

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

WENDELL H. STONE COMPANY,)	
INC. d/b/a STONE & COMPANY,)	
individually and on behalf of all others)	
similarly situated,)	Case No.
)	
Plaintiff,)	CLASS ACTION COMPLAINT
)	
v.)	JURY TRIAL DEMANDED
)	
PC SHIELD INC., an Oklahoma)	
corporation,)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

Plaintiff Wendell H. Stone Company Inc. d/b/a Stone & Company (“Stone & Company” or “Plaintiff”) brings this Class Action Complaint against Defendant PC Shield Inc. (“PC Shield” or “Defendant”) to stop Defendant’s practice of sending unsolicited fax advertisements and to obtain redress for all persons injured by its unlawful conduct. Plaintiff Stone & Company, for its Class Action Complaint, alleges as follows upon personal knowledge as to itself and its own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by its attorneys.

PARTIES

1. Plaintiff Stone & Company is a corporation incorporated and existing under the laws of the Commonwealth of Pennsylvania. Stone & Company’s principal place of business is in Connellsville, Pennsylvania.

2. Defendant PC Shield, Inc. is a corporation incorporated and existing under the laws of the State of Oklahoma. PC Shield does business throughout the United States, including in the Commonwealth of Pennsylvania and in this District.

JURISDICTION & VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”) a federal statute. This Court also has jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332 (“CAFA”). The alleged Class consists of over 100 persons, there is minimal diversity, and the claims of the class members when aggregated together exceed \$5 million. Further, none of the exceptions to CAFA applies here.

4. The Court has personal jurisdiction over Defendant and venue is proper in this District because Defendant regularly conducts business in this District and a substantial part of the events giving rise to the claims asserted here occurred in this District.

COMMON ALLEGATIONS OF FACT

5. This case challenges Defendant’s practice of sending unsolicited fax advertisements.

6. The federal Telephone Consumer Protection Act of 1991, as amended by the Junk Fax Prevention Act of 2005, 47 U.S.C. § 227, *et seq.* (“JFPA” or the “Act”), and the regulations promulgated under the Act, prohibit a person or entity from faxing or having an agent fax advertisements without the recipient’s prior express consent, invitation, and permission. The JFPA provides a private right of action and provides statutory damages of \$500 per violation. Upon information and belief, Defendant has sent facsimile transmissions of unsolicited advertisements to Plaintiff and the Class in violation of the JFPA in August 2017. (*See* “PC Shield Fax,” a true and correct copy of which is attached hereto as Exhibit A.) The PC Shield Fax promotes the services and goods of Defendant, namely its hardware and software computer protection. Plaintiff is informed and believes, and upon such information and belief avers, that

Defendant has sent, and continues to send, unsolicited advertisements via facsimile transmission in violation of the JFPA.

7. Unsolicited faxes cause damage to their recipients. A junk fax recipient loses the use of its fax machine, paper, and ink toner. An unsolicited fax wastes the recipient's time that would have been spent on something else. A junk fax also invades the recipient's privacy. Unsolicited faxes prevent fax machines from receiving authorized faxes, prevent their use for authorized outgoing faxes, cause undue wear and tear on the recipients' fax machines, and require additional labor to attempt to discern the source and purpose of the unsolicited message.

8. On behalf of itself and all others similarly situated, Plaintiff brings this case as a class action asserting claims against Defendant under the JFPA.

9. Plaintiff is informed and believes, and on such information and belief states, that this action is based on a common nucleus of operative fact because the facsimile transmissions at issue were and are being performed in the same or similar manner. This action is based on the same legal theory, namely liability under the JFPA stemming from the same faxes being sent from the same equipment. This action seeks relief expressly authorized by the JFPA: (i) injunctive relief enjoining Defendant, its employees, agents, representatives, contractors, affiliates, and all persons and entities acting in concert with them, from sending unsolicited advertisements in violation of the JFPA, and (ii) an award of statutory damages in the minimum amount of \$500 for each violation of the JFPA, and to have such damages trebled, as provided by § 227(b)(3) of the Act.

FACTS SPECIFIC TO PLAINTIFF STONE & COMPANY

10. In August 2017, Defendant caused an unsolicited facsimile to be transmitted by telephone facsimile machine to Plaintiff. (*See Ex. A.*)

11. PC Shield profited from and received the benefits of marketing its products and services by fax and is a responsible party under the JFPA.

12. Defendant created or caused to be made Exhibit A hereto, which Defendant knew or should have known advertises Defendant's goods or products (namely, its computer protection software and other products), and Defendant intended to and did in fact distribute Exhibit A to Plaintiff and the other members of the Class.

13. Exhibit A is a fax advertisement that is part of Defendant's work or operations, including its marketing of its products, which is performed by Defendant and/or on behalf of Defendant. Exhibit A constitutes material furnished in connection with Defendant's work or operations.

14. Plaintiff never consented or invited Defendant to send the faxes, nor has Plaintiff ever given permission to Defendant to send the Fax and had no prior relationship with Defendant.

15. On information and belief, Defendant faxed the same unsolicited facsimile to Plaintiff and more than 40 other recipients without first receiving the recipients' express permission or invitation to send such faxes.

16. There is no reasonable means for Plaintiff (or any other class member) to avoid receiving unauthorized faxes. Fax machines are left on and ready to receive the communications their owners actually desire and consent to receiving.

17. Defendant's facsimile did not display a proper opt-out notice as required by 47 C.F.R. 64.1200. Among other things, it did not apprise recipients of their legal right to opt out.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3) on

behalf of itself and the Class defined as follows:

No Consent Class: All persons who (1) on or after four years prior to the filing of this action, (2) were sent, by Defendant or on Defendant's behalf an unsolicited telephone facsimile message substantially similar to Exhibit A, (3) from whom Defendant claims it obtained prior express permission or invitation to send those faxes in the same manner as Defendant claims it obtained prior express consent to fax Plaintiff.

19. The following individuals are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which Defendant or their parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) the legal representatives, successors or assigns of any such excluded persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated and/or released. Plaintiff anticipates the need to amend the class definition following appropriate discovery.

20. **Numerosity:** The exact number of members within the Class is unknown and not available to Plaintiff at this time, but it is clear that individual joinder is impracticable. On information and belief, Defendant has sent facsimile advertisements to hundreds or thousands of consumers who fall into the definition of the Class. However, the exact number of members of the Class can only be identified through Defendant's records.

21. **Typicality:** Plaintiff's claims are typical of the claims of all class members. Plaintiff received the Faxes sent by or on behalf of Defendant advertising goods and services of Defendant during the Class Period. Plaintiff is making the same claims and seeking the same relief for itself and all class members based upon the same federal statute. Defendant has acted the same or in a similar manner with respect to Plaintiff and all the class members.

22. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class. It is interested in this matter, has no conflicts, and has retained experienced class counsel to represent the Class.

23. **Commonality and Predominance:** Common questions of law and fact apply to the claims of all class members. Common material questions of fact and law include, but are not limited to, the following:

- a. Whether Defendant sent an unsolicited fax advertisement;
- b. Whether Defendant's fax advertised the commercial availability of property, goods, or services;
- c. Whether the manner and method Defendant used to compile or obtain the list of fax numbers to which it sent Exhibit A and other unsolicited faxed advertisements procured prior express consent from the recipients to send the faxes;
- d. Whether Defendant faxed advertisements without first obtaining the recipient's prior permission or invitation;
- e. Whether Defendant sent the faxed advertisements knowingly;
- f. Whether Defendant violated the provisions of 47 U.S.C. § 227, *et seq.* and the regulations promulgated thereunder;
- g. Whether the Faxes contained an "opt-out notice" that complies with the requirements of § 227(b)(1)(C)(iii) of the Act, and the regulations promulgated thereunder, and the effect of the failure to comply with such requirements;
- h. Whether Defendant should be enjoined from faxing advertisements in the future;

i. Whether Plaintiff and the other members of the Class are entitled to statutory damages; and

j. Whether the Court should award treble damages.

24. **Conduct Similar to the Class as a Whole:** Class certification is appropriate because Defendant has acted and refused to act in the same or similar manner with respect to all class members thereby making injunctive and declaratory relief appropriate. Plaintiff demands such relief as authorized by 47 U.S.C. §227, *et seq.*

25. **Superiority & Manageability:** Common questions of law and fact predominate over any questions affecting only individual members, and a class action is superior to other methods for the fair and efficient adjudication of the controversy because:

a. Proof of Plaintiff's claims will also prove the claims of the Class without the need for separate or individualized proceedings;

b. Evidence regarding defenses or any exceptions to liability that Defendant may assert and prove will come from Defendant's own records and will not require individualized or separate inquiries or proceedings;

c. Defendant has acted and is continuing to act pursuant to common policies or practices in the same or similar manner with respect to all class members;

d. The amount likely to be recovered by individual class members does not support individual litigation. A class action will permit a large number of relatively small claims involving virtually identical facts and legal issues to be resolved efficiently in one (1) proceeding based upon common proofs; and

e. This case is manageable as a class action in that:

i. Defendant identified persons or entities to receive the fax

transmission and it is believed that Defendant's computer and business records will enable Plaintiff to readily identify class members and establish liability and damages;

- ii. Liability and damages can be established for Plaintiff and the Class with the same common proofs;
- iii. Statutory damages are provided for in the statute and are the same for all class members and can be calculated in the same or a similar manner;
- iv. A class action will result in an orderly and expeditious administration of claims and it will foster economics of time, effort and expense;
- v. A class action will contribute to uniformity of decisions concerning Defendant's practices; and
- vi. As a practical matter, the claims of the Class are likely to go unaddressed absent class certification.

CAUSE OF ACTION

**Violation of the Junk Fax Protection Act, 47 U.S.C. § 227, *et seq.*
(On behalf of Plaintiff and the No Consent Class)**

26. Plaintiff incorporates by reference the foregoing allegations as if fully set forth herein.

27. The JFPA makes unlawful for any person to “use any telephone facsimile machine, computer or other device to send, to a telephone facsimile machine, an unsolicited advertisement ...” 47 U.S.C. § 227(b)(1)(C).

28. The JFPA defines “unsolicited advertisement” as “any material advertising the

commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission, in writing or otherwise.” 47 U.S.C. § 227(a)(5).

29. The faxes sent by Defendant advertised Defendant’s software and hardware protection packages, were commercial in nature, and are advertisements under the TCPA.

30. Plaintiff and the other class members never gave prior express consent, invitation, or permission to receive the faxes. All Faxes were unsolicited, and Plaintiff has no prior business relationship with Defendant.

31. **Opt-Out Notice Requirements:** The JFPA strengthened the prohibitions against the sending of unsolicited advertisements by requiring, in § 227(b)(1)(C)(iii) of the Act, that senders of faxed advertisements place a clear and conspicuous notice on the first page of the transmission that contains the following among other things (hereinafter collectively the “Opt-Out Notice Requirements”).

1. a statement that the recipient is legally entitled to opt-out of receiving future faxed advertisements – knowing that he or she has the legal right to request an opt-out gives impetus for recipients to make such a request, if desired;

2. a statement that the sender must honor a recipient’s opt-out request within 30 days and the sender’s failure to do so is unlawful – thereby encouraging recipients to opt-out, if they did not want future faxes, by advising them that their opt-out requests will have legal “teeth”;

3. a statement advising the recipient that he or she may opt-out with respect to all of his or her facsimile telephone numbers and not just the

ones that receive a faxed advertisement from the sender – thereby instructing a recipient on how to make a valid opt-out request for all of his or her fax machines;

The requirement of (1) above is incorporated from § 227(b)(2)(D)(ii) of the Act. The requirement of (2) above is incorporated from § 227(b)(2)(D)(ii) of the Act and the rules and regulations of the Federal Communications Commission (“FCC”) in ¶ 31 of its 2006 Report and Order (*In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act, Junk Prevention Act of 2005*, 21 F.C.C.R. 3787, 2006 WL 901720, which rules and regulations took effect on August 1, 2006). The requirements of (3) above are contained in § 227(b)(2)(E) of the Act and incorporated into the Opt-Out Notice Requirements via § 227(b)(2)(D)(ii). Compliance with the Opt-Out Notice Requirements is neither difficult nor costly. The Opt-Out Notice Requirements are important consumer protections bestowed by Congress upon the owners of fax machines giving them the right, and means, to stop unwanted faxed advertisements. As a result of such requirements, a sender of a faxed advertisement who fails to comply with the Opt-Out Notice Requirements has, by definition, transmitted an unsolicited advertisement under the JFPA. This is because such a sender can neither claim that the recipients of the faxes advertisement gave “prior express permission or invitation” to receive the Faxes nor can the sender claim the exemption from liability contained in § 227(b)(1)(C) of the Act.

32. **The Faxes:** Defendant sent the August 2017 faxes via facsimile transmission from a telephone facsimile machine, computer, or other device to the telephone facsimile machines of Plaintiff and members of Class. The Faxes constituted an advertisement under the Act. Defendant failed to comply with the Opt-Out Requirements in connection with the Faxes

because the faxes fail to apprise recipients of their legal right to opt out and instead provide no mechanism at all to cease the transmission of faxes. The PC Shield Faxes were transmitted to persons or entities without their prior express permission or invitation and/or Defendant is precluded from asserting any prior express permission or invitation because of the failure to comply with the Opt-Out Notice Requirements. By virtue thereof, Defendant violated the JFPA and the regulations promulgated thereunder by sending the Faxes via facsimile transmission to Plaintiff and members of the Class.

33. **Defendant's Other Violations.** Plaintiff is informed and believes, and upon such information and belief avers, that during the period preceding four years of the filing of this Complaint and repeatedly thereafter, Defendant has sent via facsimile transmission from telephone facsimile machines, computers, or other devices to telephone facsimile machines of members of the Class faxes that constitute advertisements under the JFPA that were transmitted to persons or entities without their prior express permission or invitation (and/or that Defendant is precluded from asserting any prior express permission or invitation because of the failure to comply with the Opt-Out Notice Requirements in connection with such transmissions). By virtue thereof, Defendant violated the JFPA and the regulations promulgated thereunder. Plaintiff is informed and believes, and upon such information and belief avers, that Defendant is continuing to send unsolicited advertisements via facsimile transmission in violation of the JFPA and the regulations promulgated thereunder, and absent intervention by this Court, will do so in the future.

34. The TCPA/JFPA provides a private right of action to bring this action on behalf of Plaintiff and the Class to redress Defendant's violations of the Act, and provides for statutory damages. 47 U.S.C. § 227(b)(3). The Act also provides that injunctive relief is appropriate. *Id.*

35. Defendant knew or should have known that (a) Plaintiff and the other class members had not given express invitation or permission for Defendant or anybody else to fax advertisements about Defendant's goods or services; (b) the faxes constituted an advertisement; and (c) the Faxes did not apprise recipients of their legal right to opt-out.

36. Defendant's actions caused damages to Plaintiff and the other class members. Receiving Defendant's junk faxes caused the recipients to lose paper and toner consumed in the printing of Defendant's faxes. Moreover, Defendant's faxes used Plaintiff's fax machine. Defendant's faxes cost Plaintiff time, as Plaintiff and its employees wasted their time receiving, reviewing, and routing Defendant's unauthorized faxes. That time otherwise would have been spent on Plaintiff's business activities. Defendant's faxes unlawfully invaded Plaintiff's and other class members' privacy interests in being left alone. Finally, the injury and property damage sustained by Plaintiff and the other class members from the sending of Defendant's advertisements occurred outside of Defendant's premises.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Stone & Company, Inc., on behalf of itself and the Class, prays for the following relief:

1. An order certifying this case as a class action on behalf of the Class as defined above; appointing Plaintiff Stone & Company as the representative of the Class and appointing its attorneys' as Class Counsel;
2. An award of actual monetary loss from such violations or the sum of five hundred dollars (\$500.00) for each violation, whichever is greater;
3. An order enjoining Defendant from further violations, and otherwise protecting the interests of the Class;

4. An award of pre-judgment interest;
5. An award of reasonable attorneys' fees and costs;
6. And award of treble damages where willfulness is shown; and
7. Such further and other relief the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Dated: August 27, 2018

STONE & COMPANY, INC., individually,
and on behalf of all others similarly
situated,

By: /s/Stuart C. Gaul, Jr.
Stuart C. Gaul, Jr.
Pa. I.D. No. 74529
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100 Ross Street, Suite 510
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Telephone: (720) 213-0675
Facsimile: (303) 927-0809

Counsel for Plaintiff and the Putative Class

**pro hac vice admission to be filed*

EXHIBIT A

Date: August 26, 2017
 # PA1557742

AD FROM:
PC Shield Inc
 PO Box 96143
 Oklahoma City, OK 73143
 Fax: (405) 759-7974
 Email: Info@PCShieldInc.com

TO:
Stone & Co
 RR 12 Box 613
 Greensburg, PA 15601
 Phone: 724-836-1400
 Web Site:

Description of Services: Computer Hardware / Software Protection

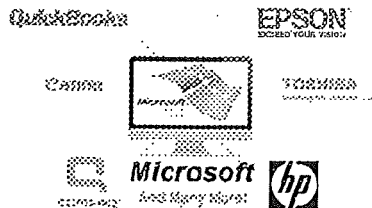
PREORDER AMOUNT:	\$ 590.00
Discount If Paid In 10 Days:	- 59.00

TOTAL:	\$ 531.00

Includes: 12 months access to software and hardware protection.

Your support will be used with the most current software and hardware protection technology. Once your computer is received the latest malware, adware, and virus removing software is applied. Hardware will be taken apart and professionally cleaned. The technology we use comes from knowledge bases and forums from major companies like Microsoft, HP, Compaq, QuickBooks, and more. With your preorder you save on 12 months support. You may cancel this 12 month contract without any penalty or obligation within 3 business days from the date your payment is received, and get a full refund of all payments made to the seller. If you cancel the contract within 30 days, the seller (PC Shield Inc) may keep only a portion of the contract price, equal to a prorated total price representing the proportion of services you used or completed, plus the cost of the seller. After receiving your initial payment expect annual invoices until membership is canceled. To be removed from this advertising database contact us either by fax or email listed above.

**Please fill in the blanks and mail or fax with the completed CREDIT CARD or CHECK to our address:
 PC Shield Inc., PO Box 96143, Oklahoma City, OK 73143**



PAYABLE TO PC SHIELD INC OR BY CREDIT CARD PAYMENT	
Payment Method: _____ Visa _____ MasterCard _____ Discover _____ AM EX	
Credit Card Payment:	Card Number _____
Amount Paid:	Card Holder _____
\$ _____	Card Holder Address _____
	City _____ State _____ Zip _____
	Exp Date _____ Card Security Code _____
<i>I agree to pay the above amount according to card issuer agreement</i>	
	Signature _____

DISCLAIMER: All logos contained herein are the property of their respective owners. This is a proposal for the order of goods or services, or both, and this is not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer. Your organization and our company have in the past not done business together.

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

WENDELL H. STONE COMPANY, INC. d/b/a STONE & COMPANY, individually & on behalf of all others similarly situated

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

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

Gaul Legal LLC; 100 Ross Street, Suite 510; Pittsburgh, PA 15219 412-261-5100

DEFENDANTS

PC SHIELD INC.

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

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

Attorneys (If Known)

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

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

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER 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): 47 U.S.C. Secs. 227 et seq.

Brief description of cause: Violation of Telephone Consumer Act

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: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 08/27/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Stuart C. Gaul, Jr.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____ . Short Caption _____
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: August 27, 2018

/s/Stuart C. Gaul, Jr.

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH ÔŠPRU MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

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.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

WENDELL H. STONE COMPANY, INC. d/b/a
STONE & COMPANY, individually and on behalf of
all others similarly situated,

Plaintiff(s)

v.

PC Shield, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PC SHIELD, INC.
c/o REGISTERED AGENT BRANDIE M JORDAN
4801 S I35 SERVICE RD
SUITE # 96143
OKLAHOMA CITY, OK 73129

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Stuart Gaul, Jr.
Gaul Legal LLC
100 Ross Street, Suite 510
Pittsburgh, PA 15219
412-261-5100 (P)

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [PC Shield Facing Lawsuit After Allegedly Sending Junk Faxes](#)
