

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

**KAZEROUNI LAW GROUP, APC**  
Abbas Kazerounian, Esq. (SBN: 249203)  
ak@kazlg.com  
Jason A. Ibey, Esq. (SBN: 284607)  
jason@kazlg.com  
Nicholas R. Barthel, Esq. (SBN: 319105)  
nicholas@kazlg.com  
245 Fischer Avenue, Unit D1  
Costa Mesa, CA 92626  
Telephone: (800) 400-6808  
Facsimile: (800) 520-5523

[Additional Counsel On Signature Page]

*Attorneys for Plaintiff,*  
*Katherine Martinez*

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

**KATHERINE MARTINEZ,**  
**Individually and On Behalf of All**  
**Others Similarly Situated,**

Plaintiff,

v.

**RITE AID CORPORATION,**

Defendant.

Case No.: '19CV0569 H NLS

**CLASS ACTION**

**COMPLAINT FOR  
INJUNCTIVE RELIEF AND  
DAMAGES FOR VIOLATIONS OF:**

- I. CAL. BUS. & PROF. CODE  
§ 17200, ET SEQ.;**
- II. CONVERSION**

**JURY TRIAL DEMANDED**

Case #

*Martinez v. Rite Aid Corporation*

**CLASS ACTION COMPLAINT**

**INTRODUCTION**

1. The plaintiff KATHERIN MARTINEZ (“Plaintiff” or “Ms. Martinez”) brings this action, on behalf of herself and other similarly situated in California, to challenge the actions of RITE AID CORPORATION (“Rite Aid”) with regard to Defendant’s failure to comply with several California statutes designed to protect the consuming public, and to obtain an injunction to stop such continuing violations.
2. Specifically, this case involves Rite Aid’s exploitation of consumers, especially senior citizens, through its utilization of a misleading opt-in method. This has allowed Rite Aid to take recurring donations from consumers, despite the consumer never providing knowing consent to the donations.
3. Rite Aid has run this campaign for years despite receiving volumes of complaints from consumers. These complaints specifically notified Rite Aid of the misleading nature of its opt-in method and that this is causing funds to be taken from consumers without their consent.
4. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to a plaintiff, or to a plaintiff’s counsel, which Plaintiff alleges on personal knowledge.
5. While many violations are described below with specificity, this Complaint alleges violations of the statute cited in its entirety.
6. Unless otherwise stated, all the conduct engaged in by Defendant took place in California.
7. Any violation by Defendant was knowing, willful, and intentional, and not in good faith.
8. Unless otherwise indicated, the use of Defendant’s name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors,

1 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of  
2 the defendants named.

3 **PARTIES**

4 9. Plaintiff is a natural person who resides in the City of San Diego, County of San  
5 Diego, State of California.

6 10. Ms. Martinez is a senior citizen as defined by Cal. Civ. Code § 1761(f).

7 11. Plaintiff is informed and believes, and thereon alleges, that Rite Aid is, and at  
8 all times mentioned herein was, a corporation whose state of incorporation is  
9 Delaware and principal place of business is in Camp Hill, Pennsylvania.

10 12. Plaintiff alleges that at all times relevant herein Defendant conducted business  
11 in the State of California and in the County of San Diego.

12 **JURISDICTION AND VENUE**

13 13. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a citizen  
14 of California, seeks damages for unlawfully obtained monies, which has been  
15 automatically withdrawn from hundreds of thousands of individuals transaction  
16 over a four year period, which, when aggregated among a proposed Class  
17 numbering in the several hundred thousand, exceeds the \$5,000,000 threshold  
18 for federal court jurisdiction. Additionally, the action is against Defendant, a  
19 citizen of Georgia. Therefore, the elements of the Class Action Fairness Act of  
20 2005 (“CAFA”) are met, and this Court has jurisdiction.

21 14. As Defendant conducts business within the State of California and within the  
22 County of San Diego, personal jurisdiction is established.

23 15. Venue is proper in the United States District Court for the Southern District of  
24 California pursuant to 28 U.S.C. §§ 1391(b) because Defendants, at all times  
25 herein mentioned, was doing business in the County of San Diego, State of  
26 California. Further, venue is proper in this district because Plaintiff has resided  
27

1 in this district at all times herein mentioned and a substantial part of the events  
2 giving rise to the claim occurred in this judicial district.

3 **GENERAL FACTUAL ALLEGATIONS**

4 16. Sometime before December 2018, Ms. Martinez went to a Rite Aid location in  
5 San Diego, California to purchase an item for personal or household use.

6 17. Sometime during the checkout process, Ms. Martinez was opted into the Rite  
7 Aid Foundation's KidsCents program. As a consequence, Rite Aid rounds every  
8 transaction associated with Ms. Martinez's Wellness card to the whole dollar,  
9 and retained the difference for the alleged purpose of donating the difference to  
10 charity.

11 18. Upon information and belief, such practice will continue into perpetuity, or at  
12 least until Ms. Martinez has expressly opted out.

13 19. However, at no time did Ms. Martinez knowingly consent to this program,  
14 including on a continuing basis.

15 20. Between the few months of purchases for which Ms. Martinez has receipts, Rite  
16 Aid took a total of \$2.56 from Ms. Martinez without the knowledge or consent  
17 of Ms. Martinez.

18 21. Rite Aid has initiated the donation program that collects consumer's change,  
19 which it then redistributes to the community. However, upon information and  
20 believe, before redistributing the funds, Rite Aid takes a percentage from the  
21 total collected.

22 22. Rite Aid claims that it obtains consumers' consent to opt into its KidsCents  
23 program by providing a prompt on the pin pad. However, such prompt is  
24 misleading, as at least one Rite Aid cashier has opined that, "I can tell you it's  
25 really easy to miss the 'Kidcents' donation prompt, and a lot of people will hit  
26 the 'always donate' button without thinking, assuming it's a one-time deal.  
27 Also, they'll sometimes think that it's part of their credit card purchase."  
28

23. The manner in which these donations are set up is inherently misleading and confusing to consumers, especially senior citizens, and has resulted in money being taken from Plaintiff and similarly situated consumers in California to which they did not consent, and did not realize was occurring.

24. Any quick review of online comments regarding his campaign by Rite Aid, it is apparent that a majority of consumers are opted into the KidsCents program without knowingly consenting to such program.

25. Upon information and belief, Rite Aid ties all donations for this program to the use of a Wellness card. To use a Wellness card in a Rite Aid store, a customer does not need the physical card, but can use the telephone number that is tied to the Wellness card account.

26. Consequently, any individual that has that telephone number can opt the card holder into this program. After the cardholder is opted in to the program, the cardholder will continue to be charged anytime they use their Wellness card, regardless of whether the consumer provided knowing consent.

27. Reasonable consumers, such as Ms. Martinez, believe that they did not opt into the program through the pin pad at the Rite Aid stores.

28. Since 2014, consumers have been complaining to Rite Aid that the its method of opt-in is misleading, and that there is nothing displayed in the store warning the consumer of the program details. Often times consumers have directly told Rite Aid that its method of collecting funds is an “underhanded way to get people to contribute to a charity.”

29. One complaint even notifies Rite Aid that her elderly grandmother, who has poor vision, was opted into this program despite never providing consent.

30. Many of these consumers are on tight budgets and cannot always afford to make a donate.

31. Despite being put on notice that this method of contribution is misleading to consumers, over the last five years Rite Aid has taken no steps to remedy the problem, as its method of opting has remained the same over the last five years.

32. Senior citizens, such as Ms. Martinez, are especially susceptible to such deceptive business practices.

33. As a result of the aforementioned conduct, Plaintiff and members of the Class have suffered actual injury and economic loss.

#### CLASS ALLEGATIONS

34. Plaintiff brings this action on behalf of herself and on behalf of all others similarly situated (the "Class").

35. Plaintiff represents and is a member of the following Class, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) and/or (b)(2):

All natural persons within California who made a purchase at Rite Aid and had the amount of their purchase/s rounded up to the whole dollar after they were enrolled in the Rite Aid Foundation's KidsCents program, or similar program, within four years prior to the filing of the Complaint in this action.

36. Plaintiff represents and is a member of the following Subclass:

All natural persons within California, who are sixty-five years or older, who made a purchase at Rite Aid and had the amount of their purchase/s rounded up to the whole dollar after they were enrolled in the Rite Aid Foundation's KidsCents program, or similar program, within four years prior to the filing of the Complaint in this action.

37. Plaintiff and others similarly situated are referred to as the "Class" and/or "Subclass".

38. Defendant and their employees or agents are excluded from the Class and Subclass.

39. Plaintiff does not presently know the number of members in the Class or Subclass, but believes the members number in the tens of thousands. Thus, this matter should be certified as a class action to assist in the expeditious litigation of this matter.

40. Plaintiff and members of the Class and Subclass were harmed by Defendant's misleading and deceptive method of taking money from consumers for its KidsCents program.

41. Plaintiff reserves the right to expand the class definitions to seek recovery on behalf of additional persons as warranted, as facts are learned through further investigation and discovery.

42. The joinder of the Class is impractical and the disposition of their claims in the class action will provide substantial benefits both to the parties and to the court.

43. The Class members can be identified through Defendant's or Defendant's agent's records.

44. There is a well-defined community of interest in the questions of law and fact to the Classes that predominate over questions which may affect individual members, including the following:

- a. whether the manner in which Defendant enrolls consumers in its Kidcents program is deceptive or misleading;
- b. whether Defendant's conduct is an unlawful act or practice within the meaning of California Business & Professions Code §§ 17200, *et seq.*;
- c. whether Defendant's conduct is an unfair act or practice within the meaning of California Business & Professions Code §§ 17200, *et seq.*;
- d. whether Defendant wrongfully exercised dominion and control over personal property that belonged to the Plaintiff, Class and Subclass;

- e. whether the Defendants and their agents should be enjoined from engaging in their unlawful conduct in the future;
- f. whether the subclass is entitled to treble damages under Cal. Civ. Code § 3345; and,
- g. whether Defendant retains monies rightfully owed to the Class and Subclass.

45. Plaintiff will fairly and adequately represent and protect the interests of the Class and Subclass in that Plaintiff has no interests antagonistic to any member of the Class and Subclass.

46. Plaintiff and the members of the Class and Subclass have all suffered irreparable harm as a result of Defendant's unlawful and wrongful conduct. Absent a class action, the Class and Subclass will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant/s will likely continue such illegal conduct.

47. Plaintiff has retained counsel experienced in handling class action claims and individual claims involving consumer contracts and consumer rights.

48. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with California law. The interest of the Class in individually controlling the prosecution of separate claims against the Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal.

49. Defendant Rite Aid has acted, and continues to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class.



**COUNT I****CALIFORNIA'S UNFAIR COMPETITION LAW****BUS. & PROF. CODE §§ 17200, *ET SEQ.***

50. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

51. Plaintiff and Defendants are each “person[s]” as defined by California Business & Professions Code § 17201.

52. California Business & Professions Code § 17204 authorizes a private right of action on both an individual and representative basis.

53. “Unfair competition” is defined by Business and Professions Code Section § 17200 as encompassing several types of business “wrongs,” including: (1) an “unlawful” business act or practice, (2) an “unfair” business act or practice, (3) a “fraudulent” business act or practice, and (4) “unfair, deceptive, untrue or misleading advertising.” The definitions in § 17200 are drafted in the disjunctive, meaning that each of these “wrongs” operates independently from the others.

54. By and through Defendant’s conduct alleged in further detail above and herein, Defendant engaged in conduct which constitutes (a) unlawful and (b) unfair business practices prohibited by Bus. & Prof. Code § 17200 et seq.

**A. “Unlawful” Prong**

55. Beginning at a date currently unknown through the time of the filing of this Complaint, Defendant has committed acts of unfair competition, including those described above, by engaging in a pattern of “unlawful” business practices, within the meaning of Bus. & Prof. Code § 17200, *et seq.*, which provides a cause of action for an “unlawful” business act or practice perpetrated on members of the California public.

56. Defendant could have prompted consumers to donate on each transaction, similar to its competitors. Defendant had other reasonably available alternatives to further its legitimate business interest, other than the conduct described herein, such as effectively deceiving consumers with regard to Defendant's KidCents program.

57. Defendant also had other reasonably available alternatives to further its legitimate business interest, other than the conduct described herein, such as setting up the digital prompt in a way that was not confusing or misleading to customers about how much they were donating and the meanings of the options; or by requiring a prompt on each purchase before continuing to take monies for the KidCents program.

### **B. "Unfair" Prong**

58. Beginning at a date currently unknown and continuing up through the time of this Complaint, Defendant has committed acts of unfair competition that are prohibited by Bus. & Prof. Code §§ 17200, *et seq.*

59. Defendant's actions and representations constitute an "unfair" business act or practice under § 17200 in that Defendant's conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable to such conduct. Without limitation, it is an unfair business act or practice for Defendant to deceptively sign up customers for a recurring donation without their consent on their purchases.

60. At a date presently unknown to Plaintiff, but at least four years prior to the filing of this action, and as set forth above, Defendant has committed acts of unfair competition as defined by Cal. Bus. & Prof. Code §§ 17200 *et seq.*, as alleged further detail above and herein.

61. Plaintiff could not have reasonably avoided the injury suffered herein. Plaintiff reserves the right to allege further conduct that constitutes other unfair business acts or practices. Such conduct is ongoing and continues to this date, as Defendant continues to display the donation prompt in a misleading manner, and continues to opt-in customers to the recurring donation without their knowledge or consent.

## COUNT II CONVERSION

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

63. Plaintiff and Class and Subclass members held lawful rights in the personal property that they used to purchase items at Defendant's Stores.

64. Defendant engaged in an unlawful act when it exercised dominion over Plaintiff and Class members' and Subclass members' property when they donated personal property of the Plaintiff and Class without their consent or knowledge.

65. Defendant acted with malice, oppression or fraud in obtaining donations it was not entitled to.

66. As a result of the control over Plaintiff and Class members' and Subclass members' personal property, Plaintiff and Class members and Subclass members suffered monetary damages.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Rite Aid for:

- Certification of this action as a Class Action, with Plaintiff appointed as the representative of the Class and Subclass, and Plaintiff's attorneys appointed as Class Counsel for the Class and Subclass;

- A declaratory judgment finding Rite Aid's conduct alleged herein to be unlawful, including that the transactions concerning donations with Plaintiff and the Class are void and refundable;
- A temporary, preliminary and/or permanent order for injunctive relief requiring Rite Aid to cease using deceptive means to obtain recurring donations, pursuant to Bus. & Prof. Code § 17535;
- An order requiring imposition of a constructive trust and/or disgorgement of Rite Aid's ill-gotten gains and to pay restitution to Plaintiff and all members of the Class and Subclass and, also, to restore to Plaintiff and members of the Class and Subclass all funds acquired by means of any act or practice declared by this court to be an unlawful and/or unfair business act or practice, in violation of laws, statutes or regulations, or constituting unfair competition;
- Restitution pursuant to Bus. & Prof. Code § 17535;
- An award to the Subclass of three times actual damages pursuant to Cal. Civ. Code § 3345;
- Distribution of any monies recovered on behalf of members of Classes via fluid recovery or *cy pres* recovery where necessary and as applicable, to prevent Rite Aid from retaining the benefits of their wrongful conduct;
- Punitive damages to Plaintiff and the Classes for Defendant's malicious, oppressive or fraudulent misconduct;
- Prejudgment interest;
- Special, general, and compensatory damages to Plaintiff and the Classes for negligent and/or intentional misconduct;
- Costs of Suit;
- Reasonable attorneys' fees pursuant to, *inter alia*, California Code of Civil Procedure § 1021.5; and,

- Any and all other relief the Court deems just and proper.

**TRIAL BY JURY**

67. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: March 28, 2019

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

By: /s/Abbas Kazerounian

ABBAS KAZEROUNIAN, ESQ.  
ATTORNEY FOR PLAINTIFF

**HYDE & SWIGART**

Joshua B. Swigart, Esq. (225557)  
josh@westcoastlitigation.com  
2221 Camino Del Rio South, Ste. 101  
San Diego, CA 92108  
Telephone: (619) 233-7770  
Facsimile: (619) 297-1022  
*Attorneys for Plaintiff*

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

## 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**

KATHERINE MARTINEZ, Individually and On Behalf of All Others  
Similarly Situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
KAZEROUNI LAW GROUP, APC, 245 Fischer Avenue, Suite D1  
Costa Mesa, California 92626  
(800) 400-6808

**DEFENDANTS**

RITE AID CORPORATION

County of Residence of First Listed Defendant Cumberland, Pennsylvania  
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

**'19CV0569 H NLS**

**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"/> 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 <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))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
<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	<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 <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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

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

**VI. CAUSE OF ACTION**

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

(1) CAL. BUS. & PROF. CODE § 17200, ET SEQ; (2) CONVERSION

Brief description of cause:

Money taken without Plaintiff's consent through misleading conduct.

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION DEMAND \$

UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/28/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Abbas Kazerounian

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. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Filed Over Rite Aid's 'Misleading' Opt-In Donation Program](#)

---