

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

ABRAHAM LIZAMA, on behalf of	)	
himself and all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:21-cv-00763
	)	
VICTORIA’S SECRET STORES, LLC,	)	
	)	
and	)	
	)	
VICTORIA’S SECRET DIRECT, LLC,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Pursuant to the Class Action Fairness Act (“CAFA”), *see* 28 U.S.C. § 1332(d), Defendants Victoria’s Secret Stores, LLC and L Brands Direct Fulfillment, LLC s/h/a Victoria’s Secret Direct, LLC<sup>1</sup> (together, “Victoria’s Secret”) hereby remove this action, captioned *Abraham Lizama v. Victoria’s Secret Stores, LLC, et al.*, Case No. 21SL-CC02221, from the Circuit Court of St. Louis County, Missouri, to the United States District Court for the Eastern District of Missouri, Eastern Division. As grounds for removal, Victoria’s Secret states as follows:

**FACTUAL ALLEGATIONS**<sup>2</sup>

1. On May 18, 2021, Plaintiff Abraham Lizama (“Lizama”) filed a Class Action Petition for Damages (the “Petition”) against Victoria’s Secret in the Circuit Court of St. Louis

---

<sup>1</sup> The entity associated with this name and registered with the Missouri Secretary of State is L Brands Direct Fulfillment, LLC, which does business as Victoria’s Secret Direct, LLC.

<sup>2</sup> Unless otherwise noted, Victoria’s Secret presents the factual allegations as presented in the underlying petition, without acknowledgment of their truth or falsity.

County, Missouri, on claims regarding the tax rate on a series of internet purchases. Lizama is the sole named plaintiff.

2. Victoria's Secret is a lingerie, clothing, and beauty retailer with physical locations throughout the United States, including Missouri. Victoria's Secret also operates the website [www.victoriasecret.com](http://www.victoriasecret.com), which allows customers to purchase certain branded products online. *See Pet.*, ¶¶ 16-24. As alleged, on March 15, 2021, Lizama purchased a variety of products from Victoria's Secret's website for delivery to Chesterfield, Missouri. *Id.*, ¶ 41. At the time of purchase, Lizama paid taxes on the sales at a rate of 8.740%. *Id.*, ¶ 44. Lizama's order ultimately shipped from a location outside of Missouri. *Id.*, ¶ 42. Lizama alleges that "the applicable use tax rate for sales of products through remote sales channels that are shipped by [Victoria's Secret] from an out-of-state facility for delivery to" the address in Chesterfield was 4.225%. *Id.*, ¶ 43.

3. Lizama seeks to certify the following putative class:

All persons and entities who, during the five-year period before the filing of this Petition, purchased a product from Victoria's Secret for personal, family, or household use through a remote sales channel, including its internet website, that was delivered from an out-of-state facility to a Missouri delivery address and were charged tax monies at the higher tax rate rather than the lower use tax rate.

*Id.* ¶ 45. He alleges "that, during the Class Period, thousands of Class members have similarly purchased numerous other products from Victoria's Secret," and "were illegally and erroneously charged tax monies at a higher tax rate rather than the lower use tax rate." *Id.*, ¶ 49.

4. Upon information and belief, there are well over 100 different Missouri delivery addresses for the purchases described within the class definition. Furthermore, Victoria's Secret collected taxes in excess of \$9 million between May 18, 2016 and the present on purchases that it reasonably believes are the subject of Lizama's lawsuit.

5. In the Petition, Lizama brings four counts against Victoria's Secret, for: (I) violation of the Missouri Merchandising Practices Act ("MMPA"); (II) unjust enrichment; (III)

negligence; and (IV) money had and received. *Id.*, ¶¶ 61-87. As relief for Lizama and the putative class, Lizama’s Petition seeks compensatory damages, “including the return of the full amount of excessive taxes paid”; restitution; declaratory and injunctive relief, “including a preliminary and permanent injunction enjoining Victoria’s Secret from continuing the unlawful practices as set forth herein, specifically the charging of a higher tax rate than the correct applicable use tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility”; pre-judgment interest; post-judgment interest; and attorney’s fees and costs. *Id.*, ¶¶ 88(a)-(i).

### **GROUND FOR REMOVAL**

#### **A. Removal Is Timely.**

6. Lizama served Victoria’s Secret with the Petition on May 26, 2021. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it was filed within 30 days after service of the Petition. Victoria’s Secret has not filed a responsive pleading in the Circuit Court of St. Louis County. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 2.03, true and exact copies of all process, pleadings, and orders served on Victoria’s Secret in this matter are attached as Exhibit 1.

#### **B. Venue Is Proper in This District and Division.**

7. Venue properly lies in this Court because the original action was filed in the Circuit Court of St. Louis County, Missouri, which is located within the Eastern District of Missouri, Eastern Division. 28 U.S.C. § 1441(a).

#### **C. The Court Has Subject Matter Jurisdiction Under CAFA.**

8. Congress passed CAFA to expand federal jurisdiction over class actions. *See* Pub. L. No. 109-2, 119 Stat. 14(2)(B) (CAFA seeks to “restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national

importance under diversity jurisdiction.”); S. Rep. No. 109-14, p. 43 (CAFA “is intended to expand substantially federal court jurisdiction over class actions”). To effectuate its purposes, Congress directed that CAFA “should be read broadly, with a strong preference that interstate class actions should be heard in federal court if properly removed by any defendant.” S. Rep. No. 109-14, p. 43. As the Supreme Court has held, there is no presumption against removal under CAFA. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014) (“[N]o antiremoval presumption attends cases invoking CAFA, which Congress enacted to facilitate adjudication of certain class actions in federal court.”).

9. CAFA authorizes removal of putative class actions if: (1) there exists minimal diversity of citizenship; (2) the proposed class contains at least 100 members; and (3) the amount-in controversy exceeds \$5,000,000. 28 U.S.C. §§ 1332(d)(2)(A), (d)(5)(B), (d)(6); *Dart Cherokee Basin*, 574 U.S. at 84-85. Victoria’s Secret vigorously disputes the validity of Lizama’s claims and denies that this case is appropriate for class treatment. The focus on removal, however, is not an assessment of the merits but rather on the “amount in controversy” as framed by the pleadings and the plausible allegations set forth in this Notice of Removal. *Dart Cherokee Basin*, 574 U.S. at 89. For the purpose of determining whether the Court must exercise federal subject matter jurisdiction, this dispute falls within the scope of CAFA.

#### **1. Minimal Diversity Exists.**

10. To establish federal jurisdiction, CAFA requires only minimal diversity, meaning that at least one member of the putative class is of diverse citizenship from at least one defendant. 28 U.S.C. § 1332(d)(2)(A).

11. Victoria’s Secret Stores, LLC and L Brands Direct Fulfillment, LLC s/h/a Victoria’s Secret Direct, LLC are not citizens of the State of Missouri. Each LLC’s sole member



is IB US Retail Holdings, Inc., which is a Delaware corporation with a principal place of business in Ohio. Therefore, the defendants are citizens of Delaware and Ohio for purposes of diversity jurisdiction.<sup>3</sup>

12. Upon information and belief, and based upon the express allegations of the Petition, Lizama is a citizen of Missouri. Pet., ¶ 4.

13. Based solely on the citizenship of the sole named plaintiff and the defendants, at least one member of the putative class is diverse from at least one defendant. Therefore, the requirements of minimal diversity of citizenship is satisfied.

14. Furthermore, upon information and belief, there are numerous other members of the proposed classes who are not citizens of Delaware or Ohio, but rather citizens of Missouri or states other than Delaware and Ohio. Based on their delivery addresses inside of Missouri, Victoria's Secret reasonably believes that Lizama is not the only Missouri citizen who falls within the class definition. Furthermore, the class definition is not limited to citizens of Missouri, but rather "all persons and entities" that had products "delivered from an out-of-state facility to a Missouri delivery address" which may include individuals from around the country with secondary addresses in Missouri (*e.g.*, college students) or individuals temporarily residing in Missouri but who remain citizens of other bordering states, such as Illinois and Kansas.

## **2. The Proposed Class Contains at Least 100 Members.**

15. Under CAFA, Lizama's putative class must also consist of at least 100 members. *See* 28 U.S.C. § 1332(d)(5).

---

<sup>3</sup> Moreover, neither Victoria's Secret Stores, LLC nor L Brands Direct Fulfillment, LLC is organized under Missouri law, and neither company's principal places of business is inside of Missouri.

16. Lizama specifically alleges that “[t]he Class consists of thousands of individual members.” Pet., ¶ 51. This allegation alone is sufficient to satisfy CAFA’s numerosity requirement.

17. Furthermore, upon information and belief, there are well over 100 different Missouri delivery addresses for the purchases described within the class definition and Victoria’s Secret reasonably believes that there are at least 100 members in the putative class.

### **3. The Amount In Controversy Exceeds \$5,000,000.**

18. As already noted, Victoria’s Secret vigorously disputes the validity of Lizama’s claims and denies that this case is appropriate for class treatment. For purposes of CAFA, however, the aggregate amount in controversy exceeds \$5,000,000 based upon the allegations and legal theory asserted in Lizama’s Petition. All components of the plaintiff’s demands are considered in determining the amount in controversy, including actual damages, attorney’s fees, and injunctive relief.

19. Under CAFA, the claims of the individual members of a putative class are aggregated to determine whether the amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d)(6). The amount in controversy “is simply an estimate of the total amount in dispute, not a prospective assessment of defendant’s liability.” *Raskas v. Johnson & Johnson*, 719 F.3d 884, 887 (8th Cir. 2013) (quoting *Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 400-02 (9th Cir. 2010)). Congress intended that federal jurisdiction properly be exercised under CAFA “if the value of the matter in litigation exceeds \$5,000,000 either from the viewpoint of the plaintiff or the viewpoint of the defendant, and regardless of the type of relief sought (*e.g.*, damages, injunctive relief, or declaratory relief).” S. Rep. No. 109-14, p. \*42. “If the class action complaint does not allege that more than \$5 million

is in controversy, ‘a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.’” *Pirozzi v. Massage Envy Franchising, LLC*, 938 F.3d 981, 983 (8th Cir. 2019) (quoting *Dart Cherokee Basin*, 574 U.S. at 89). The removing party “has the burden to establish ‘not whether the damages [sought] *are* greater than the requisite amount, but whether a fact finder *might* legally conclude that they are.’” *Id.* at 984 (quoting *Hartis v. Chicago Title Ins. Co.*, 694 F.3d 935, 944 (8th Cir. 2012)). When the notice of removal plausibly alleges that the class *might* recover actual damages, injunctive relief, and attorneys’ fees aggregating more than \$5 million, then the case belongs in federal court unless it is *legally impossible* for the plaintiff to recover that much. *Id.* Accordingly, in removing this matter, Victoria’s Secret does not in any way concede that the putative class will prevail on the merits or that the putative class will recover monetary or injunctive relief valued at \$5,000,000 or more. Rather, based on the face of the Petition, Victoria’s Secret anticipates that \$5,000,000 or more, based on Lizama’s allegations, will be put at issue during the litigation.

**a. Actual Damages**

20. Lizama seeks compensatory damages, including a full refund of the amount of allegedly excessive taxes paid. Pet., ¶ 88(c). Based on Victoria’s Secret’s review of its records, Victoria’s Secret collected taxes in excess of \$9 million between May 18, 2016 and the present for the types of transactions that Victoria’s Secret reasonably believes are the subject of Lizama’s lawsuit. *See* ¶ 4, *supra*. Lizama represents that he is similarly situated to other members of the class and that his claims are typical of the class. Pet., ¶¶ 41, 55. According to Lizama, Victoria’s Secret should have applied a tax rate of 4.225% to his purchase. *Id.*, ¶ 43. Therefore, Victoria’s Secret has re-calculated the taxes on these transactions by applying the proposed tax rate of 4.225%. The net difference in tax collection between the rate applied at the time of purchase and

Lizama's proposed rate exceeds \$2.5 million. *See Schott v. Overstock.com, Inc.*, No. 4:20-cv-00684-MTS, 2021 WL 148875, at \*3-4 (E.D. Mo. Jan. 15, 2021).

**b. Attorney's Fees**

21. Lizama also seeks an award of attorney's fees. Pet., ¶ 88(h). In light of the MMPA's statutory authorization to award attorney's fees, the Court must consider a possible attorney's fee award in determining the amount in controversy under CAFA. *Waters v. Home Depot USA, Inc.*, No. 4:19-cv-02467-SNLJ, 2020 WL 1170248, at \*6 (E.D. Mo. Mar. 11, 2020); *see also* R.S. Mo. § 407.025.1 (allowing discretionary award of attorney's fees)

22. For purposes of calculating the amount in controversy, courts assume that an award of attorney's fees could be 33% of actual damages (or more). *See, e.g., Faltermeier v. FCA US LLC*, No. 4:15-cv-00491-DGK, 2016 WL 10879705, at \*4 (W.D. Mo. May 26, 2016) (attorney's fees could reach \$1.4 million, representing 38.8% of compensatory damages, in MMPA case), *aff'd*, 899 F.3d 617, 622 (8th Cir. 2018); *Baker v. NNW, LLC*, No. 15-00222-CV-W-GAF, 2015 WL 12843831, at \*2 (W.D. Mo. June 1, 2015) (assuming attorney's fees of 33% in MMPA case); *Harrington Enters., Inc. v. Safety-Kleen Sys., Inc.*, 42 F. Supp. 3d 1197, 1201 (W.D. Mo. 2013) (same). Based on the actual damages estimate set forth above, which is in excess of \$2.5 million, a potential attorney's fee equal to 33% of the estimated actual damages would be \$825,000 (and conceivably might be higher).

**c. Injunctive Relief**

23. In addition to monetary relief, Lizama's Petition seeks a "permanent injunction enjoining Victoria's Secret from continuing the unlawful practices as set forth herein, specifically the charging of a higher tax rate than the correct applicable use tax rate on sales of products through

remote sales channels, including an internet website, that were delivered from an out-of-state facility.” Pet., ¶ 88(e).

24. As set forth above, based on Victoria’s Secret’s review of its tax records from May 18, 2016 to present, the total amount of taxes collected in the transactions that Victoria’s Secret reasonably believes are the transactions described in the Petition exceeded \$9 million. With respect to these transactions, the net difference in tax collection upon applying Lizama’s proposed tax rate exceeds \$2.5 million or, on average, approximately \$500,000 per year or \$40,000 per month. In the event Lizama obtains permanent injunctive relief, it would result in Victoria’s Secret’s ceasing to collect an estimated \$500,000 per year in sales taxes on behalf of the State of Missouri, which equals an undiscounted \$2.5 million over the next 5 years and \$5 million over the next 10 years. *See, e.g., Keeling v. Esurance Ins. Co.*, 660 F.3d 273, 274 (7th Cir. 2011) (calculating value of injunctive relief in the amount of \$125,000 annually over 20 years to satisfy amount-in-controversy analysis under CAFA).

25. Therefore, when the actual damages, permissible range of attorney’s fees, and the value of injunctive relief are all taken into account, the amount in controversy well exceeds \$5 million.

26. For all the reasons stated above, this action is removable to this Court under 28 U.S.C. §§ 1441 and 1446, and this Court may exercise subject matter jurisdiction over the action under 28 U.S.C. § 1332(d). Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Lizama, and a copy is being filed with the clerk of the Circuit Court of St. Louis County.

WHEREFORE, Defendants Victoria’s Secret Stores, LLC and L Brands Direct Fulfillment, LLC s/h/a Victoria’s Secret Direct, LLC ask that this Court take jurisdiction of this

action to its conclusion and to final judgment to the exclusion of any further proceedings in the state court in accordance with federal law. The defendant further requests that the removal of this action be entered on the docket of this Court and that the Court grant the defendant other and further relief to which it may be legally and equitably entitled.

Dated: June 24, 2021

Respectfully submitted,

**BRYAN CAVE  
LEIGHTON PAISNER LLP**

By: /s/ Jonathan B. Potts  
Jonathan B. Potts, #64091MO  
Colin Snider, #72137MO  
One Metropolitan Square  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102  
(314) 259-2403  
(314) 259-2020 (fax)  
jonathan.potts@bclplaw.com  
colin.snider@bclplaw.com

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on June 24, 2021, the foregoing was served via email and U.S. mail, first-class, postage prepaid, upon the following:

Daniel J. Orlowsky  
Orlowsky Law, LLC  
7777 Bonhomme, Suite 1910  
St. Louis, MO 63105  
dan@orlowskylaw.com

Adam M. Goffstein  
Goffstein Law, LLC  
7777 Bonhomme, Suite 1910  
St. Louis, MO 63105  
adam@goffsteinlaw.com

*Attorneys for Plaintiff*

/s/ Jonathan B. Potts

*Attorney for Defendants*



# Your Missouri Courts


Search for Cases by: 
[Judicial Links](#) | [eFiling](#) | [Help](#) | [Contact Us](#) | [Print](#)
[GrantedPublicAccess](#) [Logoff JONATHANPOTTS](#)

21SL-CC02221 - ABRAHAM LIZAMA V VICTORIA'S SECRET STORES, L ET AL (E-CASE)

[FV File Viewer](#)
[Case Header](#)
[Parties & Attorneys](#)
[Docket Entries](#)
[Charges, Judgments & Sentences](#)
[Service Information](#)
[Filings Due](#)
[Scheduled Hearings & Trials](#)
[Civil Judgments](#)
[Garnishments/Execution](#)

This information is provided as a service and is not considered an official court record.

[Click here to eFile on Case](#)
[Click here to Respond to Selected Documents](#)

Sort Date Entries: ☒ Descending ☐ Ascending

Display Options: 

05/27/2021

☐ **Corporation Served**

Document ID - 21-SMCC-4309; Served To - VICTORIA'S SECRET DIRECT, LLC; Server - CT CORP; Served Date - 26-MAY-21; Served Time - 00:00:00; Service Type - Territory 30; Reason Description - Served; Service Text - LC

☐ **Corporation Served**

Document ID - 21-SMCC-4308; Served To - VICTORIA'S SECRET STORES, LLC; Server - CT CORP; Served Date - 26-MAY-21; Served Time - 00:00:00; Service Type - Territory 30; Reason Description - Served; Service Text - LC

05/18/2021

☐ **Summons Issued-Circuit**

Document ID: 21-SMCC-4309, for VICTORIA'S SECRET DIRECT, LLC.Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service. Note\* You must not forward summons to the St. Louis County Sheriff/Process Server before issue date on summons. Failure to follow these instructions may result in your summons being returned.

☐ **Summons Issued-Circuit**

Document ID: 21-SMCC-4308, for VICTORIA'S SECRET STORES, LLC.Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service. Note\* You must not forward summons to the St. Louis County Sheriff/Process Server before issue date on summons. Failure to follow these instructions may result in your summons being returned.

☐ **Filing Info Sheet eFiling**
**Filed By:** DANIEL JOHN ORLOWSKY

☐ **Note to Clerk eFiling**
**Filed By:** DANIEL JOHN ORLOWSKY

☐ **Pet Filed in Circuit Ct**

Class Action Petition for Damages.

**Filed By:** DANIEL JOHN ORLOWSKY

**On Behalf Of:** ABRAHAM LIZAMA

☐ **Judge Assigned**

DIV 9





IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

ABRAHAM LIZAMA, on behalf of himself	)	
and all others similarly situated,	)	
	)	
Plaintiff,	)	Cause No.
	)	
vs.	)	Division:
	)	
VICTORIA'S SECRET STORES, LLC	)	
Serve: Registered Agent	)	
CT CORPORATION SYSTEM	)	
120 South Central Avenue	)	
Clayton, MO 63105	)	
	)	
VICTORIA'S SECRET DIRECT, LLC	)	
Serve: Registered Agent	)	JURY TRIAL DEMANDED
CT CORPORATION SYSTEM	)	
120 South Central Avenue	)	
Clayton, MO 63105	)	
	)	
Defendants.	)	

**CLASS ACTION PETITION FOR DAMAGES**

COME NOW Plaintiff Abraham Lizama, and brings this action on behalf of himself and all others similarly situated ("Class") against Defendants Victoria's Secret Stores, LLC and Victoria's Secret Direct, LLC (collectively referred to as "Victoria's Secret" or "Defendants"); and, upon information and belief, alleges as follows:

**INTRODUCTION**

1. Missouri law requires retailers to charge sales or use tax on the sales of their products to Missouri purchasers.
2. Missouri state law mandates that retailers with tax nexus charge a use tax on sales of their products through remote means, including an internet website, telephone, catalog or other remote communications systems (collectively, "remote sales channel(s)") to Missouri purchasers

that are shipped from an out-of-state facility. The state use tax rate for these sales is 4.225%. There are also additional local use taxes that are imposed on sales made through remote sales channels based on the delivery address of the Missouri purchasers.

3. Victoria's Secret illegally and erroneously overcharges "tax" monies at a higher tax rate than the correct applicable use tax rate on products purchased through remote sales channels, including from Victoria's Secret's internet website, that are shipped to Missouri customers from an out-of-state facility, resulting in the overcollection of monies from Missouri consumers.

### **PARTIES**

4. At all relevant times, Plaintiff was and is a Missouri citizen residing in Missouri.

5. This is an action brought directly by Plaintiff against Defendants.

6. Victoria's Secret Stores, LLC is a Delaware corporation with its principal place of business at 4 Limited Parkway E, Reynoldsburg, Ohio 43068. Victoria's Secret Stores, LLC is an American company that sells lingerie, clothing, and beauty products merchandise through its retail stores and online.

7. Victoria's Secret Stores, LLC conducts, and at all relevant times, has conducted business in St. Louis County through remote sales channels, including making sales through its internet website.

8. Victoria's Secret Direct, LLC is a Delaware corporation with its principal place of business at 4 Limited Parkway E, Reynoldsburg, Ohio 43068. Victoria's Secret Direct, LLC is the direct sales arm of Victoria's Secret Stores, LLC.

9. Victoria's Secret Direct, LLC conducts, and at all relevant times, has conducted business in St. Louis County through remote sales channels, including making sales through its internet website.

### **JUISDICTION & VENUE**

10. This Court has personal jurisdiction over Victoria's Secret because the acts and/or omissions which are the subject of this litigation occurred in St. Louis County, Missouri, and Defendants regularly conducts business in St. Louis County, Missouri.

11. Venue is proper in St. Louis County, Missouri pursuant to Missouri Revised Statute § 508.010.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1341.

### **VICTORIA'S SECRET SELLS ITS PRODUCTS UNDER DIFFERENT BRAND NAMES**

13. Victoria's Secret's Brands are not subsidiaries or separate legal entities from Victoria's Secret.

14. None of Victoria's Secret's Brands are incorporated or registered as Active entities with the Secretary of State's Office for Missouri or Delaware.

15. Instead, Victoria's Secret's Brands are merely trademarks owned and operated by Victoria's Secret and under which Victoria's Secret does business.

16. Victoria's Secret operates all of its Brands as one unit from its principal place of business at 4 Limited Parkway E, Reynoldsburg, Ohio 43068.

17. Victoria's Secret has thousands of employees, which includes employees assigned to Victoria's Secret's Brands.

18. Victoria's Secret advertises, markets, and sells products under its Victoria's Secret brand directly to consumers through the Victoria's Secret-owned remote sales channels, including its internet website, [www.victoriasecret.com](http://www.victoriasecret.com).

19. Victoria's Secret advertises, markets, and sells products under its PINK brand directly to consumers through the Victoria's Secret-owned remote sales channels, including its internet website, [www.victoriassecret.com/us/pink](http://www.victoriassecret.com/us/pink).

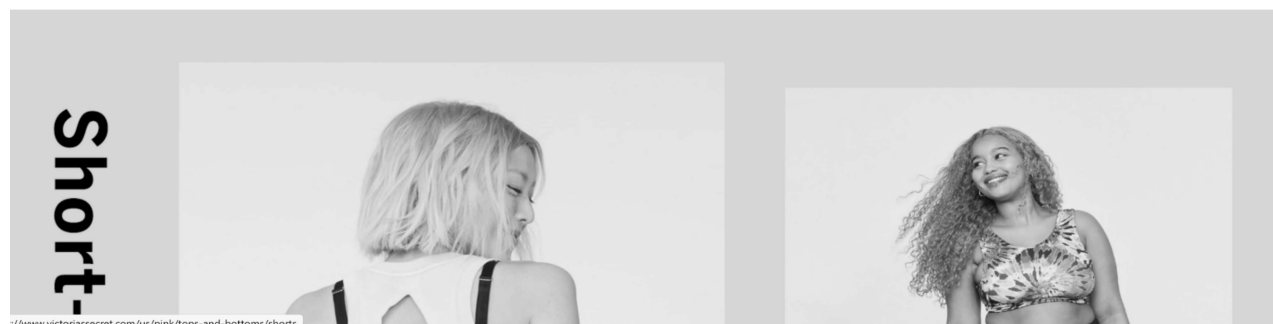
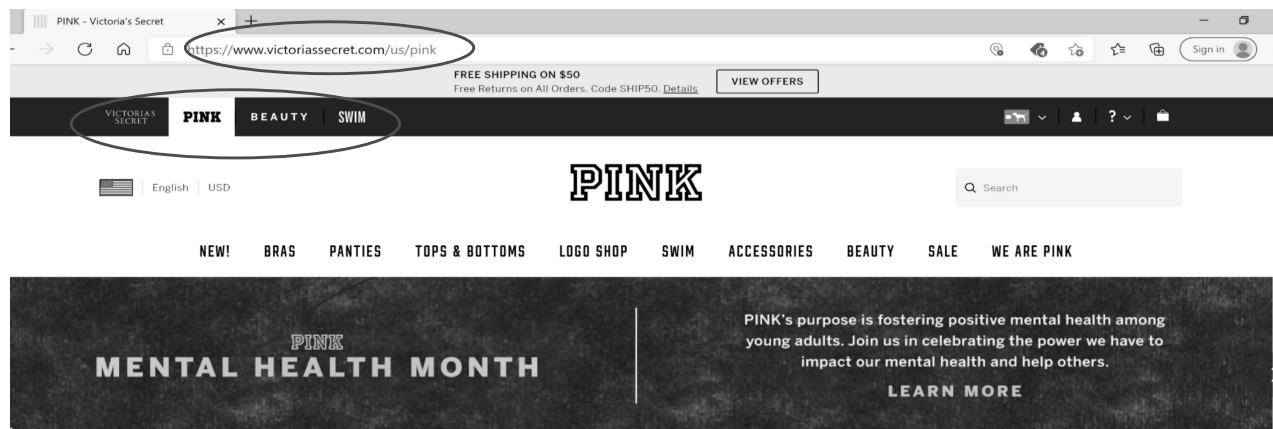
20. Victoria's Secret advertises, markets, and sells products under its BEAUTY brand directly to consumers through the Victoria's Secret-owned remote sales channels, including its internet website, [www.victoriassecret.com/us/beauty](http://www.victoriassecret.com/us/beauty).

21. Victoria's Secret advertises, markets, and sells products under its SWIM brand directly to consumers through the Victoria's Secret-owned remote sales channels, including its internet website, [www.victoriassecret.com/us/swimwear](http://www.victoriassecret.com/us/swimwear).

22. Victoria's Secret owns and operates the catalogs and e-commerce websites for all of its Brands.

23. Victoria's Secret never identifies its Brands on its website or catalog as being a subsidiary or other independent business entity separate from Victoria's Secret.

24. As shown below, Victoria's Secret e-commerce website for each of its Brands contains links to each of Victoria's Secret other Brands, so consumers can easily navigate all of the websites for Victoria's Secret's Brands (circling added):



Beauty, Perfume & Accessories - x +

https://www.victoriasecret.com/us/beauty

FREE SHIPPING ON \$50  
Free Returns on All Orders. Code SHIP50. [Details](#) [VIEW OFFERS](#)

VICTORIA'S SECRET PINK BEAUTY SWIM

English | USD

VICTORIA'S SECRET BEAUTY

FRAGRANCE MIST & BODY LIP BAGS & ACCESSORIES PINK BEAUTY GIFTS SALE

celebrating  
**AAPI HERITAGE MONTH**

In honor of Asian American and Pacific Islander Heritage Month, PINK and Victoria's Secret are proud to support the community by donating \$100,000 to Asian Americans Advancing Justice – AAJC. Advancing Justice - AAJC works to empower the Asian American community while fighting for the civil rights of all Americans.

VICTORIA'S SECRET BEAUTY  
**SUMMER  
SCIENT EVENT**

Women's Swimwear - Victoria's Secret x +

https://www.victoriasecret.com/us/swimwear

FREE SHIPPING ON \$50  
Free Returns on All Orders. Code SHIP50. [Details](#) [VIEW OFFERS](#)

VICTORIA'S SECRET PINK BEAUTY SWIM

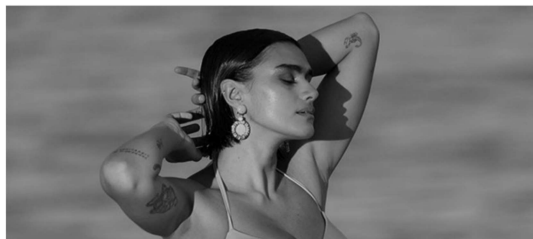
English | USD

**SWIM**

NEW! ALL SWIM BIKINIS TOPS BOTTOMS ONE-PIECES COVER-UPS MOST-WANTED SWIM

celebrating  
**AAPI HERITAGE MONTH**

In honor of Asian American and Pacific Islander Heritage Month, PINK and Victoria's Secret are proud to support the community by donating \$100,000 to Asian Americans Advancing Justice – AAJC. Advancing Justice - AAJC works to empower the Asian American community while fighting for the civil rights of all Americans.



*Tonight Only  
6pm-11pm Eastern Time*

### **FACTUAL ALLEGATIONS**

25. Plaintiff brings this action on behalf of himself and a proposed class of Missouri residents who purchased products for personal, family, or household use from Victoria's Secret through remote sales channels, including its internet website, that were shipped from an out-of-state facility to the purchasers' delivery addresses in Missouri and were charged "tax" monies at a higher tax rate than the correct applicable use tax rate.

26. Missouri law mandates that retailers with tax nexus charge a cumulative state and local use tax rate on sales of their products through remote sales channels that are shipped to Missouri purchasers from an out-of-state facility to a delivery address in Missouri.

27. Title X of the Missouri Taxation and Revenue, Chapter 144, sets forth the statutory scheme for the state of Missouri for the collection of sales and use tax. Chapter 144 is divided into two basic parts: (1) The Sale Tax Law set forth in §144.010 to §144.525; and (2) The Compensating Use Tax Law set forth in §144.600 through §144.761.

28. Missouri Revised Statutes § 144.020.1 provides "a tax is hereby levied and imposed...upon all sellers for the privilege of engaging in the business of selling personal property ...at retail in this state."

29. Section 144.020 imposes a sales tax on the sale of tangible personal property between a Missouri seller and Missouri purchaser.

30. Upon determination that a sale is subject to sales tax, the tax rate on intrastate sales is calculated by adding the state sales tax rate of 4.225% and any applicable local sales tax rate imposed by the local tax jurisdiction(s) in which the retail store making the sale is located.

31. Section 144.030.1 provides for an exemption from sales tax "for retail sales as may be made in commerce between this state and any other state of the United States, or between this



state and any foreign country, and any retail sales which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America.” This provision in §144.030.1 is commonly known as the Missouri statutory “in commerce” exemption.

32. This Missouri statutory “in commerce” exemption provides an exemption from Missouri sales tax for any interstate, in-bound retail sales made between a seller from a non-Missouri location and a Missouri purchaser where the seller delivers the purchased tangible personal property from outside the state of Missouri to the purchaser’s delivery address in Missouri.

33. While interstate, in-bound retail sales transactions involving sellers of tangible personal property from a non-Missouri location to Missouri purchasers at a Missouri delivery address are exempt from sales tax pursuant to the statutory “in-commerce” exemption set forth in § 144.030.1, such sales are subject to Missouri’s compensating use tax law as set forth in §144.600 through §144.761.

34. Section 144.610.1 imposes a use tax on “the privilege of storing, using or consuming within this state any article of tangible personal property.”

35. The use tax is a compensating, or complementary, tax imposed on the purchase of tangible personal property otherwise exempt from sales tax pursuant to, inter alia, the statutory “in commerce” exemption.

36. Accordingly, any taxable sales transaction involving the in-bound shipment of tangible personal property from an out-of-state location to a purchaser in Missouri that is exempted from sales tax by Missouri’s statutory “in commerce” exemption is subject to the compensating use tax.

37. Section 144.635 requires every seller with tax nexus in Missouri that is delivering tangible personal property from a non-Missouri location to Missouri purchasers at a Missouri delivery address to collect and remit the applicable use tax from the Missouri purchasers. Under Missouri's sales/use tax statutory scheme, this is known as the collection of "vendors' use tax."

38. Upon determination that a sale is subject to use tax, the use tax rate is calculated by adding the state use tax rate of 4.225% and any applicable local use tax rate in effect at the delivery address of the Missouri purchaser.

39. Despite clear Missouri law to the contrary, Victoria's Secret has charged in the past, and on information and belief continues to charge, excess "tax" on sales of its products through remote sales channels, including Victoria's Secret's internet website, to Missouri purchasers that are shipped from an out-of-state facility to a Missouri delivery address.

40. Plaintiff brings this class action on behalf of himself and all persons and entities who, during the five-year period before the filing of this Petition, purchased a product from Victoria's Secret for personal, family, or household use through remote sales channels, including its internet website, that was delivered from an out-of-state facility to a Missouri delivery address and who were charged tax monies at a higher tax rate than the correct applicable use tax rate.

#### **NAMED PLAINTIFF ALLEGATIONS**

41. On March 15, 2021, Plaintiff Abraham Lizama purchased an Ultimate Lightly Lined Sports Bra, two pairs of Heather Grey Stretch Cotton Hiphugger Panty, a Black Stretch Cotton Hiphugger Panty, a Cozy Knit Crewneck & Jogger Set, two pairs of Cameo Stretch Cotton Hiphugger Panties, Nourishing Hand & Body Lotion, and two Fragrance Mists from Victoria's Secret's website, [www.victoriasecret.com](http://www.victoriasecret.com), for personal, family or household use for delivery to 15596 Valley Branch Drive, Chesterfield, Missouri 63017.

42. Plaintiff's purchase of the Ultimate Lightly Lined Sports Bra, two pairs of Heather Grey Stretch Cotton Hiphugger Panty, Black Stretch Cotton Hiphugger Panty, Cozy Knit Crewneck & Jogger Set, two pairs of Cameo Stretch Cotton Hiphugger Panties, Nourishing Hand & Body Lotion, and two Fragrance Mists was shipped from out-of-state.

43. According to the Missouri Department of Revenue, the applicable use tax rate for sales of products through remote sales channels that are shipped by Defendants from an out-of-state facility for delivery to 15596 Valley Branch Drive, Chesterfield, Missouri 63017 on March 15, 2021 is 4.225%.

44. When Plaintiff purchased the Ultimate Lightly Lined Sports Bra, two pairs of Heather Grey Stretch Cotton Hiphugger Panty, Black Stretch Cotton Hiphugger Panty, Cozy Knit Crewneck & Jogger Set, two pairs of Cameo Stretch Cotton Hiphugger Panties, Nourishing Hand & Body Lotion, and two Fragrance Mists on March 15, 2021, Victoria's Secret required Plaintiff Lizama to pay an 8.740% tax rate, resulting in the overcollection of monies.

### **CLASS ACTION ALLEGATIONS**

45. Plaintiff brings this action pursuant to Missouri Supreme Court Rule 52.08 and Missouri Revised Statutes §§407.025.2 and 407.025.3 on behalf of himself and a class defined as follows:

All persons and entities who, during the five-year period before the filing of this Petition, purchased a product from Victoria's Secret for personal, family or household use through a remote sales channel, including its internet website, that was delivered from an out-of-state facility to a Missouri delivery address and were charged tax monies at a higher tax rate rather than the lower use tax rate.

Excluded from the class are:

- i. Defendant, any entity in which a Defendant has a controlling interest or which has a controlling interest in a Defendant, and Defendant's legal representatives, predecessors, successors, assigns, and employees;
- ii. Counsel and members of the immediate family of counsel for Plaintiff herein; and
- iii. The judge and staff to whom this case was assigned, and any member of the judge's immediate family.

46. Plaintiff reserves the right to revise this definition of the class based on facts he learns during discovery.

47. Plaintiff brings this action on his own behalf, and as a class action on behalf of the Class defined herein, pursuant to, and properly maintainable under Missouri Supreme Court Rule 52.08 and Missouri Revised Statutes §§407.025.2 and 407.025.3.

48. Plaintiff is a member of the Class because, during the Class Period, he purchased a product for personal, family or household use from Victoria's Secret's website that was delivered from an out-of-state facility to Plaintiff's Missouri delivery address and was charged tax monies at a higher tax rate rather than the lower use tax rate.

49. Plaintiff, on information and belief, asserts that, during the Class Period, thousands of Class members have similarly purchased numerous other products from Victoria's Secret through remote sales channels, including its internet website, that were delivered from an out-of-state facility to a Missouri delivery address and were illegally and erroneously charged tax monies at a higher tax rate rather than the lower use tax rate.

50. The particular members of the Class are capable of being described without difficult managerial or administrative problems. The members of the Class are readily identifiable from the information and records in the possession or control of the Defendant.

51. The Class consists of thousands of individual members and is, therefore, so numerous that individual joinder of all members is impractical.

52. This Class is believed to comprise many consumers, the joinder of whom is impracticable both because of their number and because they are spread out across the state of Missouri. Moreover, the amount of damages suffered individually by each member is so small as to make suit for its recovery by each one economically unfeasible.

53. Class treatment will provide substantial benefit to both the parties and the court system. A well-defined commonality of interest in the questions of law and fact involved affects Plaintiff and all proposed members of the Class.

54. There are questions of law and fact common to the Class, which questions predominate over any questions affecting only individual members of the Class and, in fact, the wrongs suffered and remedies sought by Plaintiff and the other members of the Class are premised upon an unlawful scheme perpetuated uniformly upon all the Class members. The only material difference between the Class members' claims is the exact monetary amount to which each member of the Class is entitled. The principal common issues include, but are certainly not limited to the following:

- a. Whether Victoria's Secret charged and collected an incorrect tax rate on sales of its products through remote sales channels, including Victoria's Secret's internet website, to Missouri purchasers that were delivered from an out-of-state facility;

- b. Whether charging and collecting incorrect tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility constituted an unlawful practice;
- c. Whether charging and collecting incorrect tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility by Victoria's Secret constituted an unfair practice;
- d. Whether charging and collecting incorrect tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility generated a profit for Victoria's Secret;
- e. Whether Victoria's Secret misrepresented that a higher tax rate was owed on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility;
- f. Whether Victoria's Secret was negligent in calculating tax owed by its customers for purchases of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility;
- g. Whether Victoria's Secret was negligent in charging a higher tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility;
- h. Whether Victoria's Secret's practices with respect to its calculation of tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility are an unfair and unethical business practice;

- i. Whether Victoria's Secret's customers were damaged due to Victoria's Secret's unlawful tax practices;
- j. Whether Victoria's Secret should, under Missouri law, be required to return "tax" monies to Plaintiff and the Class;
- k. Whether Plaintiff and the Class conferred a benefit on Victoria's Secret in the form of money collected by Victoria's Secret as tax would be unjust;
- l. Whether Victoria's Secret should be enjoined from continuing its improper and unlawful tax practices as described above; and
- m. Whether Victoria's Secret should be required to pay attorney's fees.

55. Plaintiff's claims are typical of the proposed Class.

56. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has no claims antagonistic to those of the Class. Plaintiff has retained competent and experienced counsel. Undersigned counsel is committed to the vigorous prosecution of this action.

57. The questions of law and fact common to the members of the Class, some of which are set out above, predominate over any questions affecting only individual members of the Class. The resolution of common questions in this case will resolve the claims of both Plaintiff and the Class.

58. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, because members of the Class are numerous and individual joinder is impracticable. The expenses and burden of individual litigation would make it impracticable or impossible for proposed members of the Class to prosecute their claims individually. Trial of Plaintiff's claims is manageable.

59. Unless a class is certified, Victoria's Secret will retain monies received and Plaintiff will have suffered damages as a result of Victoria's Secret's illegal collection of taxes from Plaintiff and proposed members of the Class. Unless a class-wide injunction is issued, Victoria's Secret will continue to commit violations against Missouri customers.

60. This action is maintainable as a class action pursuant to Rule 52.08 of the Missouri Rules of Civil Procedure and pursuant to Mo. Rev. Stat. § 407.025.

**COUNT I: VIOLATION OF THE MISSOURI MERCHANDISING PRACTICES ACT**

61. Plaintiff incorporates by reference and re-alleges all preceding paragraphs of this Petition as if fully set forth herein.

62. Victoria's Secret's actions alleged herein violated, and continue to violate, the Missouri Merchandising Act ("MMPA"), Mo. Rev. Stat. § 407.010 *et seq.*

63. Victoria's Secret is a "person" within the meaning of the MMPA, at Missouri Revised Statutes § 407.010(5).

64. The goods purchased from Victoria's Secret are "merchandise" within the meaning of the MMPA, Missouri Revised Statutes § 407.010(4).

65. The goods purchased from Victoria's Secret are for personal, family or household use.

66. The transactions resulting in purchases of goods from Victoria's Secret in Missouri are a "sale" within the meaning of the MMPA, Missouri Revised Statutes § 407.010(6).

67. Victoria's Secret's actions alleged herein constituted and continue to constitute, illegal deceptive practice in violation of Mo. Rev. Stat. § 407.020.1 in that they were and are deception, fraud, false pretense, false promise, misrepresentation, unfair practice and/or the



concealment, suppression, or omission of material fact in connection with the sale of merchandise in trade or commerce, within the meaning of the MMPA.

68. Victoria's Secret's actions alleged herein violated, and continue to violate, the MMPA because they constituted, and continue to constitute, unfair practices as that term is defined in Mo. Code Regs. Tit. 15, § 60-8.020. Specifically, they were and are, *inter alia*, unethical.

69. Plaintiff and the Class have suffered ascertainable loss due to the unfair and deceptive practices described in this Count.

70. Plaintiff and the Class seek actual damages for all monies paid in violation of Chapter 144, Missouri Revised Statutes.

71. Appropriate injunctive relief is necessary to prevent Victoria's Secret's MMPA violations from continuing. If Victoria's Secret's violations of the MMPA are not stopped by such injunctive relief, Plaintiff and the members of the class will continue to suffer injury by being charged a higher tax rate on sales of products through remote sales channels, including an internet website, by Victoria's Secret that were delivered from an out-of-state facility.

72. WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for Relief set forth below in this Petition.

## **COUNT II: UNJUST ENRICHMENT**

73. Plaintiff incorporates by reference and re-alleges all preceding paragraphs of the Petition as though fully set forth herein.

74. As alleged above, Victoria's Secret charged and collected a higher tax rate than the correct applicable use tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility.

75. Victoria's Secret has been unjustly enriched in that they received and retained the benefit of funds to which they were not entitled and received in violation of Missouri law.

76. Said funds were conferred on Victoria's Secret by Plaintiff and the Class members under a mistake of fact due to Victoria's Secret's misrepresentations, and unlawfully obtained to the detriment of Plaintiff and the Class members.

77. Victoria's Secret's retention of these funds is unjust because Victoria's Secret misrepresented the amount of tax due for the provision of its goods and services, and collected more tax than allowed under Missouri law.

78. Allowing Victoria's Secret to retain the aforementioned benefits violates fundamental principles of justice, equity, and good conscience.

79. WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for Relief set forth below in this Petition.

### **COUNT III: NEGLIGENCE**

80. Plaintiff incorporates by reference and re-alleges all preceding paragraphs of the Petition as though fully set forth herein.

81. Victoria's Secret owed Plaintiff and all others similarly situated a duty to exercise reasonable care to determine, represent, charge and collect the correct amount of tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility.

82. Victoria's Secret was negligent and breached its duty of reasonable care in the following respects:

- a. Incorrectly charging a higher tax on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility;

- b. Charging a higher tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility in violation of Missouri law;
- c. Collecting a higher tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility in violation of Missouri law;
- d. Failing to disclose to customers that it was charging a higher tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility.

83. As a direct and proximate result of Victoria's Secret's negligence, Plaintiff and all others similarly situated sustained monetary damages in the form of excessive taxes paid.

84. WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for Relief set forth below in this Petition.

**COUNT IV: MONEY HAD AND RECEIVED**

85. Plaintiff incorporates by reference and re-alleges all preceding paragraphs of this Petition as if fully set forth herein.

86. Victoria's Secret has received money from Plaintiff and the Class by charging a higher tax rate than the correct applicable use tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility rather than the use tax rate mandated by Missouri law, which in equity and good conscience ought to be returned to Plaintiff and the Class.

87. WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for Relief set forth below in this Petition.

**PRAYER FOR RELIEF**

88. WHEREFORE, Plaintiff and each member of the proposed Class pray for a judgment:

- (a) Certifying the Class as requested herein;
- (b) Entering an order appointing Orlowsky Law, LLC and Goffstein Law, LLC as counsel for the Class;
- (c) Awarding Plaintiff and the Class compensatory damages, including the return of the full amount of excessive taxes paid;
- (d) Awarding restitution to Plaintiff and Class;
- (e) Awarding declaratory and injunctive relief as permitted by law or equity including a preliminary and permanent injunction enjoining Victoria's Secret from continuing the unlawful practices as set forth herein, specifically the charging of a higher tax rate than the correct applicable use tax rate on sales of products through remote sales channels, including an internet website, that were delivered from an out-of-state facility;
- (f) Awarding pre-judgment interest;
- (g) Awarding post-judgment interest;
- (h) Awarding attorneys' fees and costs;
- (i) Providing such further relief as the Court may deem fair and reasonable.

**JURY DEMAND**

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

Respectfully submitted,

ORLOWSKY LAW, LLC

/s/ Daniel J. Orłowsky

Daniel J. Orłowsky, #57387  
7777 Bonhomme, Suite 1910  
St. Louis, Missouri 63105  
Phone: (314) 725-5151  
Fax: (314) 455-7375  
[dan@orłowskylaw.com](mailto:dan@orłowskylaw.com)

Attorney for Plaintiff

GOFFSTEIN LAW, LLC

/s/ Adam M. Goffstein

Adam M. Goffstein, #45611  
7777 Bonhomme, Suite 1910  
St. Louis, Missouri 63105  
Phone: (314) 725-5151  
Fax: (314) 455-7278  
[adam@goffsteinlaw.com](mailto:adam@goffsteinlaw.com)

Attorney for Plaintiff



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DAVID L VINCENT III	Case Number: 21SL-CC02221
Plaintiff/Petitioner: ABRAHAM LIZAMA	Plaintiff's/Petitioner's Attorney/Address DANIEL JOHN ORLOWSKY 7777 BONHOMME AVE SUITE 1910 ST. LOUIS, MO 63105
Defendant/Respondent: VICTORIA'S SECRET STORES, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

SHERIFF FEE  
PAID

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: VICTORIA'S SECRET STORES, LLC

Alias:

CT CORPORATION SYSTEM - RA  
120 S. CENTRAL AVENUE  
CLAYTON, MO 63105

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

18-MAY-2021

Date

Further Information:  
MT

  
Clerk

## Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other \_\_\_\_\_.

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

## NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

### **Purpose of Notice**

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

### **Your Rights and Obligations in Court Are Not Affected By This Notice**

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

### **Alternative Dispute Resolution Procedures**

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the “neutral,” who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

**(1) Advisory Arbitration:** A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator’s decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

**(2) Mediation:** A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73



**(3) Early Neutral Evaluation (“ENE”):** A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

**(4) Mini-Trial:** A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

**(5) Summary Jury Trial:** A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

### **Selecting an Alternative Dispute Resolution Procedure and a Neutral**

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73

## **County Satellite Court Now Open in St. Ann**

**Hours: Mon-Fri 8:30 a.m. to 5:00 p.m. FREE PARKING**

For the convenience of North County residents, a satellite branch of the St. Louis County Circuit Court is now open at the St. Louis County Government Center Northwest at the 715 Northwest Plaza Drive in St. Ann.

### **Attending Court Hearings Remotely using E-Courts**

If you are scheduled to appear in court, you can access the courtroom remotely using the public computer stations (E-courts) in St. Ann and Clayton. These are available for use when courtroom access is restricted due to the pandemic.

**Please note:** Hearings for juvenile and paternity cases are confidential, and can only be accessed from the Clayton E-court at this time.

**Be sure to bring your paperwork with you; you will need your case number, as well as the date, time and number of the Division where you are scheduled to appear.**

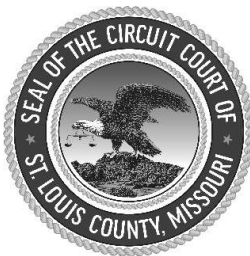
### **Filing Pleadings/New Petitions**

If you are representing yourself, you may file your paperwork at the St. Ann satellite court, in addition to the Clayton courthouse, using the secure drop box located inside the Court reception area.

### **Filing Orders of Protection**

Starting March 1, you may file for an Order of Protection at the Adult Abuse office in the St. Ann satellite court, in addition to the Clayton courthouse. Clerks will be available on-site to help you fill out and file the necessary paperwork.

**For more information call: 314-615-8029**





## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DAVID L VINCENT III	Case Number: 21SL-CC02221
Plaintiff/Petitioner: ABRAHAM LIZAMA	Plaintiff's/Petitioner's Attorney/Address DANIEL JOHN ORLOWSKY 7777 BONHOMME AVE SUITE 1910 ST. LOUIS, MO 63105
Defendant/Respondent: VICTORIA'S SECRET STORES, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

SHERIFF FEE  
PAID

(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: VICTORIA'S SECRET DIRECT, LLC

Alias:

CT CORPORATION SYSTEM - RA  
120 S. CENTRAL AVENUE  
CLAYTON, MO 63105

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

18-MAY-2021

Date

Further Information:  
MT

  
Clerk

## Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other \_\_\_\_\_.

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

## NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

### **Purpose of Notice**

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

### **Your Rights and Obligations in Court Are Not Affected By This Notice**

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

### **Alternative Dispute Resolution Procedures**

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the “neutral,” who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

**(1) Advisory Arbitration:** A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator’s decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

**(2) Mediation:** A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73

**(3) Early Neutral Evaluation (“ENE”):** A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

**(4) Mini-Trial:** A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

**(5) Summary Jury Trial:** A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

### **Selecting an Alternative Dispute Resolution Procedure and a Neutral**

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73

## **County Satellite Court Now Open in St. Ann**

**Hours: Mon-Fri 8:30 a.m. to 5:00 p.m. FREE PARKING**

For the convenience of North County residents, a satellite branch of the St. Louis County Circuit Court is now open at the St. Louis County Government Center Northwest at the 715 Northwest Plaza Drive in St. Ann.

### **Attending Court Hearings Remotely using E-Courts**

If you are scheduled to appear in court, you can access the courtroom remotely using the public computer stations (E-courts) in St. Ann and Clayton. These are available for use when courtroom access is restricted due to the pandemic.

**Please note:** Hearings for juvenile and paternity cases are confidential, and can only be accessed from the Clayton E-court at this time.

**Be sure to bring your paperwork with you; you will need your case number, as well as the date, time and number of the Division where you are scheduled to appear.**

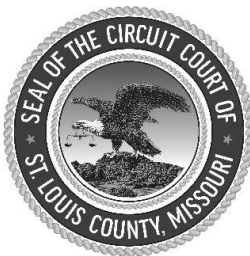
### **Filing Pleadings/New Petitions**

If you are representing yourself, you may file your paperwork at the St. Ann satellite court, in addition to the Clayton courthouse, using the secure drop box located inside the Court reception area.

### **Filing Orders of Protection**

Starting March 1, you may file for an Order of Protection at the Adult Abuse office in the St. Ann satellite court, in addition to the Clayton courthouse. Clerks will be available on-site to help you fill out and file the necessary paperwork.

**For more information call: 314-615-8029**







## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DAVID L VINCENT III	Case Number: 21SL-CC02221	<b>SHERIFF FEE PAID</b>  (Date File Stamp)
Plaintiff/Petitioner: ABRAHAM LIZAMA	Plaintiff's/Petitioner's Attorney/Address DANIEL JOHN ORLOWSKY 7777 BONHOMME AVE SUITE 1910 ST. LOUIS, MO 63105	
Defendant/Respondent: VICTORIA'S SECRET STORES, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105	
Nature of Suit: CC Other Tort		

## Summons in Civil Case

The State of Missouri to: VICTORIA'S SECRET STORES, LLC  
 Alias:  
 CT CORPORATION SYSTEM - RA  
 120 S. CENTRAL AVENUE  
 CLAYTON, MO 63105

**COURT SEAL OF**  
  
 ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

18-MAY-2021  
 Date

Further Information:  
 MT

*Joan M. Gilmer*  
 Clerk

**Sheriff's or Server's Return**

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to LCW - B. LOVE (name) INTAKE SPECIALIST (title).

☐ other CT CORPORATION

Served at St. Louis County (County/City of St. Louis), MO, on MAY 26 2021 (date) at 9 AM (time).

*Tom [Signature]*  
 Printed Name of Sheriff or Server

*[Signature]*  
 Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer.

Subscribed and sworn to before me on \_\_\_\_\_ (date)

My commission expires: \_\_\_\_\_

(Seal)

Notary Public

FILED

JUN 02 2021

JOAN M. GILMER  
CIRCUIT CLERK, ST LOUIS COUNTY
 RECEIVED  
 2021 MAY 24 PM 2:14  
 ST LOUIS COUNTY  
 SHERIFF'S OFFICE





## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DAVID L VINCENT III	Case Number: 21SL-CC02221
Plaintiff/Petitioner: ABRAHAM LIZAMA	Plaintiff's/Petitioner's Attorney/Address DANIEL JOHN ORLOWSKY 7777 BONHOMME AVE SUITE 1910 ST. LOUIS, MO 63105
Defendant/Respondent: VICTORIA'S SECRET STORES, LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

SHERIFF FEE  
PAID

(Date File Stamp)

## Summons in Civil Case

<p>The State of Missouri to: VICTORIA'S SECRET DIRECT, LLC</p> <p>Alias: CT CORPORATION SYSTEM - RA 120 S. CENTRAL AVENUE CLAYTON, MO 63105</p> <p>COURT SEAL OF  ST. LOUIS COUNTY</p>	<p><b>FILED</b> JUN 02 2021</p> <p>JOAN M. GILMER Circuit Clerk</p> <p>You are summoned to appear before this court and to file your pleading with the petition, a copy of which is attached, and to serve a copy of your pleading upon the Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p><b>SPECIAL NEEDS:</b> If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.</p> <p><u>18-MAY-2021</u> Date</p> <p>Further Information: MT</p>
<p><b>Sheriff's or Server's Return</b></p> <p><b>Note to serving officer:</b> Summons should be returned to the court within thirty days after the date of issue.</p> <p>I certify that I have served the above summons by: (check one)</p> <p><input type="checkbox"/> delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.</p> <p><input type="checkbox"/> leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.</p> <p><input checked="" type="checkbox"/> (for service on a corporation) delivering a copy of the summons and a copy of the petition to <b>LCW - B. LOVE</b> (name) <b>INTAKE SPECIALIST</b> (title)</p> <p><input type="checkbox"/> other <b>CT CORPORATION</b></p> <p>Served at <b>St. Louis County</b> (County/City of St. Louis), MO, on <b>MAY 26 2021</b> (date) at <b>10 AM</b> (time).</p> <p><u>JOAN M. GILMER</u> (Signature of Sheriff or Server) Must be sworn before a notary public if not served by an authorized officer: Subscribed and sworn to before me on _____ (date). My commission expires: _____ (date). _____ Notary Public</p>	

## 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

Abraham Lizama

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

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

Orlowsky Law, LLC and Goffstein Law, LLC, 7777  
Bonhomme, #1910, St. Louis, MO 63105, 314-725-5151

## DEFENDANTS

Victoria's Secret Stores, LLC  
Victoria's Secret Direct, 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)

Bryan Cave Leighton Paisner LLP, 211 N. Broadway, Suite  
3600, St. Louis, MO 63102, 314-259-2403

## 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 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 checked="" 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	<b>PERSONAL INJURY</b> <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"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <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 <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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 (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <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
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <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 <b>Other:</b> <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			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332(d)

Brief description of cause:

Putative class action seeking refund of state sales taxes for online purchases

## 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

6/24/2021

SIGNATURE OF ATTORNEY OF RECORD

*Jonathan Pats*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Victoria's Secret Overcharged Missouri Online Shoppers for Sales Tax](#)

---