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

<p>12 Erik Knutson, Individually and 13 on behalf of All Others Similarly 14 Situated,</p> <p>15 Plaintiff,</p> <p>16 v.</p> <p>17 Ion Solar, LLC,</p> <p>18 Defendant.</p>	<p>12 Case No.: '17CV0269 GPC AGS</p> <p>13 <u>CLASS ACTION</u></p> <p>14 CLASS ACTION COMPLAINT 15 FOR DAMAGES AND 16 INJUNCTIVE RELIEF 17 PURSUANT TO THE 18 TELEPHONE CONSUMER 19 PROTECTION ACT, 47 U.S.C. § 20 227 ET SEQ.</p> <p>21 Jury Trial Demanded</p>
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22 **INTRODUCTION**

23
24
25 1. Erik Knutson (referred to individually as “Mr. Knutson” or “Plaintiff”), brings
26 this class action for damages, injunctive relief, and any other available legal
27 or equitable remedies, resulting from the illegal actions of Ion Solar, LLC
28 (referred to as “ION” or “Defendant”), in negligently, knowingly, and/or



1 willfully contacting Plaintiff on Plaintiff’s cellular telephone, in violation of
2 the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq., (“TCPA”),
3 thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon
4 personal knowledge as to himself and his own acts and experiences, and, as to
5 all other matters, upon information and belief, including investigation
6 conducted by his attorneys.

7 2. The TCPA was designed to prevent calls like the ones described within this
8 complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous
9 consumer complaints about abuses of telephone technology – for example,
10 computerized calls dispatched to private homes – prompted Congress to pass
11 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

12 3. In enacting the TCPA, Congress intended to give consumers a choice as to
13 how creditors and telemarketers may call them, and made specific findings
14 that “[t]echnologies that might allow consumers to avoid receiving such calls
15 are not universally available, are costly, are unlikely to be enforced, or place
16 an inordinate burden on the consumer.” TCPA, Pub.L. No. 102-243, § 11.
17 Toward this end, Congress found that:

18 Banning such automated or prerecorded telephone calls to the
19 home, except when the receiving party consents to receiving the
20 call or when such calls are necessary in an emergency situation
21 affecting the health and safety of the consumer, is the only
22 effective means of protecting telephone consumers from this
23 nuisance and privacy invasion.

24 *Id.* at § 12; *see also, Martin v. Leading Edge Recovery Solutions, LLC*, 2012
25 WL 3292838, at *4 (N.D. Ill. Aug. 10, 2012) (citing Congressional finding
26 on TCPA’s purpose).

27 4. Congress also specifically found that “the evidence presented to the Congress
28 indicates that automated or prerecorded calls are a nuisance and an invasion

1 of privacy, regardless of the type of call [...].” *Id.* At §§ 12-13. *See also,*
2 *Mims*, 132 S. Ct. at 744.

- 3 5. As Judge Easterbrook of the Seventh Circuit explained in a TCPA case
4 regarding calls to a non-debtor similar to this one:

5 The Telephone Consumer Protection Act [...] is well known for its
6 provisions limiting junk-fax transmissions. A less litigated part of
7 the Act curtails the use of automated dialers and prerecorded
8 messages to cell phones, whose subscribers often are billed by the
9 minute as soon as the call is answered – and routing a call to
10 voicemail counts as answering the call. An automated call to a
landline phone can be an annoyance; an automated call to a cell
phone adds expense to annoyance.

11 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

12 **JURISDICTION AND VENUE**

- 13
14 6. Jurisdiction is proper under 47 U.S.C §227(b); *Mims v. Arrow Fin. Servs.,*
15 *LLC*, 132 S.Ct. 740 (2012), because Plaintiff alleges violations of federal law.
16 7. Venue is proper in the United States District Court for the Southern District of
17 California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Plaintiff lives
18 in San Diego, CA, and the events giving rise to Plaintiff’s causes of action
19 against Defendant occurred in the State of California within the Southern
20 District of California and Defendant conducts business in the area of San
21 Diego, California.

22 **PARTIES**

- 23
24 8. Plaintiff is, and at all times mentioned herein was, an individual citizen and
25 resident of the County of San Diego, in the State of California. Plaintiff owns
26 real property in the County and City of San Diego, which was the subject of
27 Defendant’s marketing telephone calls.
28

1 9. Plaintiff is informed and believes, and thereon alleges, that ION is, and at all
2 times mentioned herein was, a Limited Liability Company (LLC) in the state
3 of Utah and headquartered in Provo, UT, and at all times mentioned herein
4 was, an LLC and a “person,” as defined by 47 U.S.C. § 153 (39).

5 10. Plaintiff is informed and believes, and thereon alleges, that at all relevant
6 times, ION conducted business in the State of California and in the County of
7 San Diego, and within this judicial district.

8
9 **FACTUAL ALLEGATIONS**

10 11. At all times relevant, Plaintiff was a citizen of the State of California.
11 Plaintiff is, and at all times mentioned herein was, “persons” as defined by 47
12 U.S.C § 153 (39).

13 12. Defendant is, and at all times mentioned herein were, a “person” as defined
14 by 47 U.S.C. §153 (39).

15 13. Sometime prior to January 1, 2013, Mr. Knutson was assigned, and became
16 the owner of, a cellular telephone number from his wireless provider.

17 14. On or about February 9, 2017, Mr. Knutson received a telephone call on his
18 cellular telephone from Defendant, or Defendant’s agent, in which Defendant
19 utilized an automatic telephone dialing system (“ATDS”) as defined by 47
20 U.S.C. § 227(a)(1), using an “artificial or prerecorded voice” as prohibited by
21 47 U.S.C. § 227(b)(1)(A).

22 15. The call to Mr. Knutson’s cellular telephone number (San Diego area code
23 (619) XXX-6675), from Defendant came from phone number: (619)
24 863-1299 at 11:18 AM.

25 16. During this call from Defendant to Mr. Knutson’s cellular telephone, there
26 was a long pause after Mr. Knutson answered the call wherein Mr. Knutson
27 said “Hello” two or three times. Then Mr. Knutson heard a click and
28 someone came on and asked to speak with “Erik.”



1 17. The caller asked Plaintiff if he was interested in a solar system for his home
2 and offered a free price quote for solar installation at his home. Mr. Knutson
3 hung up the phone.

4 18. A few minutes later, Plaintiff called the number back and a man answered as
5 if he had placed the call, asking to speak to Erik Knutson. Plaintiff asked the
6 man if they just called his phone with an auto-dialer and he responded, “Yes,
7 we are a marketing company for solar.” Mr. Knutson hung up.

8 19. Plaintiff then decided to call back again to get more information about this
9 company. So he called the number back and again and the woman who
10 answered knew who was calling in, as she stated, “Hello Erik, this is Nicole,
11 do you live at 1575 State Street?” Erik answered affirmatively. She then
12 asked if it was a single family home, if he had roof access, and if his FICO
13 score was 680 or better. Plaintiff answered “yes” to all questions.

14 20. Knutson asked her how she got his number and he was told that it was
15 generated by the computer. Nicole stated that these are “computer generated
16 phone calls targeting your area for solar.”

17 21. Nicole then told Erik that she would place him on a short hold. When she
18 came back she said, “Shanyell at Ion Solar, I have Erik on the line and he’s
19 interested in solar.”

20 22. Plaintiff asked Shanyell what company she worked for and Shanyell said,
21 “Ion Solar.” She then offered that Ion was a new company which was formed
22 when Vision Solar and Zing Solar recently merged. She told Plaintiff that
23 they were based in Provo, Utah, but that they do business in his area. Plaintiff
24 requested a call back number from Shanyell and she provided him with (801)
25 618-0329.

26 23. The ATDS used by Defendant has the capacity to store or produce telephone
27 numbers to be called, using a random or sequential number generator.
28

1 24. The ATDS used by Defendant also has the capacity to, and does, call
2 telephone numbers from a list of databases of telephone numbers
3 automatically and without human intervention.

4 25. The telephone number Defendant called was assigned to a cellular telephone
5 service for which Plaintiff incurred a charge for incoming calls pursuant to 47
6 U.S.C. § 227 (b)(1).

7 26. Plaintiff at no time provided “prior express consent” for Defendant to place
8 telephone calls to Plaintiff’s cellular telephone with an artificial or
9 prerecorded voice utilizing an ATDS as proscribed under 47 U.S.C. § 227(b)
10 (1)(A).

11 27. Plaintiff had not provided his cellular telephone number to Defendant.
12 Plaintiff was not a customer of Defendant. Plaintiff had no “established
13 business relationship” with Defendant, as defined by 47 U.S.C. § 227 (a)(2).

14 28. These telephone calls made by Defendant or their agents were in violation of
15 47 U.S.C. § 227(b)(1).

17 **STANDING**

18 29. Standing is proper under Article III of the Constitution of the United States of
19 America because Plaintiff’s claims state:

- 20 a. a valid injury in fact;
- 21 b. which is traceable to the conduct of Defendant;
- 22 c. and is likely to be redressed by a favorable judicial decision.

23 See, *Spokeo, Inc. v. Robins*, 578 U.S. ____ (2016) at 6, and *Lujan v.*
24 *Defenders of Wildlife*, 504 U.S. 555 at 560.

25 30. In order to meet the standard laid out in *Spokeo* and *Lujan*, Plaintiff must
26 clearly allege facts demonstrating all three prongs above.

27 ///

28 ///

1 **A. The “Injury in Fact” Prong**

2 31. Plaintiff’s injury in fact must be both “concrete” and “particularized” in order
3 to satisfy the requirements of Article III of the Constitution, as laid out in
4 *Spokeo (Id.)*.

5 32. For an injury to be “concrete” it must be a *de facto* injury, meaning that it
6 actually exists. In the present case, Plaintiff was called on his cellular phone
7 by Defendant, who utilized an ATDS and a pre-recorded voice. Such calls are
8 a nuisance, an invasion of privacy, and an expense to Plaintiff. *Soppet v.*
9 *Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012). All three of
10 these injuries are concrete and *de facto*.

11 33. For an injury to be “particularized” means that the injury must “affect the
12 plaintiff in a personal and individual way.” *Spokeo, Inc. v. Robins*, 578 U.S.
13 ___ (2016) at 7. In the instant case, it was Plaintiff’s phone that was called
14 and it was plaintiff himself who answered the calls. It was Plaintiff’s personal
15 privacy and peace that was invaded by Defendant’ phone call using an ATDS.
16 Finally, Plaintiff alone is responsible to pay the bill on his cellular phone. All
17 of these injuries are particularized and specific to Plaintiff, and will be the
18 same injuries suffered by each member of the putative class.

19
20 **B. The “Traceable to the Conduct of Defendant” Prong**

21 34. The second prong required to establish standing at the pleadings phase is that
22 Plaintiff must allege facts to show that his injury is traceable to the conduct of
23 Defendant(s).

24 35. In the instant case, this prong is met simply by the fact that the calls to
25 plaintiff’s cellular phone were placed either, by Defendant directly, or by
26 Defendant’ agent at the direction of Defendant.

1 **C. The “Injury is Likely to be Redressed by a Favorable Judicial Opinion”**

2 **Prong**

3 36. The third prong to establish standing at the pleadings phase requires Plaintiff
4 to allege facts to show that the injury is likely to be redressed by a favorable
5 judicial opinion.

6 37. In the present case, Plaintiff’s Prayers for Relief include a request for
7 damages for each call made by Defendant, as authorized by statute in 47
8 U.S.C. § 227. The statutory damages were set by Congress and specifically
9 redress the financial damages suffered by Plaintiff and the members of the
10 putative class.

11 38. Furthermore, Plaintiff’s Prayers for Relief request injunctive relief to restrain
12 Defendant from the alleged abusive practices in the future. The award of
13 monetary damages and the order for injunctive relief redress the injuries of
14 the past, and prevent further injury in the future.

15 39. Because all standing requirements of Article III of the U.S. Constitution have
16 been met, as laid out in *Spokeo, Inc. v. Robins*, 578 U.S. ____ (2016), Plaintiff
17 has standing to sue Defendant on the stated claims.

18
19 **CLASS ACTION ALLEGATIONS**

20 40. Plaintiff brings this action on behalf of himself and on behalf of all others
21 similarly situated (“the Class”).

22 41. Plaintiff represents, and is a member of, the Class, consisting of:

- 23 a. All persons within the United States who had or have a number
24 assigned to a cellular telephone service, who received at least one call
25 using an ATDS and/or an artificial prerecorded voice from Ion Solar,
26 LLC, or their agents, calling on behalf of Ion Solar, LLC, between the
27 date of filing this action and the four years preceding, where such calls
28

1 were placed for the purpose of marketing home solar systems, to non-
2 customers of Ion Solar, LLC, at the time of the calls.

3 42. Defendant and their employees or agents are excluded from the Class.
4 Plaintiff does not know the number of members in the Class, but believes the
5 Class members number in the thousands, if not more. Thus, this matter
6 should be certified as a Class action to assist in the expeditious litigation of
7 this matter.

8 43. Plaintiff and members of the Class were harmed by the acts of Defendant in at
9 least the following ways: Defendant illegally contacted Plaintiff and the Class
10 members via their cellular telephones thereby causing Plaintiff and the Class
11 members to incur certain cellular telephone charges or reduce cellular
12 telephone time for which Plaintiff and the Class members previously paid, by
13 having to retrieve or administer messages left by Defendant or their agents,
14 during those illegal calls, and invading the privacy of said Plaintiff and the
15 Class members. Plaintiff and the Class members were damaged thereby.

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

22 45. The joinder of the Class members is impractical and the disposition of their
23 claims in the Class action will provide substantial benefits both to the parties
24 and to the Court. The Class can be identified through Defendant's records and/
25 or Defendant's agent's records.

26 46. There is a well-defined community of interest in the questions of law and fact
27 involved affecting the parties to be represented. The questions of law and fact
28

1 to the Class predominate over questions which may affect individual Class
2 members, including the following:

- 3 i. Whether, within the four years prior to the filing of the
4 Complaint, Defendant made any call(s) (other than a call made
5 for emergency purposes or made with the prior express consent
6 of the called party) to the Class members using any ATDS or an
7 artificial or prerecorded voice to any telephone number assigned
8 to a cellular telephone service;
- 9 ii. Whether Defendant called non-customers of Defendant for
10 marketing purposes;
- 11 iii. Whether Plaintiff and the Class members were damaged thereby,
12 and the extent of damages for such violation(s); and
- 13 iv. Whether Defendant should be enjoined from engaging in such
14 conduct in the future.

15 47. As a person that received calls from Defendant in which Defendant used an
16 ATDS or an artificial or prerecorded voice, without Plaintiff's prior express
17 consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will
18 fairly and adequately represent and protect the interests of the Class in that
19 Plaintiff has no interests antagonistic to any member of the Class.

20 48. Plaintiff and the members of the Class have all suffered irreparable harm as a
21 result of the Defendant' unlawful and wrongful conduct. Absent a class
22 action, the Class will continue to face the potential for irreparable harm. In
23 addition, these violations of law will be allowed to proceed without remedy
24 and Defendant will likely continue such illegal conduct. The size of Class
25 member's individual claims causes, few, if any, Class members to be able to
26 afford to seek legal redress for the wrongs complained of herein.

27 49. Plaintiff has retained counsel experienced in handling class action claims and
28 claims involving violations of the Telephone Consumer Protection Act.

1 50. A class action is a superior method for the fair and efficient adjudication of
2 this controversy. Class-wide damages are essential to induce Defendant to
3 comply with federal and California law. The interest of Class members in
4 individually controlling the prosecution of separate claims against Defendant
5 is small because the maximum statutory damages in an individual action for
6 violation of privacy are minimal. Management of these claims is likely to
7 present significantly fewer difficulties than those that would be presented in
8 numerous individual claims.

9 51. Defendant have acted on grounds generally applicable to the Class, thereby
10 making appropriate final injunctive relief and corresponding declaratory relief
11 with respect to the Class as a whole.

12
13 **FIRST CAUSE OF ACTION:**
14 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**
15 **PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

16 52. Plaintiff incorporates by reference all of the above paragraphs of this
17 Complaint as though fully stated herein.

18 53. The foregoing acts and omissions of Defendant constitute numerous and
19 multiple negligent violations of the TCPA, including but not limited to each
20 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

21 54. As a result of Defendant' negligent violations of 47 U.S.C. § 227 et seq.,
22 Plaintiff and the Class are entitled to an award of \$500.00 in statutory
23 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

24 55. Plaintiff and the Class are also entitled to and seek injunctive relief
25 prohibiting such conduct in the future.

26 **SECOND CAUSE OF ACTION:**
27 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**
28 **CONSUMER PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**



1 56. Plaintiff incorporates by reference all of the above paragraphs of this
2 Complaint as though fully stated herein.

3 57. The foregoing acts and omissions of Defendant constitute numerous and
4 multiple knowing and/or willful violations of the TCPA, including but not
5 limited to each and every one of the above-cited provisions of 47 U.S.C. §
6 227 et seq.

7 58. As a result of Defendant’ knowing and/or willful violations of 47 U.S.C. §
8 227 et seq., Plaintiff and each of the Class are entitled to treble damages, as
9 provided by statute, up to \$1,500.00, for each and every violation, pursuant to
10 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

11 59. Plaintiff and the Class are also entitled to and seek injunctive relief
12 prohibiting such conduct in the future.

13
14 **PRAYER FOR RELIEF**

15 60. Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the
16 Class members the following relief against Defendant:

17
18 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**
19 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

20 61. As a result of Defendant’s negligent violations of 47 U.S.C. § 227(b)(1),
21 Plaintiff seeks for himself and each Class member \$500.00 in statutory
22 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

23 62. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
24 conduct in the future.

25 63. Any other relief the Court may deem just and proper.

26 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL**
27 **VIOLATION**
28 **OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

1 64. As a result of Defendant’s willful and/or knowing violations of 47 U.S.C. §
2 227(b)(1), Plaintiff seeks for himself and each Class member treble damages,
3 as provided by statute, up to \$1,500.00 for each and every violation, pursuant
4 to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

5 65. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
6 conduct in the future.

7 66. Any other relief the Court may deem just and proper.
8

9 **TRIAL BY JURY**

10 67. Pursuant to the seventh amendment to the Constitution of the United States of
11 America, Plaintiff is entitled to, and demands, a trial by jury.
12

13 Respectfully submitted,

14 Date: February 9, 2017

HYDE & SWIGART

16 By: s/Joshua B. Swigart
17 Joshua B. Swigart
18 Attorneys for Plaintiff
19
20
21

22 **Other Attorneys of Record, besides caption page:**

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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.)

I. (a) PLAINTIFFS

Erik Knutson, individually and on behalf of others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Joshua Swigart, Esq. HYDE & SWIGART (619) 233-7770 2221 Camino Del Rio South, Suite 101, San Diego, CA 92108

DEFENDANTS

Ion Solar, LLC,

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)

'17CV0269 GPC AGS

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 U.S.C. § 227 et seq. ("TCPA") Brief description of cause: Defendant violated the Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 02/10/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Joshua Swigart

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. (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.
- 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: [Ion Solar Hit with Class Action Over Unwanted Robocalls](#)
