

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

RYVANIA FUENTES, GABRIELLE RUIZ, OLGA	§	
FERNANDEZ-DUARTE, and RACHEL ACOSTA,	§	
on behalf of themselves and all others similarly situated,	§	
	§	Civil Action No.: 18-cv-22767
Plaintiffs,	§	
	§	
v.	§	
	§	
TJX COMPANIES, INC., doing business as	§	
“T.J. Maxx stores,”	§	
	§	
Defendant.	§	

**CLASS ACTION COMPLAINT**

Plaintiffs Ryvania Fuentes, Gabrielle Ruiz, Olga Fernandez-Duarte and Rachel Acosta, individually and on behalf of all others similarly situated, through undersigned counsel, file this class action complaint against Defendant and allege as follows:

**JURISDICTION AND VENUE**

1. Jurisdiction is proper pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d), because members of the proposed Plaintiff Class are citizens of states different from TJX Companies, Inc.’s home state, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

2. This Court has personal jurisdiction over TJX Companies, Inc., pursuant to Florida Statutes §§ 48.193(1)(a)(1), (2), and (6), because it conducts substantial business in this District, some of the actions giving rise to the Complaint took place in this District, and some of Plaintiffs’ claims arise out of TJX Companies, Inc.’s operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state; committing a

tortious act in this state; and causing injury to property in this state arising out of TJX Companies, Inc.'s acts and omissions outside this state and at or about the time of such injuries TJX Companies, Inc. was engaged in solicitation or service activities within this state or products, materials, or things processed, serviced, or manufactured by TJX Companies, Inc. anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.

3. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to these claims occurred in this District, TJX Companies, Inc. has caused harm to Plaintiffs and Class Members residing in this District, and TJX Companies, Inc. is a resident of this District under 28 U.S.C. 1391(c)(2) because it is subject to personal jurisdiction in this District.

#### **THE PARTIES**

4. Plaintiff Ryvania Fuentes is a resident and citizen of Miami-Dade County, Florida. During the class period, Plaintiff Ryvania Fuentes purchased goods from Defendant's T.J. Maxx store(s) located in Florida, was subjected to the practices alleged herein, and suffered an ascertainable loss and monetary damages as a result of Defendant's unlawful conduct alleged herein.

5. Plaintiff Gabrielle Ruiz is a resident and citizen of Miami-Dade County, Florida. During the class period, Plaintiff Gabrielle Ruiz purchased goods from Defendant's T.J. Maxx store(s) located in Florida, was subjected to the practices alleged herein, and suffered an ascertainable loss and monetary damages as a result of Defendant's unlawful conduct alleged herein.

6. Plaintiff Olga Fernandez-Duarte is a resident and citizen of Miami-Dade County, Florida. During the class period, Plaintiff Olga Fernandez-Duarte purchased goods from

Defendant's T.J. Maxx store(s) located in Florida, was subjected to the practices alleged herein, and suffered an ascertainable loss and monetary damages as a result of Defendant's unlawful conduct alleged herein.

7. Plaintiff Rachel Acosta is a resident and citizen of Miami-Dade County, Florida. During the class period, Plaintiff Rachel Acosta purchased goods from Defendant's T.J. Maxx store(s) located in Florida, was subjected to the practices alleged herein, and suffered an ascertainable loss and monetary damages as a result of Defendant's unlawful conduct alleged herein.

8. Defendant, TJX Companies, Inc., d/b/a T.J. Maxx stores, is a for-profit corporation formed and existing under the laws of the State of Delaware with its principal place of business located at 770 Cochituate Road, Framingham, Massachusetts 01701.

### **GENERAL ALLEGATIONS**

9. Plaintiffs bring this proposed class action against Defendant alleging violations of Florida consumer protection laws on behalf of a proposed class consisting of all persons who purchased consumer goods bearing a price tag which listed a "COMPARE AT" price at any T.J. Maxx store located in the State of Florida between during the applicable statutory period to the present.

10. Defendant, TJX Companies, Inc., doing business as T.J. Maxx Stores ("TJX" or "Defendant"), engages in the use of deceptive practices involving the sale of consumer goods at T.J. Maxx stores. Specifically, Defendant offers items for sale by juxtaposing two different prices: the "COMPARE AT" price – a higher, fictional amount – with the actual sale price – a substantially lower price at which Defendant is offering to sell the item – in order to advertise a phantom markdown.

11. Upon information and belief, the comparative price is not a bona fide price, but rather, an unverified estimate of what Defendant believes comparable products may sell for at other retailers.

12. Defendant purports that the comparative price mark-up ranges from twenty-three (23) to fifty-four (54) percent above the actual sale price.

13. However, Defendant does not disclose any information on the tag or on the item, or in the immediate vicinity of the item, that defines the term “COMPARE AT” or otherwise offers any context for the “COMPARE AT” pricing provided. Defendant further does not provide any information justifying its “COMPARE AT” price.

14. Instead, Defendant leads the average, reasonable consumer to believe that they are actually saving the difference between the two prices, or in other words, that Defendant is currently offering to sell that item at a discounted price, measured as a reduction off the comparative price. This practice also serves to falsely convey the impression to the consumer that the good in question is of such quality that it is worth that higher “COMPARE AT” price, when, in fact, the item’s actual value is far less.

15. To be clear, reasonable consumers, including Plaintiffs and the Class, believe the “COMPARE AT” price on Defendant’s price tags to be the price at which a substantial number of other merchants sell the identical product. Reasonable consumers, including Plaintiffs, do not interpret the comparative price to refer to a retailer’s unverified estimate of what a comparable product may have sold for in the marketplace.

16. Plaintiffs and the Class reasonably relied upon Defendant’s fictitious comparative pricing when purchasing merchandise from Defendant’s Florida stores.

17. Defendant’s use of fictitious comparative pricing is false, misleading and/or

deceptive.

18. In fact, Defendant's deceptive pricing policy is inherently misleading based on established advertising principles.

19. One of the most effective techniques in advertising is for a seller to offer customers a reduction from either the seller's own former price for an item, or the price at which the item or an equivalent item is sold by a competitor. This technique is widely used because sellers know the truth of the old adage "everyone loves a bargain" and understand that a product's "regular" price – the price at which a product is generally sold in the marketplace – matters to consumers.

20. Indeed, numerous studies show that consumers are much more likely to purchase an item if they are told that it is being offered at a price less than the price at which the seller or its competitors have previously sold the product. In other words, consumers are more likely to purchase an item if they are told that an item is worth much more than what they are currently being asked to pay for it. *See, e.g.,* Dhruv Grewal & Larry D. Compeau, Comparative Price Advertising: Informative or Deceptive?, 11 J. of Pub. Pol'y & Mktg. 52, 55 (Spring 1992) ("[b]y creating an impression of savings, the presence of a higher reference price enhances [consumers'] perceived value and willingness to buy [a] product."); *see also* Compeau & Grewal, in Comparative Price Advertising: Believe It Or Not, J. of Consumer Affairs, Vol. 36, No. 2, at 287 (Winter 2002) (noting that "decades of research support the conclusion that advertised reference prices do indeed enhance consumers' perceptions of the value of the deal," and concluding that "[c]onsumers are influenced by comparison prices even when the stated reference prices are implausibly high."); Joan Lindsey-Mullikin & Ross D. Petty, Marketing Tactics Discouraging Price Search: Deception and Competition, 64 J. of Bus. Research 67 (January 2011) (concluding that "[r]eference price ads strongly influence consumer perceptions of value"); Praveen K. Kopalle

& Joan Lindsey-Mullikin, The Impact of External Reference Price On Consumer Price Expectations, 79 J. of Retailing 225 (2003) (concluding that “research has shown that retailer-supplied reference prices clearly enhance buyers’ perceptions of value” and “have a significant impact on consumer purchasing decisions.”); Dr. Jerry B. Gotlieb & Dr. Cyndy Thomas Fitzgerald, An Investigation Into the Effects of Advertised Reference Prices On the Price Consumers Are Willing To Pay For the Product, 6 J. of App’d Bus. Res. 1 (1990) (concluding that “consumers are likely to be misled into a willingness to pay a higher price for a product simply because the product has a higher reference price.”)

21. The use of the phrase “compare at” is one of many phrases used by advertisers to indicate a price comparison. Three decades of marketing research, including a 2004 study in the Journal of Consumer Affairs by Larry D. Compeau, Ph.D., indicate that the average consumer interprets the phrase “compare at” to refer to “prices found in a ‘regular price’ department store.” See “Consumers’ Interpretations of the Semantic Phrases Found in Reference Price Advertisements,” The Journal of Consumer Affairs, Vol. 38, No. 1, 2004, at 184.

22. Such conduct tricks consumers into thinking they are getting a “bargain,” based on the use of fictitious comparison prices which do not reflect any real price at which the items in question have ever actually been sold by either Defendant or its competitors in the marketplace. The only purpose of creating this fake comparison price is to convince consumers that Defendant’s current, purportedly “discounted” price for the item is so far below the price ordinarily charged in the marketplace for such an item that they cannot pass up the “bargain.”

#### **PLAINTIFFS’ PURCHASES**

23. On various dates during the class period, Plaintiff Fuentes made a purchase at a TJ Maxx store in Florida and was subjected to the practices described herein. This includes the

following purchase on October 19, 2017, at the TJ Maxx store located at Galleria International, 255 East Flagler Street, Miami, Florida 33131: Men's Gray Suit for \$69.00 (which bore a tag stating, "**COMPARE AT \$149.99**"). *See* Exhibit A. In actuality, pursuant to the policy outlined above, this purported COMPARE AT price was fictitious, and the item had never been sold for any substantial period of time by either TJ Maxx or any other retailer at this purported comparison price. Moreover, the objective quality or value of the item was less than the purported COMPARE AT price attached to it.

24. Likewise, on various dates during the class period, Plaintiff Acosta made a purchase at a TJ Maxx store in Florida and was subjected to the practices described herein. This includes the following purchases on November 1, 2017, at the TJ Maxx store located at Westchester Mall, 8546 Southwest 24th Street, Miami, Florida: Woman's Black Yoga Pants for \$16.99 (which bore a tag stating, "**COMPARE AT \$24.00**"); Woman's Dark Blue with White Stripes Capri Yoga Pants for \$19.99 (which bore a tag stating, "**COMPARE AT \$32.00**"); Woman's Cranberry Red Front Tie Shirt \$9.99 (which bore a tag which stated "**COMPARE AT \$13.00**"); Woman's Black, Green and Grey Striped Yoga Pants \$19.99 (which bore a tag stating, "**COMPARE AT \$30.00**"). *See* Exhibit B. In actuality, pursuant to the policy outlined above, these purported COMPARE AT prices were fictitious and none of these items had ever been sold for any substantial period of time by either TJ Maxx or any other retailer at these purported comparison prices. Moreover, in each such case, the objective quality or value of the item was less than the purported COMPARE AT price attached to it.

25. On various dates during the class period, Plaintiff Ruiz made a purchase at a TJ Maxx store in Florida and was subjected to the practices described herein. This includes the following purchases on November 2, 2011, at the TJ Maxx store located at the Greenery Mall,

7700 North Kendall Drive, Miami, Florida: two Artisan Glass Holiday Pine Scented Candles for \$19.99 each (each of which bore a tag stating, “**COMPARE AT \$32.00**”) and a Decorative Glass Candy Jar for \$14.99 (which bore a tag stating, “**COMPARE AT \$22.00**”). *See* Exhibit C. In actuality, pursuant to the policy outlined above, these purported COMPARE AT prices were fictitious and none of these items had ever been sold for any substantial period of time by either TJ Maxx or any other retailer at these purported comparison prices. Moreover, in each such case, the objective quality or value of the item was less than the purported COMPARE AT price attached to it.

26. Lastly, on various dates during the class period, Plaintiff Fernandez-Duarte made a purchase at a TJ Maxx store in Florida and was subjected to the practices described herein. This includes the following purchase on November 19, 2017, at the TJ Maxx store located at Greenery Mall, 7700 North Kendall Drive, Miami, Florida 33156: Home Collection Neutralizing Gel Beads for \$6.99 (which bore a tag stating, “**COMPARE AT \$10.00**”). *See* Exhibit D. In actuality, pursuant to the policy outlined above, this purported COMPARE AT price was fictitious, and the item had never been sold for any substantial period of time by either TJ Maxx or any other retailer at this purported comparison price. Moreover, the objective quality or value of the item was less than the purported COMPARE AT price attached to it.

#### **CLASS ACTION ALLEGATIONS**

27. Plaintiffs bring this action as a class action pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rule of Civil Procedure, seeking damages and injunctive relief under Florida state law on behalf of herself and all members of the following proposed class:

**All persons who purchased an item at a T.J. Maxx store in Florida during the applicable statutory period to the present, where the item bore a tag stating “COMPARE AT.”**

28. Excluded from the Class are Defendant; its affiliates, its subsidiaries, and any



officers, employees, attorneys, agents, legal representatives, heirs, successors, and assigns.

29. The persons affected by Defendant's unlawful acts consist of over 10,000 individuals making joinder of all Class Members impracticable. Furthermore, the number of the persons who fit within the proposed class are contained in Defendant's records and can be easily ascertained from those records.

30. Plaintiffs' claims are typical of the claims of the Class Members and they will fairly and adequately protect their interests. The unlawful practice alleged herein was a standardized, uniform practice employed by Defendant.

31. Plaintiffs and counsel will fairly and adequately protect and represent the interest of each member of the Class. Plaintiffs are committed to the vigorous prosecution of this Action and have retained competent counsel experienced in prosecuting class actions. The interests of Plaintiffs are consistent with and not antagonistic to those of the other Class Members.

32. There are numerous common questions of law and fact in this Action within the meaning of Rule 1.220(a)(2) of the Florida Rules of Civil Procedure, and they predominate over any questions affecting only individual Class Members within the meaning of Rule 1.220(b)(3).

33. The common questions of law and fact include, but are not limited to:

- a. whether the uniform advertising, marketing, and sales practices alleged herein exist;
- b. whether the "COMPARE AT" price listed on Defendant's price tags are based on actual prices at which the items were sold by retailers in the marketplace;
- c. the method and formula by which Defendant calculates the amount of the "COMPARE AT" prices listed;
- d. whether Defendant can adequately verify its "COMPARE AT" pricing;
- e. whether the phrase "COMPARE AT" is misleading and/or deceptive;
- f. whether a reasonable consumer is likely to be deceived by Defendant's use of its "COMPARE AT" pricing;

- g. the method and formula by which Defendant calculates the amount of the “COMPARE AT” prices listed;
- h. whether the alleged practices violated Fla. Stat. § 501.201, et seq.;
- i. whether Plaintiffs and the Class are entitled to damages;
- j. whether each class is entitled to declaratory and injunctive relief in the form of an order directing, *inter alia*, Defendant to send a court-approved notice to all class members, advising of the conduct alleged herein, as well as an order enjoining the conduct alleged herein and establishing a court-administered program to provide refunds of the overcharges to all such class members.

34. Pursuant to Rule 1.220(b)(2), Defendant has acted or refused to act on grounds generally applicable to all the members of the class, thereby making final injunctive relief or declaratory relief concerning the class as a whole appropriate.

35. Pursuant to Rule 1.220(b)(3), a class action is superior to the other available methods for the fair and efficient adjudication of the controversy because, among other things, it is desirable to concentrate the litigation of the Class Members’ claims in one forum, since it will conserve party and judicial resources and facilitate the consistency of adjudications. Plaintiffs know of no difficulty that would be encountered in the management of this case that would preclude its maintenance as a class action.

**COUNT I**  
**VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR**  
**TRADE PRACTICES ACT (“FDUTPA”)**  
**Fla. Stat. § 501.201, et seq.**

36. Plaintiffs repeat and incorporate by reference all previous paragraphs of this Complaint as if fully set forth herein.

37. Plaintiffs and the Class consist of “consumers” within the meaning of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Fla. Stat. § 501.203(7).

38. Defendant engaged in “trade or commerce” within the meaning of Fla. Stat. § 501.203(8).

39. FDUTPA prohibits “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce....” Fla. Stat. § 501.204(1). Defendant participated in unfair and deceptive trade practices that violated FDUTPA as described herein.

40. Defendant’s practice of advertising fictitious comparative pricing is deceptive because it creates an illusion of a discount. A reasonable person would likely be misled into believing that the person is receiving a discount and thus saving the difference between the two prices and that the good in question is of a higher quality and value. Upon information and belief, the consumer is not receiving any such promised discount or bargain.

41. Moreover, Defendant has failed to disclose material information concerning its comparative pricing policy, including any valid justification or substantiation for the calculation of the “COMPARE AT” price.

42. As a result of Defendant’s deceptive and unfair trade practices, Plaintiffs and the Class have suffered damages.

43. Plaintiffs and the Class are entitled to recover their actual damages under Fla. Stat. §501.211(2) and attorneys’ fees under Fla. Stat. § 501.2105(1), and any other just and proper relief available under FDUTPA.

### **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury on all issues so triable as a matter of right on all counts in this Complaint.

Dated: July 10, 2018

Respectfully submitted,

/s/ Michael E. Criden  
Michael E. Criden (FBN 714356)  
Lindsey C. Grossman (FBN 105185)  
CRIDEN & LOVE, P.A.

7301 SW 57th Court, Ste. 515  
South Miami, FL 33143  
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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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS RYVANIA FUENTES, GABRIELLE RUIZ, OLGA FERNANDEZ-DUARTE, AND RACHFI ACOSTA DEFENDANTS TJX COMPANIES, INC., D/B/A T.J. MAXX STORES

(b) County of Residence of First Listed Plaintiff MIAMI DADE COUNTY (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant MIDDLESEX COUNTY (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) MICHAEL E. CRIDEN, CRIDEN & LOVE, P.A., 7301 SW 57th COURT, SUITE 515, SOUTH MIAMI, FL 33143 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

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

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff) and One Box for Defendant

- 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) Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country PTF DEF 1 1 2 2 3 3 4 4 5 5 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions

- CONTRACT 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Med. Malpractice CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education TORTS 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability PRISONER PETITIONS Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence Other: 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement FORFEITURE/PENALTY 625 Drug Related Seizure of Property 21 USC 881 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act IMMIGRATION 462 Naturalization Application 465 Other Immigration Actions BANKRUPTCY 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC 7609 OTHER STATUTES 375 False Claims Act 376 Qui Tam (31 USC 3729 (a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/ Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only) 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case [ ] YES [X] NO b) Related Cases [ ] YES [X] NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Florida's Deceptive and Unfair Trade Practices Act (FDUTPA), Sections 501.201-.213 LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: [X] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE July 10, 2018 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

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

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

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

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

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

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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

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

**VII. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VIII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

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

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF FLORIDA

RYVANIA FUENTES, GABRIELLE RUIZ, OLGA FERNANDEZ-DUARTE, AND RACHEL ACOSTA

Plaintiff(s)

v.

TJX COMPANIES, INC., d/b/a T.J. MAXX STORES

Defendant(s)

Civil Action No. 18-cv-22767

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) THE TJX COMPANIES, INC., d/b/a T.J. MAXX STORES R/A CT CORPORATION SYSTEM 1200 SOUTH PINE ISLAND RD. PLANTATION, FL 33324

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

MICHAEL E. CRIDEN, ESQ. CRIDEN & LOVE, P.A. 7301 S.W. 57TH COURT, STE. 515 SOUTH MIAMI, FL 33143

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Accuses TJ Maxx of Selling Products at 'Phantom' Markdowns](#)

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