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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 CLAYTON P. ZELLMER, on behalf of)
17 himself and all others similarly situated,)
18) Plaintiff,))
19 vs.)
20 FACEBOOK, INC.,)
21 Defendant.)

Case No. _____
Class Action
**Class Action Complaint for Violation
of the Illinois Biometric Information
Privacy Act**
Demand for Jury Trial

1 Plaintiff Clayton P. Zellmer (“Plaintiff” or “Plaintiff Zellmer”), individually and on
2 behalf of all others similarly situated, brings this class action against defendant
3 Facebook, Inc. (“Facebook”), alleging violations of the Illinois Biometric Information
4 Privacy Act (“BIPA”), 740 ILCS 14/1 *et seq.* Plaintiff makes these allegations based on
5 personal knowledge as to himself, on the investigation of his counsel and the advice and
6 consultation of certain third-party agents as to technical matters, and on information
7 and belief as to all other matters. Plaintiff believes that substantial additional
8 evidentiary support will exist for the allegations set forth below after a reasonable
9 opportunity for discovery. Plaintiff demands a trial by jury.

10 NATURE OF THE ACTION

11 1. Plaintiff brings this action for damages and other legal and equitable
12 remedies resulting from the illegal actions of Facebook in violating the BIPA by
13 capturing, possessing, collecting, storing, receiving through trade, obtaining, and using
14 the biometric identifiers¹ and biometric information² (referred to collectively at times as
15 “biometrics”) of Plaintiff and other similarly situated individuals, without their informed
16 written consent.

17 2. The Illinois Legislature has found that “[b]iometrics are unlike other
18 unique identifiers that are used to access finances or other sensitive information.” 740
19 ILCS 14/5(c). “For example, social security numbers, when compromised, can be
20 changed. Biometrics, however, are biologically unique to the individual; therefore, once
21 compromised, the individual has no recourse, is at heightened risk for identity theft, and
22 is likely to withdraw from biometric-facilitated transactions.” *Id.*

23 3. In recognition of these concerns over the security of individuals’
24 biometrics — particularly in the City of Chicago, which was recently selected by major

25 ¹ A “biometric identifier” is any personal feature that is unique to an individual,
26 including fingerprints, iris scans, DNA and “face geometry,” among others.

27 ² “Biometric information” is any information captured, converted, stored or
28 shared based on a person’s biometric identifier used to identify an individual.

1 national corporations as a “pilot testing site[] for new applications of biometric-
2 facilitated financial transactions, including finger-scan technologies at grocery stores,
3 gas stations, and school cafeterias,” 740 ILCS 14/5(b) — the Illinois Legislature enacted
4 the BIPA, which provides, *inter alia*, that a private entity like Facebook may not obtain
5 or possess an individual’s biometrics unless it: (i) informs that person in writing that
6 biometric identifiers or information will be collected or stored, *see* 740 ILCS 14/15(b);
7 (ii) informs that person in writing of the specific purpose and length of term for which
8 such biometric identifiers or biometric information is being collected, stored and used,
9 *see id.*; (iii) receives a written release from the person for the collection of his or her
10 biometric identifiers or information, *see id.*; and (iv) publishes publically available
11 written retention schedules and guidelines for permanently destroying biometric
12 identifiers and biometric information, *see* 740 ILCS 14/15(a).

13 4. In direct violation of each of the foregoing provisions of Section 15(a) and
14 Section 15(b) of the BIPA, Facebook is actively collecting, storing, and using — without
15 providing notice, obtaining informed written consent, or publishing data retention
16 policies — the biometrics of its users and unwitting non-users like Plaintiff.

17 5. Specifically, Facebook has created, collected and stored over a billion “face
18 templates” (or “face prints”) — highly detailed geometric maps of the face — from over a
19 billion individuals, millions of whom reside in the State of Illinois. Facebook creates
20 these templates using sophisticated facial recognition technology that extracts and
21 analyzes data from the points and contours of faces appearing in photos uploaded by
22 their users. Each face template is unique to a particular individual, in the same way that
23 a fingerprint or voiceprint uniquely identifies one and only one person.

24 6. At all times relevant, Facebook has stated publicly on its website that “[w]e
25 are able to suggest that your friend tag you in a picture **by scanning** and comparing
26 your friend’s pictures to information we’ve put together from the other photos you have
27 been tagged in.” According to the same website, this process is performed by “**facial**

1 **recognition software that uses an algorithm to calculate a unique number**
2 **(‘template’) based on someone’s facial features, like the distance between**
3 **the eyes, nose and ears.”³**

4 7. Plaintiff, who has never had a Facebook account, brings this action
5 individually and on behalf of all others similarly situated to prevent Facebook from
6 further violating the privacy rights of Illinois residents, and to recover statutory
7 damages for Facebook’s unauthorized collection, storage and use of unwitting non-
8 users’ biometrics in violation of the BIPA.

9 **PARTIES**

10 8. Plaintiff Zellmer is, and has been at all relevant times, a resident and
11 citizen of Illinois. Plaintiff Zellmer is not, and has never been, a Facebook user. Plaintiff
12 Zellmer does not have, and has never had, a Facebook account.

13 9. With its over one billion users, Facebook operates the world’s largest
14 online social networking website. Facebook is a Delaware corporation with its
15 headquarters and principal executive offices at 1601 Willow Road, Menlo Park,
16 California 94025. Accordingly, Facebook is a citizen of the states of Delaware and
17 California.

18 **JURISDICTION AND VENUE**

19 10. This Court has subject matter jurisdiction over this action pursuant to 740
20 ILCS 14/20 and the Class Action Fairness Act (28 U.S.C. § 1332(d)), because: (i) the
21 proposed class of non-users of Facebook consist of well over 100 members; (ii) the
22 parties are minimally diverse with respect to the proposed class, as the members of the
23 proposed class, including Plaintiff, are citizens of a state different from Facebook’s home
24 states; and (iii) the aggregate amount in controversy with respect to the proposed class
25 exceeds \$5,000,000.00, exclusive of interests and costs.

26
27 ³ All emphases are added unless otherwise noted.

1 11. Facebook is subject to personal jurisdiction in California under California
2 Code of Civil Procedure § 410.10 because Facebook owns and operates a business that is
3 headquartered in California, and because it conducts substantial business throughout
4 California.

5 12. Venue is proper in this District because Facebook resides in this District
6 and is subject to personal jurisdiction in this District.

7 **INTRADISTRICT ASSIGNMENT**

8 13. Facebook maintains its principal executive offices in San Mateo County.
9 This action shall thus be assigned to the San Francisco Division or Oakland Division of
10 this District. Because a related case — *Gullen v. Facebook, Inc.*, No. 16-cv-0937-JD
11 (N.D. Cal.) — is pending in the San Francisco Division of this District, before the
12 Honorable James Donato, this action should be assigned to Judge Donato of the *San*
13 *Francisco Division*.

14 **FACTUAL ALLEGATIONS**

15 **I. Biometric Technology Implicates Consumer Privacy Concerns**

16 14. “Biometrics” refers to unique physical characteristics used to identify an
17 individual. One of the most prevalent uses of biometrics is in facial recognition
18 technology, which works by scanning an image for human faces, extracting facial feature
19 data based on specific “biometric identifiers” (*i.e.*, details about the face’s geometry as
20 determined by facial points and contours), and comparing the resulting “face template”
21 (or “faceprint”) against the face templates stored in a “face template database.” If a
22 database match is found, an individual may be identified.

23 15. The use of facial recognition technology in the commercial context
24 presents numerous consumer privacy concerns. During a 2012 hearing before the
25 United States Senate Subcommittee on Privacy, Technology, and the Law, then-Senator
26 Al Franken stated that “there is nothing inherently right or wrong with [facial
27 recognition technology, but] if we do not stop and carefully consider the way we use [it],
28

1 it may also be abused in ways that could threaten basic aspects of our privacy and civil
 2 liberties.”⁴ Senator Franken noted, for example, that facial recognition technology could
 3 be “abused to not only identify protesters at political events and rallies, but to target
 4 them for selective jailing and prosecution.”⁵

5 16. The Federal Trade Commission (“FTC”) has raised similar concerns, and
 6 recently released a “Best Practices” guide for companies using facial recognition
 7 technology.⁶ In the guide, the FTC underscores the importance of companies obtaining
 8 affirmative consent from consumers before extracting and collecting their biometric
 9 identifiers and biometric information from digital photographs.

10 17. As explained below, Facebook failed to obtain consent from unwitting
 11 non-users when it introduced its facial recognition technology. Not only do the actions
 12 of Facebook contravene the FTC guidelines, they also violate the statutory privacy rights
 13 of Illinois residents.

14 **II. The BIPA**

15 18. In 2008, Illinois enacted the BIPA due to the “very serious need [for]
 16 protections for the citizens of Illinois when it [comes to their] biometric information.”
 17 Illinois House Transcript, 2008 Reg. Sess. No. 276. The BIPA makes it unlawful for a
 18 company to, *inter alia*, “collect, capture, purchase, receive through trade, or otherwise
 19 obtain a person’s or a customer’s biometric identifiers⁷ or biometric information, unless
 20 it first:

21 ⁴ *What Facial Recognition Technology Means for Privacy and Civil Liberties: Hearing Before the Subcomm. on Privacy, Tech. & the Law of the S. Comm. on the*
 22 *Judiciary*, 112TH CONG. 1 (2012) (available at https://www.eff.org/files/filenode/jenniferlynn_eff-senate-testimony-face_recognition.pdf).

23 ⁵ *Id.*

24 ⁶ *Facing Facts: Best Practices for Common Uses of Facial Recognition*
 25 *Technologies*, FEDERAL TRADE COMMISSION (Oct. 2012) (available at <http://www.ftc.gov/sites/default/files/documents/reports/facing-facts-best-practices-common-uses-facial-recognition-technologies/121022facialtechrpt.pdf>).

26 ⁷ The BIPA’s definition of “biometric identifier” expressly includes information
 27 collected about the geometry of the face (*i.e.*, facial data obtained through facial
 28 recognition technology). See 740 ILCS 14/10.

1 (1) informs the subject ... in writing that a biometric identifier or biometric
information is being collected or stored;

2 (2) informs the subject ... in writing of the specific purpose and length of
3 term for which a biometric identifier or biometric information is being
collected, stored, and used; and

4 (3) receives a written release executed by the subject of the biometric
5 identifier or biometric information or the subject's legally authorized
representative.”

6 740 ILCS 14/15(b).

7 19. Section 15(a) of the BIPA also provides:

8 A private entity in possession of biometric identifiers or biometric
9 information must develop a written policy, made available to the public,
10 establishing a retention schedule and guidelines for permanently
11 destroying biometric identifiers and biometric information when the
initial purpose for collecting or obtaining such identifiers or information
has been satisfied or within 3 years of the individual's last interaction with
the private entity, whichever occurs first.

12 740 ILCS 14/15(a).

13 20. As alleged below, Facebook's practices of capturing, possessing, collecting,
14 storing, receiving through trade, obtaining, and using unwitting non-users' biometric
15 identifiers and information without informed written consent violate all three prongs of
16 Section 15(b) of the BIPA. Facebook's failure to provide a publicly available written
17 policy regarding its schedule and guidelines for the retention and permanent
18 destruction of non-users' biometric information also constitutes a separate and
19 independent violation of Section 15(a) of the BIPA.

20 **III. Facebook Violates the BIPA**

21 21. Facebook users upload approximately 300 million photos per day, making
22 photographs a vital part of the Facebook experience.

23 22. Unbeknownst to the average consumer, and in direct violation of Section
24 15(b)(1) of the BIPA, Facebook's proprietary facial recognition technology scans every
25 user-uploaded photo for faces, extracts geometric data relating to the unique points and
26 contours of each face, and then uses that data to create and store a template of each face
27 — all without ever directly informing anyone of this practice.

1 23. Facebook holds several patents covering its facial recognition technology
2 that detail its process of scanning photos for biometric identifiers and obtaining face
3 templates without obtaining informed written consent.

4 24. Facebook's scanning of face geometry works by comparing the face
5 templates of individuals who appear in newly-uploaded photos with the facial templates
6 already saved in Facebook's face database. Specifically, when a Facebook user uploads a
7 new photo, Facebook's sophisticated facial recognition technology creates a scan of a
8 face geometry template for each face depicted therein, without consideration for
9 whether a particular face belongs to a Facebook user or unwitting non-user, and then
10 compares each template against Facebook's face template database. If no match is
11 found, the user is prompted to identify by name the person whose face is depicted, at
12 which point the face template and corresponding name identification are saved in
13 Facebook's face database. However, if a face template is generated that matches a face
14 template already in Facebook's face database, then Facebook suggests that the user click
15 on the name that matches the name already associated with that face.

16 25. These unique biometric identifiers are not only collected and used by
17 Facebook to identify individuals by name, but also to recognize their gender, age, race
18 and location. Accordingly, Facebook also collects "biometric information" from non-
19 users. *See* 740 ILCS 14/10.

20 26. In direct violation of Section 15(b)(2) and Section 15(b)(3) of the BIPA,
21 Facebook never informed Illinois non-users, such as Plaintiff, who were tagged by
22 Facebook's users, of the specific purpose and length of term for which their biometric
23 identifiers or information would be collected, stored and used, nor did Facebook obtain
24 a written consent and release from any of these non-users as the statute expressly
25 requires.

1 34. Plaintiff is informed and believes, and thereupon alleges, that Facebook
2 users residing in Illinois have uploaded to personal pages on Facebook, from devices
3 assigned Illinois-based IP addresses, numerous additional photographs depicting
4 Plaintiff Zellmer over the past several years, and that such photographs were both taken
5 and uploaded to Facebook while Plaintiff Zellmer resided in Illinois.

6 35. Upon upload to Facebook of each of the aforementioned photographs of
7 Plaintiff Zellmer, Facebook automatically scanned and analyzed Plaintiff Zellmer's face,
8 extracted his biometric identifiers (such as geometric data relating to the unique
9 contours of his face geometry and the distances between his eyes, nose and ears), and
10 then used those biometric identifiers to create a digitized template of his face.

11 36. Facebook then prompted the Facebook users who uploaded these photos
12 to match a name to Plaintiff Zellmer's face, at which point the user matched the name
13 "Clayton Zellmer" to Plaintiff Zellmer's face in the photographs. Facebook violates the
14 statute with respect to Plaintiff Zellmer not solely by "prompting" users to match names
15 with faces, but by capturing, possessing, collecting, storing, receiving through trade,
16 obtaining or using Plaintiff Zellmer's biometric identifiers.

17 37. The face template created from Plaintiff Zellmer's biometric identifiers
18 was also used by Facebook to recognize Plaintiff Zellmer's gender, age, race and
19 location.

20 38. Plaintiff Zellmer never consented, agreed or gave permission — written or
21 otherwise — to Facebook for the capturing, possessing, collecting, storing, receiving
22 through trade, obtaining, or using of the biometric identifiers or biometric information
23 associated with Plaintiff Zellmer's face template.

24 39. Further, Facebook never provided Plaintiff Zellmer with nor did he ever
25 sign a written release allowing Facebook to capture, possess, collect, store, receive
26 through trade, obtain or use biometric identifiers or biometric information associated
27 with Plaintiff Zellmer's face template. Further, Facebook never provided Plaintiff
28

1 Zellmer's legally authorized representative with nor did Plaintiff Zellmer's legally
2 authorized representative ever sign a written release allowing Facebook to capture,
3 possess, collect, store, receive through trade, obtain or use biometric identifiers or
4 biometric information associated with Plaintiff Zellmer's face template.

5 40. Likewise, Facebook never provided Plaintiff Zellmer with an opportunity
6 to prohibit or prevent the capture, possession, collection, storage, receiving through
7 trade, obtaining, or use of the biometric identifiers associated with Plaintiff Zellmer's
8 face template.

9 41. Nevertheless, when Facebook users uploaded photos of Plaintiff Zellmer,
10 Facebook located Plaintiff Zellmer's face in each such photo, scanned Plaintiff's facial
11 geometry, and created a unique face template corresponding to Plaintiff Zellmer, all in
12 direct violation of the BIPA.

13 **CLASS ALLEGATIONS**

14 42. **Class Definition:** Plaintiff brings this action on behalf of a class of
15 similarly situated individuals, defined as follows (the "Class"):

16 All individuals who have never subscribed to Facebook.com or any
17 other Facebook, Inc. service and, while residing in Illinois, whose face was
18 depicted in a photograph uploaded to Facebook.com from a device
assigned an Illinois-based internet protocol address at any point in time
between August 31, 2010 and the present.

19 The following are excluded from the Class: (i) any Judge presiding over this action and
20 members of his or her family; (ii) Facebook, Facebook's subsidiaries, parents,
21 successors, predecessors, and any entity in which Facebook or its parent has a
22 controlling interest (as well as current or former employees, officers and directors); (iii)
23 persons who properly execute and file a timely request for exclusion from the Class; (iv)
24 persons whose claims in this matter have been finally adjudicated on the merits or
25 otherwise released; (v) Plaintiff's counsel and Facebook's counsel; and (vi) the legal
26 representatives, successors, and assigns of any such excluded persons.

27 43. **Numerosity:** The number of persons within the Class is substantial and
28 is believed to amount to thousands of people. It is, therefore, impractical to join each
Class Action Complaint; Demand for Jury Trial

1 information of Plaintiff and the Class members, as required by the BIPA. *See* 740 ILCS
2 14/15(a).

3 55. By collecting, storing, and using Plaintiff's and the Class's biometric
4 identifiers and biometric information as described herein, Facebook violated the right of
5 Plaintiff and each Class member to keep private these biometric identifiers and
6 biometric information and prevented Plaintiff and the Class from exercising their rights
7 to refuse Defendant access to their biometric data, as set forth in the BIPA, 740 ILCS
8 14/1, *et seq.* In this way, Facebook has harmed Plaintiff and Class members by invading
9 and violating Plaintiff's and Class members' rights to privacy.

10 56. On behalf of himself and the proposed Class members, Plaintiff seeks: (i)
11 injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the
12 Class by requiring Facebook to comply with the BIPA's requirements for the collection,
13 storage, and use of biometric identifiers and biometric information as described herein;
14 (ii) statutory damages of \$5,000 for the intentional and reckless violation of the BIPA
15 pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000 pursuant
16 to 740 ILCS 14/20(1) if the Court finds that Facebook's violations were negligent; and
17 (iii) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740
18 ILCS 14/20(3).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff Zellmer, on behalf of himself and the proposed Class,
21 respectfully requests that this Court enter an order and judgment:

22 A. Certifying this case as a class action on behalf of the Class defined above,
23 appointing Plaintiff as representative of the Class, and appointing Plaintiff's counsel as
24 Class Counsel;

25 B. Declaring that Facebook's actions, as set forth above, violate the BIPA, 740
26 ILCS 14/1, *et seq.*;

1 C. Awarding statutory damages of \$5,000 for each and every intentional and
2 reckless violation of the BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory
3 damages of \$1,000 pursuant to 740 ILCS 14/20(1) if the Court finds that Facebook's
4 violations were negligent;

5 D. Awarding injunctive and other equitable relief as is necessary to protect
6 the interests of the Class, including, *inter alia*, an order requiring Facebook to collect,
7 store, and use biometric identifiers or biometric information in compliance with the
8 BIPA;

9 E. Awarding Plaintiff and the Class their reasonable litigation expenses and
10 attorneys' fees;

11 F. Awarding Plaintiff and the Class pre- and post-judgment interest, to the
12 extent allowable; and

13 G. Awarding such other and further relief as equity and justice may require.

14 **JURY TRIAL DEMAND**

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

16 Dated: March 27, 2018

Respectfully submitted,

BOTTINI & BOTTINI, INC.
Albert Y. Chang (SBN 296065)

s/ Albert Y. Chang
Albert Y. Chang

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CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CLAYTON P. ZELLMER, on behalf of himself and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Albert Y. Chang, BOTTINI & BOTTINI, INC. 7817 Ivanhoe Avenue, Suite 102, La Jolla, California 92037 (858) 914-2001

DEFENDANTS FACEBOOK, 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 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 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 PTF 1 DEF 1 Incorporated or Principal Place of Business In This State PTF 4 DEF 4 X 4
Citizen of Another State PTF 2 DEF 2 Incorporated and Principal Place of Business In Another State PTF 5 DEF 5
Citizen or Subject of a Foreign Country PTF 3 DEF 3 Foreign Nation PTF 6 DEF 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Personal Injury, Civil Rights, Habeas Corpus, etc.

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d)

Brief description of cause: Violation of the Illinois Biometric Information Privacy Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE James Donato DOCKET NUMBER 16-cv-0937-JD

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 03/27/2018

SIGNATURE OF ATTORNEY OF RECORD

s/ Albert Y. Chang

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

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