)

4 josh@westcoastlitigation.com

5 Yana A. Hart, Esq. (SBN: 306499)

6 yana@westcoastlitigation.com

7 2221 Camino Del Rio South, Suite 101

8 San Diego, CA 92108-3551

9 Telephone: (619) 233-7770

10 Facsimile: (619) 297-1022

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Kazerouni Law Group, APC**  
Costa Mesa, California

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

Ophelia Augustine, Individually and on Behalf of All Others Similarly Situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) KAZEROUNI LAW GROUP, APC, 245 Fischer Avenue, Suite D1 Costa Mesa, California 92626 (800) 400-6808

DEFENDANTS

CAPITAL ONE BANK USA, N.A.,

County of Residence of First Listed Defendant Henrico County, VA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'18CV180 CAB JLB

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)

Table with columns for Plaintiff and Defendant citizenship (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country) and incorporation status (Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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. § 1332(d)(2)
Brief description of cause: Defendant recorded class without class' knowledge or consent in violation of California Invasion of Privacy Act

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 January 26, 2018 SIGNATURE OF ATTORNEY OF RECORD s/ Abbas Kazeroonian

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. 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 – 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.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Consumer Shocked After Capital One Secretly Recorded Phone Call](#)

---