

**KAZEROUNI LAW GROUP, APC**

Abbas Kazerounian, Esq. (249203)

ak@kazlg.com

Matthew M. Loker, Esq. (279939)

ml@kazlg.com

Elizabeth A. Wagner, Esq. (317098)

elizabeth@kazlg.com

245 Fischer Avenue, Unit D1

Costa Mesa, CA 92626

Telephone: (800) 400-6808

Facsimile: (800) 520-5523

**HYDE & SWIGART**

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

josh@westcoastlitigation.com

2221 Camino Del Rio South, Suite 101

San Diego, CA 92108

Telephone: (619) 233-7770

Facsimile: (619) 297-1022

*Attorneys for Plaintiff*

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

**ADRIAN CHAVEZ,  
INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

Plaintiff,

v.

**TD BANK USA, N.A.,**

Defendant.

Case No.: '18CV0294 DMS BLM

**CLASS ACTION**

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF  
PURSUANT TO CALIFORNIA'S  
INVASION OF PRIVACY ACT,  
CAL. PENAL CODE § 632.7**

**JURY TRIAL DEMANDED**

*Chavez, et al. v. TD Bank USA, N.A.*

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**INTRODUCTION**

1. The California State Legislature passed the California Invasion of Privacy Act (“CIPA”) in 1967 to protect the right of privacy of the people of California, replacing prior laws which permitted the recording of telephone conversations with the consent of one party to the conversation. California Penal Code § 632.7 was added to CIPA in 1992 due to specific privacy concerns over the increased use of cellular and cordless telephones. Section 632.7 prohibits intentionally recording all communications involving cellular and cordless telephones, not just confidential communications.
2. ADRIAN CHAVEZ (“Plaintiff”) bring this class action for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Defendant TD BANK USA, N.A. and its related entities, subsidiaries and agents (“Defendant”) in willfully employing and/or causing to be employed certain recording equipment in order to record the telephone conversations of Plaintiff without the knowledge or consent of Plaintiff in violation of California Penal Code § 632.7 thereby invading Plaintiff’s privacy.
3. Plaintiff alleges as follows upon personal knowledge as to their own acts and experiences, and, as to all other matters, upon information and belief, including the investigation conducted by Plaintiff’s attorneys.
4. California Penal Code § 632.7 prohibits one party to a telephone call from intentionally recording the same conversation without the knowledge or consent of the other while the person being recorded is on a cellular telephone.
5. Unlike California Penal Code § 632, there is no requirement under California Penal Code § 632.7 that the communication be confidential.

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 6. Plaintiff alleges that Defendant continues to violate Penal Code § 632.7 by  
2 impermissibly recording its telephone conversations with California  
3 residents while said residents are on cellular telephones.

4 **JURISDICTION AND VENUE**

5 7. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a  
6 resident of the State of California, seeks relief on behalf of a national class,  
7 which will result in at least one class member belonging to a different state  
8 than that of Defendant, a national bank headquartered in New Jersey.

9 8. Plaintiff also seeks the greater of statutory damages of \$5,000 per violation  
10 or three times actual damages per violation pursuant to Penal Code §  
11 637.2(a), which, when aggregated among a proposed class number in the  
12 tens of thousands, exceeds the \$5,000,000 threshold for federal court  
13 jurisdiction.

14 9. Therefore, both diversity jurisdiction and the damages threshold under the  
15 Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has  
16 jurisdiction.

17 10. Venue is proper pursuant to 28 U.S.C. § 1391 for the following reasons: (i)  
18 Plaintiff resides in the County of San Diego, State of California which is  
19 within this judicial district; (ii) the conduct complained of herein occurred  
20 within this judicial district; and, (iii) Defendant conducted business within  
21 this judicial district at all times relevant.

22 **PARTIES**

23 11. Plaintiff is, and at all times mentioned herein was, an individual citizen and  
24 resident of the State of California.

25 ///

26 ///

27 ///

28

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 12. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and  
2 at all times mentioned herein was, a national bank headquartered in the State  
3 of New Jersey. Defendant is in the business of debt collection and regularly  
4 collects debts. Defendant has a policy and practice of recording telephone  
5 conversations with the public, including California residents. Defendant’s  
6 employees and agents are directed, trained and instructed to, and do, record  
7 cellular telephone conversations with the public, including California  
8 residents.

9 **FACTUAL ALLEGATIONS**

10 13. Defendant is, and at all times mentioned herein was, a national bank doing  
11 business in California.

12 14. Plaintiff is informed and believes, and on the basis of that information and  
13 belief alleges, that at all times mentioned in this Complaint, Defendants  
14 whether agents or employees in doing the things alleged in this Complaint,  
15 were acting within the course and scope of that agency and employment.

16 15. At all times relevant, Plaintiff is an individual residing within the State of  
17 California.

18 16. On or about August 31, 2017, at approximately 11:27 a.m. Plaintiff received  
19 a call on Plaintiff’s cellular telephone from Defendant.

20 17. Plaintiff answered said phone call and a woman acting as a representative of  
21 Defendant, asked for Adrian Chavez.

22 18. Plaintiff subsequently informed Defendant that he was Adrian Chavez.

23 19. Plaintiff and Defendant’s representative spoke for approximately three  
24 minutes.

25 20. During the course of this conversation, at no time did Defendant inform  
26 Plaintiff that the call was being recorded.

27 21. The conversation with Defendant pertained to the collection of a debt  
28 allegedly owed by Plaintiff.

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

- 1 22. Said conversation, at its very core, is private.
- 2 23. Defendant, acting as a debt collection agency, is in the practice of having
- 3 conversations which are highly personal and involve private financial
- 4 information.
- 5 24. Information of this nature is not regularly discussed with others.
- 6 25. Plaintiff had no reasonable expectation that any of Plaintiff's cellular
- 7 telephone conversations with Defendant would be recorded.
- 8 26. Plaintiff was shocked to discover that such a confidential communication
- 9 was recorded by Defendant without Plaintiff's knowledge or consent.
- 10 27. Plaintiff found Defendant's clandestine recording to be highly offensive due
- 11 to the delicacy of the topics discussed during said conversations.
- 12 28. The conversation with Plaintiff, was without Plaintiff's knowledge or
- 13 consent, recorded and/or monitored by Defendant, causing harm and damage
- 14 to Plaintiff.
- 15 29. At no time during the call did Plaintiff give consent for the cellular
- 16 telephone call to be monitored, recorded and/or eavesdropped upon.
- 17 30. Plaintiff is informed and believes, and thereon alleges, that during the
- 18 relevant time period, Defendant has had a policy and a practice of recording
- 19 telephone conversations with consumers.
- 20 31. Plaintiff is further informed and believes, and thereon alleges that
- 21 Defendant's employees and agents are directed, trained and instructed to,
- 22 and do, record cellular telephone conversations with the public, including
- 23 Plaintiff and other California residents.
- 24 32. Plaintiff is informed and believes, and thereon alleges, that during the
- 25 relevant time period, Defendant has had all of its calls to the public,
- 26 including those made to California residents, recorded without the
- 27 knowledge or consent of the public, including Plaintiff and other California
- 28 residents.

1 33. California Penal Code § 632.7(a) is very clear in its prohibition against such  
2 unauthorized tape recording without the consent of the other party to the  
3 conversation: “Every person who, without the consent of all parties to a  
4 communication, intercepts or receives and intentionally records, or assists in  
5 the interception or reception and intentional recordation of, a communication  
6 transmitted between two cellular radio telephones, a cellular radio telephone  
7 and a landline telephone, two cordless telephones, a cordless telephone and a  
8 landline telephone, or a cordless telephone and a cellular radio telephone  
9 [violates this section].”

10 34. As such, California Penal Code § 637.2 permits Plaintiff to bring this action  
11 for any violation of California Penal Code § 632.7(a) and provides for  
12 statutory damages of \$5,000.00 for each violation.

13 35. This suit seeks only damages and injunctive relief for recovery of economic  
14 injury and it expressly is not intended to request any recovery for personal  
15 injury and claims related thereto.

16 36. Plaintiff is informed and believes, and thereon alleges, that Defendant  
17 intentionally recorded a communication transmitted between a cellular radio  
18 telephone and a landline telephone without Plaintiff’s consent as prohibited  
19 by California Penal Code § 632.7(a).

20 37. Defendant violated Plaintiff’s constitutionally protected privacy rights by  
21 failing to advise or otherwise provide notice at the beginning of the recorded  
22 conversation with Plaintiff that the calls would be recorded and Defendant  
23 did not try to obtain the Plaintiff’s consent before such recording.

24 38. The recording or other unauthorized connection was done over the telephone,  
25 without Plaintiff’s prior knowledge or consent. Plaintiff was damaged  
26 thereby, as detailed herein, in at least an amount permitted by the statutory  
27 damages mandated by California Penal Code § 637.2(a).  
28

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 39. Defendant, and its employees and agents, surreptitiously recorded calls made  
2 by Defendant to Plaintiff. At no time before the calls was Plaintiff warned,  
3 told, advised or otherwise given any indication by Defendant, its employees  
4 or agents, that the calls would be recorded.

5 40. As a result thereof, Plaintiff has been damaged as set forth in the Prayer for  
6 Relief herein.

7 41. Plaintiff seeks statutory damages and injunctive relief under California Penal  
8 Code § 637.2.

9 **CLASS ACTION ALLEGATIONS**

10 42. Plaintiff brings this action on behalf of himself and on behalf of all others  
11 similarly situated (“The Class”).

12 43. Plaintiff represents, and is a member of, “The Class” defined as follows:

13 All persons in California whose inbound and/or outbound  
14 cellular telephone conversations were recorded without their  
15 consent by Defendant within one year prior to the filing of the  
original Complaint in this action.

16 44. Defendant, and its employees and agents are excluded from The Class.  
17 Plaintiff does not know the number of members in The Class, but believe  
18 this number to be in the tens of thousands, if not more. Thus, this matter  
19 should be certified as a Class action to assist in the expeditious litigation of  
20 this matter.

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

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626



KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

- 1 46. The joinder of The Class members is impractical and the disposition of their
- 2 claims in the Class action will provide substantial benefits both to the parties
- 3 and to the Court. The Class can be identified through Defendant’s records.
- 4 47. There is a well-defined community of interest in the questions of law and
- 5 fact involved affecting the parties to be represented. The questions of law
- 6 and fact to The Class predominate over questions which may affect
- 7 individual Class members, including the following:
- 8 a. Whether Defendant has a policy of recording incoming and/or outgoing
- 9 calls made to cellular telephones;
- 10 b. Whether Defendant discloses to callers and/or obtains their consent that
- 11 their incoming and/or outgoing cellular telephone conversations were
- 12 being recorded;
- 13 c. Whether Defendant’s policy of recording incoming and/or outgoing calls
- 14 constituted a violation of California Penal Code §§ 632.7 and/or 637;
- 15 d. Whether Defendant’s policy of recording incoming and/or outgoing calls
- 16 constitutes an invasion of privacy;
- 17 e. Whether Plaintiff and The Class were damaged thereby, and the extent of
- 18 damages for such violations; and
- 19 f. Whether Defendants should be enjoined from engaging in such conduct
- 20 in the future.
- 21 48. Plaintiff is asserting claims that are typical of The Class because every other
- 22 member of The Class, like Plaintiff, was exposed to virtually identical
- 23 conduct and are entitled to the greater of statutory damages of \$5,000 per
- 24 violation or three times actual damages per violation pursuant to Penal Code
- 25 § 637.2(a).

26 ///

27 ///

28



KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 49. Plaintiff will fairly and adequately represent and protect the interests of The  
2 Class in that Plaintiff has no interest antagonistic to any member of The  
3 Class. Plaintiff has retained counsel experienced in handling class action  
4 claims to further ensure such protection.

5 50. Plaintiff and the members of The Class have all suffered irreparable harm as  
6 a result of the Defendant’s unlawful and wrongful conduct. Absent a class  
7 action, The Class will continue to face the potential for irreparable harm. In  
8 addition, these violations of law will be allowed to proceed without remedy  
9 and Defendant will likely continue such illegal conduct. Because of the size  
10 of the individual Class member’s claims, few, if any, Class members could  
11 afford to seek legal redress for the wrongs complained of herein.

12 51. A class action is a superior method for the fair and efficient adjudication of  
13 this controversy. Class-wide damages are essential to induce Defendant to  
14 comply with federal and California law. The interest of The Class members  
15 in individually controlling the prosecution of separate claims against  
16 Defendant is small because the maximum statutory damages in an individual  
17 action for violation of privacy are minimal. Management of these claims is  
18 likely to present significantly fewer difficulties than those presented in many  
19 class claims.

20 52. Defendant has acted on grounds generally applicable to The Class, thereby  
21 making appropriate final injunctive relief and corresponding declaratory  
22 relief with respect to The Class as a whole.

23 **FIRST CAUSE OF ACTION**

24 **INVASION OF PRIVACY: VIOLATION OF PENAL CODE § 632.7**

25 53. Plaintiff incorporates by reference all of the above paragraphs of this  
26 Complaint as though fully stated herein.

27 ////

28 ////

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 54. Californians have a constitutional right to privacy. Moreover, the California  
2 Supreme Court has definitively linked the constitutionally protected right to  
3 privacy within the purpose, intent and specific protections of the Privacy  
4 Act, including specifically, Penal Code § 632.

5 55. “In addition, California’s explicit constitutional privacy provision (Cal.  
6 Const., 1 § 1) was enacted in part specifically to protect California from  
7 overly intrusive business practices that were seen to pose a significant and  
8 increasing threat to personal privacy.” (Citations omitted).

9 56. Plaintiff believes that California must be viewed as having a strong and  
10 continuing interest in the full and vigorous application of the provisions of  
11 section 632 prohibiting the recording of telephone conversations without the  
12 knowledge or consent of all parties to the conversation.

13 57. California Penal Code § 632.7 prohibits in pertinent part “[e]very person  
14 who, without the consent of all parties to a communication . . . intentionally  
15 records, or assists in the . . . intentional recordation of, a communication  
16 transmitted between . . . a cellular radio telephone and a landline telephone.”

17 58. As such, on its face, California Penal Code § 632.7 precludes the recording  
18 of all communications involving a cellular telephone.

19 59. Though similar, California Penal Code § 632 and 632.7 are not duplicative  
20 and protect separate rights. California Penal Code § 632.7 grants a wider  
21 range of protection to conversations where one participant uses a cellular  
22 phone or cordless phone. For example, the “confidential communication”  
23 requirement of California Penal Code § 632 is absent from California Penal  
24 Code § 632.7

25 60. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
26 employed and/or caused to be employed certain recording equipment on the  
27 telephone lines of all employees, officers, directors, and managers of  
28 Defendant.

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1 61. Plaintiff is informed and believes, and thereupon alleges, that all these  
2 devices were maintained and utilized to record each and every incoming and  
3 outgoing telephone conversation over said telephone lines.

4 62. Said recording equipment was used to record the cellular telephone  
5 conversations of Plaintiff and the members of The Class, all in violation of  
6 California Penal Code § 632.7.

7 63. At no time during which these cellular telephone conversations were taking  
8 place between Defendant or any employee, agent, manager, officer, or  
9 director of Defendant, and any other person, did Defendant inform Plaintiff  
10 or any other member of The Class recording of their cellular telephone  
11 conversations were taking place and at no time did Plaintiff or any other  
12 member of The Class consent to this activity.

13 64. Defendant, knowing that this conduct was unlawful and a violation of  
14 Plaintiff and the members of The Class’ right to privacy and a violation of  
15 California Penal Code § 630, *et seq.*, did intrude on Plaintiff and the  
16 members of The Class’ privacy by knowingly and/or negligently and/or  
17 intentionally engaging in the aforementioned intercepting, eavesdropping,  
18 listening, and recording activities relative to the telephone conversations  
19 between Plaintiff and The Class members, on the one hand, and Defendant  
20 on the other hand, as alleged herein above.

21 65. Based on the foregoing, Plaintiff and the members of The Class are entitled  
22 to, and below herein do pray for, their statutory remedies and damages,  
23 including but not limited to, those set forth in California Penal Code § 637.2.

24 66. Because this case is brought for the purposes of enforcing important rights  
25 affecting the public interest, Plaintiff and The Class seek recovery of their  
26 attorney’s fees pursuant to the private attorney general doctrine codified in  
27 Code of Civil Procedure § 1021.5, or any other statutory basis.

28 ///

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and The Class members the following relief against Defendant:

- That this action be certified as a class action on behalf of The Class and Plaintiff be appointed as the representative of The Class;
- Plaintiff’s attorneys be appointed counsel of The Class.
- For \$5,000 per violation of California Penal Code § 632.7 for Plaintiff and each member of The Class;
- Injunctive relief in the form of an order requiring Defendant to disgorge all ill-gotten gains and awarding Plaintiff and The Class full restitution of all monies wrongfully acquired by Defendant by means of such unfair and unlawful conduct;
- That the Court preliminarily and permanently enjoin Defendant from recording, each and every oncoming and outgoing cellular telephone conversation with California residents, including Plaintiff and The Class, without their prior consent, as required by California Penal Code § 630, *et seq.*, and to maintain the confidentiality of the information of Plaintiff and The Class;
- For costs of suit;
- For prejudgment interest at the legal rate; and
- For such further relief as this Court deems necessary, just, and proper.

**TRIAL BY JURY**

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: February 7, 2018

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

By: s/ Matthew M. Loker  
MATTHEW M. LOKER, ESQ.  
ML@KAZLG.COM  
ATTORNEY FOR PLAINTIFF

KAZEROUNI LAW GROUP, APC  
245 FISCHER AVENUE, UNIT D1  
COSTA MESA, CA 92626

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Adrian Chavez

(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 Matthew M. Loker, Esq. (279939) 245 Fischer Avenue, Unit D1, Costa Mesa, CA 92626

DEFENDANTS

T.D. Bank USA, N.A.

County of Residence of First Listed Defendant Camden (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'18CV0294 DMS BLM

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 (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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): California's Invasion of Privacy Act, Cal. Penal Code § 632.7. Brief description of cause: Defendant did not inform Plaintiff and members of the Class that their phone calls were being recorded.

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 02/07/2018 SIGNATURE OF ATTORNEY OF RECORD /s Matthew M. Loker

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

Save As...

Reset

## 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: [TD Bank Accused of Secretly Recording Calls to Consumers' Cell Phones](#)

---