

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

| | |
|---|-------------------------------|
| ISLAND VIBE CAFE, MORNING STAR) | |
| STABLES, TBM CONSTRUCTION,) | |
| MICHAEL JANSSEN, AND WILLIAM) | Civil Action No.: 17-cv-101 |
| BAILEY, on behalf of themselves and all) | |
| others similarly situated,) | |
|) | |
| Plaintiffs,) | CLASS ACTION COMPLAINT |
|) | |
| v.) | JURY TRIAL DEMANDED |
|) | |
|) | |
| PCL CONSTRUCTION ENTERPRISES,) | |
| INC., and PCL CIVIL CONSTRUCTORS,) | |
| INC.,) | |
| Defendants.) | |

Plaintiffs Island Vibe Cafe, Morning Star Stables, TBM Construction, Michael Janssen, and William Bailey, individually and on behalf of all others similarly situated, by and through counsel, hereby file this action against Defendants, PCL Construction Enterprises, Inc. and PCL Civil Constructors, Inc. (collectively, “Defendants” or “PCL”), and allege as follows based upon personal knowledge, investigation of counsel, and information and belief:

NATURE OF THE ACTION

1. On or about July 27, 2017, PCL acted negligently by causing damage to the main power transmission line for Hatteras and Ocracoke Islands during the construction of a local bridge. This negligence resulted in widespread electrical power outages for residents, visitors and businesses on the islands.

2. The power outage resulted in Governor Roy Cooper declaring a state of

emergency and issuing a mandatory evacuation of thousands of individuals in from the Islands, which is a popular tourist destination that earns most of its revenue during the busy summer season.

3. The power outage caused significant economic and personal hardship to individuals and families who were visiting, or who had planned to visit, the Hatteras and Ocracoke Islands area, as well as to businesses operating on the Islands.

4. Plaintiffs bring this class action against PCL for the economic and personal hardships which they experienced following the evacuation of the affected area and inability to stay at, or visit, the Hatteras and Ocracoke Islands.

PARTIES

5. Plaintiff Island Vibe Cafe is a business located in Ocracoke, North Carolina. Island Vibe Cafe sells fair trade clothing and home made Greek yogurt and has suffered a financial loss as the result of Defendants' conduct.

6. Plaintiff Morning Star Stables is a business located in Ocracoke, North Carolina. Morning Star Stables is a horse stable that takes visitors for horse rides on Cape Hatteras National Seashore and has suffered a financial loss as the result of Defendants' conduct.

7. Plaintiff TBM Construction is a construction company located in Buxton, North Carolina that repairs and renovates rental properties. TBM Construction is unable to work on construction projects due to the power outage. As a result, Plaintiff TBM Construction has suffered a financial loss as the result of Defendants' conduct.

8. Plaintiff Michael Janssen is a resident of North Carolina. He owns two vacation rental homes in Rodanthe on Hatteras Island, North Carolina. Plaintiff Janssen has suffered a financial loss as the result of Defendants' conduct including loss of rental income, which is

continuing, and additional maintenance fees.

9. Plaintiff William Bailey is a resident of Pennsylvania. He rented a vacation rental home on Hatteras Island, North Carolina for the week of July 29, 2017 to August 5, 2017. Plaintiff Bailey has suffered a financial loss as the result of Defendants' conduct including unreimbursed rental payments and travel expenses.

10. The PCL "family of companies" is composed of a number of independent construction companies including PCL Civil Constructors, Inc. and PCL Construction Enterprises, Inc. PCL carries out operations in different construction markets throughout Canada, the United States, the Caribbean and Australia. PCL employs more than 4,500 full-time professional and administrative salaried staff and more than 10,000 hourly tradesman. PCL does an annual construction volume of \$8 billion.

11. Defendant PCL Construction Enterprises, Inc., which is headquartered in Denver, Colorado, offers commercial, civil, and heavy industrial construction services in North America.

12. Defendant PCL Civil Constructors, Inc. is a wholly-owned subsidiary of PCL Construction Enterprises, Inc., which is incorporated in Colorado and does business in North Carolina, among other locations.

JURISDICTION AND VENUE

13. Jurisdiction is proper in this Court pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because there are more than 100 Class Members, the class contains members of diverse citizenship from Defendants, and the amount in controversy exceeds \$5,000,000 exclusive of costs and interests.

14. This Court has personal jurisdiction over PCL because it is incorporated in Colorado, and is licensed to and conducts substantial business in North Carolina, and in particular in this federal judicial District.

15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because PCL regularly conducts business in this District, and a substantial part of the events or omissions giving rise to this action occurred in this District.

FACTUAL ALLEGATIONS

16. The Herbert C. Bonner Bridge (hereinafter, “Bonner Bridge”) is located in the heart of one of North Carolina’s most popular tourist attractions, the Outer Banks.

17. Every day, up to 14,000 cars traverse the Bonner Bridge in both directions, and visitors, residents and local businesses rely on the Bridge for accessibility to Hatteras Island.

18. In 2011, the North Carolina Department of Transportation awarded a design-build contract to PCL to design and construct a bridge to replace the existing Bonner Bridge to carry N.C. Highway 12 over Oregon Inlet between Hatteras and Bodie Island. The project’s estimated costs is \$246 million.

19. On or about July 27, 2017, PCL informed the Cape Hatteras Electric Cooperative that it “drove a steel casing into the underground transmission cable that runs between the south end of the Bonner Bridge and the overhead riser pole.”

20. Integrity testing revealed that two additional transmission cables were severed, cutting all power to Hatteras and Ocracoke Islands.

21. Also on or about July 27, 2017, North Carolina Governor Roy Cooper declared a State of Emergency in order to ensure the appropriate state and local government response to the power outage caused by PCL’s negligence.

22. As a result of PCL's damage to the underground transmission cable, thousands of individuals in Dare and Hyde Counties lost electrical power and were evacuated from the Outer Banks. The evacuation and loss of power have caused economic and personal hardships for individuals and families who had begun or were expecting to begin summer vacations by renting properties in the affected area.

23. When Governor Cooper declared a state of emergency, many visitors renting properties were mandated to evacuate before the end of their rental term. Rental property owners, including Plaintiff Michael Janssen, have lost income as a result of these early-terminated rentals. Additionally, because no renters are allowed on the Islands while the state of emergency persists, these rental property owners will lose rental income for their rental properties for an indeterminate amount of time, as well as incurring additional costs and expenses as a result of the power outage caused by PCL's July 27, 2017 negligent transmission line damage.

24. Further, vacationers, including Plaintiff William Bailey, lost monies paid for vacation rentals, which they now are not permitted to use, and incurred additional travel expenses and other costs resulting from the power outage caused by PCL's July 27, 2017 negligent transmission line damage

25. Due to the Islands being evacuated and closed to visitors while the state of emergency continues, local businesses, including Plaintiffs Island Vibe Café, Morning Star Stables, and TBM Construction, have lost income and will to lose income for an indeterminate amount of time, as well as incurring additional costs and expenses as a result of the power outage caused by PCL's July 27, 2017 negligent transmission line damage.

26. As a result of vacationers not being allowed to the Islands and some businesses

having to close as a result of the power outage caused by PCL's July 27, 2017 negligent transmission line damage, hourly workers at local businesses have lost wages and earnings.

CLASS ACTION ALLEGATIONS

27. Plaintiffs bring this suit as a class action on behalf of themselves and on behalf of all others similarly situated pursuant to Federal Rule of Civil Procedure 23. This action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of the provisions of Rule 23.

28. The Vacation Renter Class that Plaintiffs seek to represent is defined as follows:

All individuals who were renting or made a payment to rent vacation properties in the area impacted by PCL's July 27, 2017 negligent transmission line damage during the time period of the State-imposed mandatory evacuation.

29. The Rental Property Owner Class that Plaintiffs seek to represent is defined as follows:

All owners of rental property on Hatteras and Ocracoke Islands in North Carolina whose rental property was impacted by PCL's July 27, 2017 negligent transmission line damage.

30. The Business Owner Class that Plaintiffs seek to represent is defined as follows:

All owners of businesses on Hatteras and Ocracoke Islands in North Carolina whose business was impacted by PCL's July 27, 2017 negligent transmission line damage.

31. The Hourly Worker Class that Plaintiffs seek to represent is defined as follows:

All hourly workers of businesses on Hatteras and Ocracoke Islands in North Carolina whose business was impacted by PCL's July 27, 2017 negligent transmission line damage.

32. Numerosity. Fed. R. Civ. P. 23(a)(1). The members of the Classes are so numerous that joinder of all members is impractical. While the exact number of Class members

is unknown to Plaintiffs at this time, based on information and belief, it is estimated to be above 5,000. The exact number is generally ascertainable by appropriate discovery. Local rental agencies have knowledge of the damages experienced by ongoing and future vacation renters due to the July 2017 power outage and business licenses for the islands can be readily ascertained.

33. Commonality. Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions of law and fact common to the Classes, which predominate over any questions affecting only individual Class members. These common questions of law and fact include, without limitation:

- a. Whether and to what extent PCL had a duty of reasonable care in its construction of the Bonner Bridge so as to avoid cutting transmission lines with resulting electrical outages;
- b. Whether PCL failed to exercise its duty of reasonable care in a negligent manner so that Plaintiffs and Class Members have experienced economic and personal damages as a result of electrical outages and evacuations from the affected area;
- c. Whether Plaintiffs and Class Members are entitled to actual damages and/or punitive damages as a result of PCL's negligent conduct; and
- d. Whether Class Members are entitled to injunctive relief to redress the economic and personal harm resulting from the ongoing power outage caused by Defendants' negligence.

34. Typicality. Fed. R. Civ. P. 23(a)(3). Plaintiffs' claims are typical of those of other Class Members because Plaintiffs and Class Members all experienced economic and personal loss as a result of PCL's negligence. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all Class Members.

35. Adequacy of Representation. Fed. R. Civ. P. 23(a)(4). Plaintiffs will fairly and adequately represent and protect the interests of the Classes. They have no disabling conflicts of interest that would be antagonistic to those of the other members of the Class and the damages they have suffered are typical of other Class members. Plaintiffs have retained counsel experienced in complex consumer class action litigation, and Plaintiffs intend to prosecute this action vigorously.

36. Superiority of Class Action. Fed. R. Civ. P. 23(b)(3). The class litigation is an appropriate method for fair and efficient adjudication of the claims involved. Class action treatment is superior to all other available methods for the fair and efficient adjudication of the controversy alleged herein; it will permit a large number of class members to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort and expense that hundreds of individual actions would require. Class action treatment will permit the adjudication of relatively modest claims by certain class members, who could not individually afford to litigate a complex claim against large corporate PCL. Further, even for those class members who could afford to litigate such a claim, it would still be economically impractical.

37. The nature of this action and the nature of laws available to Plaintiffs and the Classes make the use of the class action device a particularly efficient and appropriate procedure to afford relief to Plaintiffs and the Classes for the wrongs alleged because PCL would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual Class member with superior financial and legal resources; the costs of individual suits could unreasonably consume the amounts that would be recovered; proof of a common course of conduct to which Plaintiffs were exposed is

representative of that experienced by the Class they seek to represent and will establish the right of each member of the Class to recover on the cause of action alleged; and individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation.

38. The litigation of the claims brought herein is manageable. PCL's uniform conduct, the consistent provisions of the relevant laws, and the ascertainable identities of Class Members demonstrates that there would be no significant manageability problems with prosecuting this lawsuit as a class action.

39. Adequate notice can be given to Class Members directly using information maintained in public records.

40. Unless a Class-wide injunction is issued, PCL may continue to construct the Bonner Bridge in a negligent manner so that future economic and personal losses could be experienced by Plaintiffs and Class Members.

41. Further, PCL has acted negligently in a manner that applies generally to the Classes, making final injunctive and declaratory relief appropriate to the Classes as a whole. PCL's acts and omissions are the direct and proximate cause of damage described more fully elsewhere in this Complaint.

42. Plaintiffs reserve the right to modify or amend the definition of the proposed Classes, before the Court determines whether certification is appropriate and as the parties engage in discovery.

CAUSE OF ACTION
Negligence
(On Behalf of All Classes)

43. The allegations in all preceding paragraphs are incorporated by reference as though fully set forth herein.

44. In designing and building the Bonner Bridge, PCL had a duty to exercise reasonable care during construction so as not to cause any interference with the vacation rental plans of individuals and families in the affected area, including Plaintiffs and Class Members.

45. Defendants' actions that resulted in a severed transmission line and resulting wide-scale power outage demonstrates a failure to exercise that duty of care.

46. Defendants' breach of its duty to exercise reasonable care was the actual and proximate cause of Plaintiffs' and Class Members' economic and personal injuries since they would not have experienced lost vacation opportunities but for the actions of Defendants.

47. Plaintiffs and the Class Members were the foreseeable and probable victims of any inadequate care toward the construction of the Bonner Bridge. PCL knew or should have known of the inherent economic risks in causing a wide-scale power outage in the Outer Banks area during the busy summer season.

48. Plaintiffs and the Class Members had no ability to continue or commence their vacation rental plans during the widescale power outage.

49. As a result of PCL's negligence, Plaintiffs and Class Members have suffered and will continue to suffer damages and injury including, but not limited to: out-of-pocket expenses associated with evacuation; lost rental fees; lost vacation days from their jobs, etc.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs on behalf of themselves and all others similarly situated, pray for relief as follows:

- A. For an Order certifying this action as a class action and appointing Plaintiffs and their Counsel to represent the Classes.
- B. A mandatory injunction directing PCL to hereinafter exercise its duty of reasonable care during construction of the Bonner Bridge so that no further power outages are experienced;
- C. For an award of actual damages and compensatory damages, in an amount to be determined;
- D. For an award of attorneys' fees and costs; and,
- E. Such other and further relief as this court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: July 31, 2017

Respectfully submitted,

/s/ Jean Sutton Martin
JEAN SUTTON MARTIN
North Carolina Bar Number 25703
LAW OFFICE OF JEAN SUTTON
MARTIN PLLC
2018 Eastwood Road Suite 225
Wilmington, NC 28403
Telephone: (910) 292-6676
Facsimile: (888) 316-3489
Email: jean@jsmlawoffice.com

Joseph G. Sauder
Matthew D. Schelkopf
Joseph B. Kenney
McCUNE WRIGHT AREVALO LLP
555 Lancaster Avenue
Berwyn, PA 19312
Telephone: (610) 200-0581
Email: jgs@mccunewright.com
 mds@mccunewright.com
 jbk@mccunewright.com

Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Island Vibe Cafe, Morning Star Stables, TBM Construction, Michael Janssen, and William Bailey, on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

PCL Construction Enterprises, Inc., and PCL Civil Constructors, Inc.

Defendant(s)

Civil Action No. 17-101

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PCL Construction Enterprises, Inc. c/o National Registered Agents, Inc., Registered Agent 7700 E. Arapahoe Road, Suite 220 Centennial, CO 80112-1268

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:

Jean Sutton Martin Law Office of Jean Sutton Martin PLLC 2018 Eastwood Road, Suite 225 Wilmington, NC 28403

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

Civil Action No. 17-101

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Island Vibe Cafe, Morning Star Stables, TBM Construction, Michael Janssen, and William Bailey, on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

PCL Construction Enterprises, Inc., and PCL Civil Constructors, Inc.

Defendant(s)

Civil Action No. 17-cv-101

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A lawsuit has been filed against you.

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Jean Sutton Martin Law Office of Jean Sutton Martin PLLC 2018 Eastwood Road, Suite 225 Wilmington, NC 28403

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

Civil Action No. 17-cv-101

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This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

Island Vibe Cafe, Morning Star Stables, TBM Construction, Michael Janssen, and William Bailey, on behalf of themselves and all others similarly situated

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

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

Law Office of Jean Sutton Martin PLLC
2018 Eastwood Rd., Suite 225, Wilmington, NC 28403
910-292-6676

DEFENDANTS

PCL Construction Enterprises, Inc., and PCL Civil Constructors, Inc.

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

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

Attorneys (If Known)

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)

| | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

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

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |
| | | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

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. Section 1332(d), 28 U.S.C. Section 1391(b)(2)

Brief description of cause:

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

07/31/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Jean Sutton Martin

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING FOR _____

FILED IN _____

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.