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8 *Attorneys for Plaintiff Karen Vance, on behalf of herself*
 9 *and all others similarly situated*

10
 11 **UNITED STATES DISTRICT COURT**
 12 **EASTERN DISTRICT OF CALIFORNIA**

13
 14 KAREN VANCE on behalf of herself and
 all others similarly situated,

15 Plaintiff,

CASE NO. _____

16 v.

17 ZACKY FARMS, LLC and ZACKY &
 18 SONS POULTRY, LLC,

19 Defendants.

20
 21 **CLASS ACTION COMPLAINT FOR**
(1) VIOLATION OF WARN ACT 29 U.S.C. § 2101, ET SEQ.
 22 **AND (2) VIOLATION OF CALIFORNIA LABOR CODE § 1400 ET. SEQ.**

23 Plaintiff Karen Vance (“Plaintiff”) alleges on her own behalf and the class of those
 24 similarly situated as follows:
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28 ^{1 and 2} Not admitted to the Bar of the U.S. District Court E.D. Calif. Applications for admission
pro hac vice to be filed.

NATURE OF THE ACTION

1
2 1. Defendants operate a vertically-integrated business based in Fresno, California that
3 is engaged in the growing, processing, distributing, and wholesaling of turkey products in the
4 United States. Plaintiff worked for Defendants at its facility in 2020 S East Ave, Fresno, CA until
5 she was terminated without cause on or about October 29, 2018. Beginning on or about that date,
6 Defendants ordered the terminations of approximately 500 employees without cause.
7

8 2. The Plaintiff brings this action on behalf of herself and the other similarly situated
9 former employees who worked for Defendants and who were terminated without cause, as part
10 of, or as the result of, the mass layoffs or plant closings ordered by Defendants on or about
11 October 29, 2018 and within thirty (30) days of that date, and who were not provided 60 days
12 advance written notice of their terminations by Defendants, as required by the Worker
13 Adjustment and Retraining Notification Act (“WARN Act”), 29 U.S.C. § 2101 *et seq.*, and the
14 California Labor Code § 1400 *et. seq.* (“CAL-WARN Act”).
15

16 3. The WARN Act provides that two or more nominally independent companies may
17 be held jointly and severally liable as a “single employer,” and also provides that parents and
18 subsidiaries may be held jointly and severally liable as a “single employer”. 20 C.F.R. §
19 639.3(a)(2).
20

21 4. Defendants were a single employer of Plaintiff and the other similarly situated
22 former employees.

23 5. Plaintiff and all similarly situated employees seek to recover 60 days wages benefits,
24 pursuant to 29 U.S.C. § 2104, from Defendants.

25 **JURISDICTION AND VENUE**

26 6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, 29 U.S.C.
27 § 2104(a)(5).
28

1 7. A violation of the WARN Act alleged herein occurred in Stockton and Fresno,
2 California.

3 8. Venue in this Court is proper pursuant to 29 U.S.C. § 2104(a)(5).

4 **THE PARTIES**

5 **Plaintiff**

6 9. Plaintiff Karen Vance was employed by Defendants and worked at the Defendants'
7 facility located at 2020 S East Ave, Fresno, California (the "Fresno Facility") until her
8 termination on or about October 29, 2018.

10 10. Beginning on or about October 29, 2018, Defendants ordered the terminations
11 without cause of approximately 500 other similarly situated employees who worked at the Fresno
12 Facility and at a plant located at 1111 Navy Drive, Stockton, California (the "Stockton
13 Facility")(together, the "Facilities").

14 **Defendants**

15 11. Upon information and belief and at all relevant times, Defendant Zacky Farms, LLC
16 is a limited liability company organized and existing under the laws of the State of California
17 with its principal place of business at 2020 South East Avenue, Fresno, California 93721.

18 12. Upon information and belief and at all relevant times, Defendant Zacky & Sons
19 Poultry, LLC is a limited liability company organized and existing under the laws of the State of
20 California with its principal place of business at 2020 South East Avenue, Fresno, California
21 93271.

22 13. Until on or about October 29, 2018, Plaintiff and all similarly situated employees
23 were employed by Defendants and worked at or reported to the Facilities.
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WARN ACT CLASS ALLEGATIONS

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2 14. Plaintiff brings this action on her own behalf and on behalf of all other similarly
3 situated former employees of Defendants who worked at or reported to the Facilities and were
4 terminated without cause beginning on or about October 29, 2018 and within 30 days of that date,
5 or as the reasonably foreseeable consequence of the mass layoffs or plant closings ordered by
6 Defendants on that date, pursuant to 29 U.S.C. § 2104(a)(5).
7

8 15. The persons in the Class identified above (“Class Members”) are so numerous that
9 joinder of all members is impracticable. Although the precise number of such persons is
10 unknown, the facts on which the calculation of that number can be based are presently within the
11 sole control of Defendants.
12

13 16. On information and belief, the identity of the members of the class and the recent
14 residence address of each of the Class Members is contained in the books and records of
15 Defendants.
16

17 17. On information and belief, the rate of pay and benefits that were being paid by
18 Defendants to each Class Member at the time of his/her termination is contained in the books and
19 records of the Defendants.
20

21 18. There are questions of law and fact common to the Class Members that
22 predominate over any questions affecting individual members.
23

24 19. There are questions of law and fact common to the Class Members that
25 predominate over any questions solely affecting individual members of the Class, including but
26 not limited to:
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- 28
- (a) whether the Class Members were employees of the Defendants who worked at or reported to one of Defendants’ Facilities;
 - (b) whether Defendants terminated the employment of the Class Members without cause on their part and without giving them 60 days advance written notice;

1 (c) whether Defendants paid the Class members 60 days wages and benefits as
2 required by the WARN Act; and

3 (d) whether Defendants constitute a “single employer” under the WARN Act.

4 20. Plaintiff’s claim is typical of those of the WARN Class. Plaintiff, like other
5 WARN Class members, worked at or reported to one of Defendants’ Facilities and was
6 terminated without cause on or about October 29, 2018, due to the mass layoff and/or plant
7 closing ordered by Defendants.

8 21. Plaintiff will fairly and adequately protect the interests of the WARN Class.
9 Plaintiff has retained counsel competent and experience in complex class actions, including the
10 WARN Act and employment litigation.

11 22. Class certification of these claims is appropriate under Fed. R. Civ. P. 23(b)(3)
12 because questions of law and fact common to the WARN Class predominate over any questions
13 affecting only individual members of the WARN Class, and because a class action is superior to
14 other available methods for the fair and efficient adjudication of this litigation – particularly in
15 the context of WARN Act litigation, where individual plaintiffs may lack the financial resources
16 to vigorously prosecute a lawsuit in federal court against a corporate defendant, and damages
17 suffered by individual WARN Class members are small compared to the expense and burden of
18 individual prosecution of this litigation.

19 23. Concentrating all the potential litigation concerning the WARN Act rights of the
20 members of the Class in this Court will obviate the need for unduly duplicative litigation that
21 might result in inconsistent judgments, will conserve the judicial resources and the resources of
22 the parties and is the most efficient means of resolving the WARN Act rights of all the members
23 of the Class.

24 24. Plaintiff intends to send notice to all members of the WARN Class to the extent
25 required by Rule 23.
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1 25. A class action is superior to other available methods for the fair and efficient
2 adjudication of this controversy – particularly in the context of WARN Act litigation, where
3 individual plaintiffs may lack the financial resources to vigorously prosecute a lawsuit in federal
4 court against corporate Defendants.

5
6 **CALIFORNIA WARN CLASS ALLEGATIONS, Cal. Labor Code § 1401**

7 26. Plaintiff brings the Second Claim for Relief for violation of Labor Code § 1401 on
8 behalf of herself and a class of similarly situated persons pursuant to Labor Code § 1404 and
9 Federal Rules of Civil Procedure, Rule 23(a) and (b), who worked at or reported to Defendants’
10 Facility and were terminated without cause beginning on or about October 29, 2018 (the “CAL
11 WARN Class”)

12 27. The persons in the CAL WARN Class identified above (“CAL WARN Class
13 Members”) are so numerous that joinder of all members is impracticable. Although the precise
14 number of such persons is unknown, the facts on which the calculation of that number can be
15 based are presently within the sole control of Defendants.

16 28. On information and belief, the identity of the members of the class and the recent
17 residence address of each of the CAL WARN Class Members is contained in the books and
18 records of Defendants.

19 29. On information and belief, the rate of pay and benefits that were being paid by
20 Defendants to each CAL WARN Class Member at the time of his/her termination is contained in
21 the books and records of Defendants.

22 30. Common questions of law and fact exist as to members of the CAL WARN Class,
23 including, but not limited to, the following:

24 (a) whether the members of the CAL WARN Class were employees of the
25 Defendants;
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1 (b) whether Defendants unlawfully terminated the employment of the
2 members of the CAL WARN Class without cause on their part and without giving them 60 days
3 advance written notice in violation of the CAL WARN Act; and

4 (c) whether Defendants unlawfully failed to pay the CAL WARN Class
5 members 60 days wages and benefits as required by the CAL WARN Act.
6

7 31. The California Class Plaintiff's claims are typical of those of the CAL WARN
8 Class. The California Class Plaintiff, like other WARN Class members, worked at or reported to
9 the Facility and was terminated on or about October 29, 2018, due to the terminations ordered by
10 Defendants.

11 32. The California Class Plaintiff will fairly and adequately protect the interests of the
12 CAL WARN Class. The California Class Plaintiff has retained counsel competent and
13 experienced in complex class actions on behalf of employees, including the CAL WARN Act, the
14 federal WARN Act, other similar state laws, and employment litigation.
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16 33. Class certification of these Claims is appropriate under Fed. R. Civ. P. 23(b)(3)
17 because questions of law and fact common to the CAL WARN Class predominate over any
18 questions affecting only individual members of the CAL WARN Class, and because a class action
19 superior to other available methods for the fair and efficient adjudication of this litigation –
20 particularly in the context of CAL WARN Class Act litigation, where individual plaintiffs may
21 lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate
22 defendant, and damages suffered by individual CAL WARN Class members are small compared
23 to the expense and burden of individual prosecution of this litigation.
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1 (e) Defendants exercised de facto control over the labor practices at the
2 Facilities, including controlling and carrying out the terminations of Plaintiff and Class Members
3 in mass layoffs or plant closings at the Facilities beginning on or about October 29, 2018.

4 (f) Upon information and belief, Defendants shared the same corporate
5 headquarters in Fresno, California.
6

7 40. At all relevant times, Plaintiff and the other similarly situated former employees
8 were employees of Defendants as that term is defined by 29 U.S.C. §2101.

9 41. On or about October 29, 2018, and within 30 days thereafter, Defendants ordered
10 mass layoffs and/or plant closings at its Facilities, as that term is defined by 29 U.S.C. §
11 2101(a)(2).

12 42. The mass layoff and/or plant closing at the Facilities resulted in “employment
13 losses,” as that term is defined by 29 U.S.C. § 2101(a)(2) for at least fifty of Defendants’
14 employees as well as more than 33% of Defendants’ workforce at the Facilities, excluding “part-
15 time employees,” as that term is defined by 29 U.S.C. § 2101(a)(8).
16

17 43. Plaintiff and the Class Members were terminated by Defendants without cause on
18 their part, as part of or as the reasonably foreseeable consequence of the mass layoff or plant
19 closing ordered by Defendants at the Facilities.
20

21 44. Plaintiff and the Class Members are “affected employees” of Defendants, within
22 the meaning of 29 U.S.C. § 2101(a)(5).

23 45. Defendants were required by the WARN Act to give Plaintiff and the Class
24 Members at least 60 days advance written notice of their terminations.

25 46. Defendants failed to give Plaintiff and the Class members written notice that
26 complied with the requirements of the WARN Act.
27
28

1 47. The Plaintiff is, and each of the Class Members are, “aggrieved employees” of the
2 Defendants as that term is defined in 29 U.S.C. § 2104 (a)(7).

3 48. Defendants failed to pay Plaintiff and each of the Class Members their respective
4 wages, salary, commissions, bonuses, accrued holiday pay and accrued vacation for 60 days
5 following their respective terminations and failed to make the pension and 401(k) contributions
6 and provide employee benefits under ERISA, other than health insurance, for 60 days from and
7 after the dates of their respective terminations.
8

9 **Second Claim: Violation of California Labor Code - § 1400 et. seq.**

10 49. Plaintiff realleges and incorporates by reference all allegations in all proceeding
11 paragraphs.

12 50. Plaintiff brings the Second Claim for Relief for violation of Labor Code § 1401 on
13 behalf of herself and a class of similarly situated persons pursuant to Labor Code § 1404 and
14 Federal Rules of Civil Procedure 23(a) and (b), who worked at, or reported to and received
15 assignments from Defendants’ Facility and were terminated without cause on or about October
16 29, 2018 and thereafter (the “CAL WARN Class”).
17

18 51. Pursuant to Labor Code § 1400(b), “[e]mployer’ means any person . . . who
19 directly or indirectly owns and operates a covered establishment. A parent corporation is an
20 employer as to any covered establishment directly owned and operated by its corporate
21 subsidiary.”
22

23 52. Upon information and belief, Defendants are the employer of the CAL WARN
24 Class as that term is defined by Labor Code § 1400(b) because they directly or indirectly owned
25 and operated at least one covered establishment.
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1 53. The persons in the CAL WARN Class identified above (“CAL WARN Class
2 Members”) are so numerous that joinder of all members is impracticable. Although the precise
3 number of such persons is unknown, the facts on which the calculation of that number can be
4 based are presently within the sole control of Defendants.

5
6 54. On information and belief, the identity of the members of the class and the recent
7 residence address of each of the CAL WARN Class Members is contained in the books and
8 records of Defendants.

9 55. On information and belief, the rate of pay and benefits that were being paid by
10 Defendants to each CAL WARN Class Member at the time of his/her termination is contained in
11 the books and records of Defendants.

12 56. Common questions of law and fact exist as to members of the CAL WARN Class,
13 including, but not limited to, the following:
14

- 15 a. whether the members of the CAL WARN Class were employees of the
16 Defendants;
- 17 b. whether Defendants are a single employer;
- 18 c. whether Defendants unlawfully terminated the employment of the
19 members of the CAL WARN Class without cause on their part and
20 without giving them 60 days advance written notice in violation of the
21 CAL WARN Act;
- 22 d. whether Defendants unlawfully failed to pay the CAL WARN Class
23 members 60 days wages and benefits as required by the CAL WARN Act;
24 and
- 25 e. whether the Plaintiff’s claims are typical of those of the CAL WARN
26 Class.

27 57. Plaintiff, like other CAL WARN Class members, worked at or reported to
28 Defendants’ Facility and were terminated beginning on or about October 29, 2018 and thereafter,
due to the closure of the Facility ordered by Defendants.

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- B. Designation of the Plaintiff as Class Representative;
- C. Appointment of the undersigned attorneys as Class Counsel;
- D. A judgment in favor of Plaintiff and each of the “affected employees” equal to the sum of: their unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for 60 days, that would have been covered and paid under the then-applicable employee benefit plans had that coverage continued for that period, all determined in accordance with the WARN Act, 29 U.S.C. § 2104(a)(1)(4) and the California Labor Code § 1402(a);
- E. Interest as allowed by law on the amounts owed under the preceding paragraph;
- F. Plaintiff’s reasonable attorneys’ fees and the costs and disbursements that the Plaintiff incurred in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6); and
- G. Such other and further relief as this Court may deem just and proper.

DATED: November 6, 2018

Respectfully submitted,

/s/ Jahan Sagafi
OUTTEN & GOLDEN LLP
Jahan Sagafi
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Attorneys for Plaintiff and the other similarly situated former employees

CIVIL COVER SHEET

Case 1:18-at-00813 Document 1-1 Filed 11/06/18 Page 1 of 2

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

KAREN VANCE on behalf of herself and all others similarly situated,

DEFENDANTS

ZACKY FARMS, LLC and ZACKY & SONS POULTRY, LLC,

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

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

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

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

Jahan Sagafi, Cal St. Bar. No. 224887, Gail Lin Chung, Cal St. Bar. No. 212334 Jack A. Raisner, René S. Roupinian Outten & Golden LLP, One California Street, 12th Floor, San Francisco, CA 94111 Tel.: (415) 638-8800

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

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

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - 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): 29 U.S.C. § 2101 et seq; California Labor Code, § 1400 et seq.

Brief description of cause: Failure to provide 60-days advance written notice in a mass-layoff under the WARN Act and its CA counterpart

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 11/06/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Jahan Sagafi

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 1:18-at-00813 Document 1-1 Filed 11/06/18 Page 2 of 2
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: [Zacky Farms, Zacky & Sons Poultry Hit with Class Action After Mass Layoff](#)
