

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

DEREK BLOCK,)
KENNETH M. MILLER, and)
HOUSE OF GLUNZ, INC.)
C/O Robert D. Epstein)
Epstein Cohen Seif & Porter)
50 S. Meridian St., #505)
Indianapolis, IN 46204)

Plaintiffs,

vs.

JIM CANEPA, Superintendent of Liquor Control)
Ohio Division of Liquor Control)
6606 Tussing Rd.)
Reynoldsburg, OH 43068,)

DAVE YOST, Attorney General of Ohio)
30 East Broad St., 17th Floor)
Columbus, OH 43215,)

THOMAS J. STICKRATH, Director)
Ohio Department of Public Safety)
Charles Shipley Bldg.)
1970 W. Broad St.)
Columbus, OH 43223)

and

DEBORAH PRYCE, Chair of the Ohio Liquor)
Control Commission,)
77 S. High St., #1880)
Columbus, OH 43215)

Defendants.

Case No. _____

COMPLAINT

Plaintiffs make the following allegations based upon information and belief, except for the allegations pertaining to Plaintiffs, which are based upon personal knowledge.

Introduction

This is a civil rights action brought pursuant to 42 U.S.C. § 1983 by two Ohio wine consumers and an out-of-state wine retailer, challenging the constitutionality of provisions in the Ohio Liquor Control Act (Ohio Rev. Code chapters 4301 and 4303) which ban the sale, shipment and transportation of wine from out-of-state retailers to Ohio consumers. Because Ohio allows its own retailers to take internet orders and ship wine to consumers throughout the state, its prohibition against out-of-state retailers doing so discriminates against interstate commerce, protects local economic interests, and violates the Commerce Clause. The plaintiffs seek a declaratory judgment that the ban is unconstitutional and an injunction barring the defendants from enforcing these laws and requiring them to permit out-of-state wine retailers to sell, ship, and deliver wine to Ohio consumers from their premises located outside the state.

Jurisdiction

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3), which confer original jurisdiction on federal district courts to hear suits alleging the violation of rights and privileges under the United States Constitution and laws.

2. The Court has authority to grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202.

3. Plaintiffs do not request that state officials be enjoined from collecting any tax due on the sale of wine.

Plaintiffs

4. Derek Block is a resident of Mason, Ohio, in Warren County. He is over the age of twenty-one, does not live in a dry area, and is legally permitted to purchase, receive, possess and

drink wine at his residence. He is an avid wine drinker, collects French red wines, and has over 1000 bottles in his wine cellar. He would purchase wines from out-of-state retailers and have them shipped to his residence in Ohio if it were lawful to do so. He would personally transport wine home that he had obtained in other states if it were lawful to do so.

5. Kenneth M. Miller is a resident of Warren, Ohio, in Trumbull County. He is over the age of twenty-one, does not live in a dry area, and is legally permitted to purchase, receive, possess and drink wine at his residence. He is a wine enthusiast and a collector of fine wines from Bordeaux, California and Oregon. The wines he collects are primarily offered for sale online from out-of-state retailers. He would purchase wines from out-of-state retailers and have them shipped to his residence in Ohio if it were lawful to do so. He would also transport back to Ohio wines he has purchased outside the state if it were lawful to do so.

6. House of Glunz, Inc., is a corporation located in Chicago, Illinois. It is in the business of marketing, selling and shipping bottled wine at retail to consumers. It is licensed by, regulated by, and in good standing with the Illinois Liquor Control Commission. It accepts internet, telephone and other remote orders for wine, verifies the age of purchasers, and makes direct-to-consumer deliveries from its premises in Illinois. It would sell and ship wine to consumers in Ohio if it were lawful to do so, and would register as a foreign corporation, obtain permits from the defendants, consent to Ohio jurisdiction, remit taxes, and comply with other nondiscriminatory provisions of the Ohio Liquor Control Act. Christopher Donovan is its co-owner and business manager.

Defendants

7. Defendants are sued in their official capacities.

8. Jim Canepa is the Superintendent of the Ohio Division of Liquor Control, which is the agency that regulates the distribution and retail sale of alcoholic beverages. He is charged by Ohio Rev. Code §§ 4301.021, 4301.10, and 4301.13 with enforcing the Liquor Control Law, including provisions related to the sale and transportation of wine.

9. Dave Yost is the Attorney General of Ohion. He is authorized by Ohio Rev. Code § 4301.10(A)(4) to prosecute persons who violate the Liquor Control Act, and by 27 U.S.C. § 122a to bring suit in federal court to enjoin out-of-state wine retailers from violating Ohio liquor laws.

10. Thomas J. Stickrath is the Director of the Ohio Department of Public Safety. He is charged by Ohio Rev. Code § 5502.13 with conducting investigations and other enforcement activity authorized by the Liquor Control Law.

11. Deborah Pryce is Chairperson of the Ohio Liquor Control Commission, an independent state agency charged by Ohio Rev. Code § 4301.13(A) with adopting, amending and repealing rules to regulate the sale, distribution and shipment of bottled wine within the state, and by Ohio Rev. Code § 4301.25(A) with hearing cases related to violations of state liquor laws. The other Commission members are James E. Carnes and Mike Stinziano.

12. Defendants are acting under color of state law when they administer and enforce the statutes and regulations challenged herein.

Factual Background

13. A retailer located in Ohio can obtain a "C-2" permit from the Ohio Division of Liquor Control pursuant to Ohio Rev. Code § 4303.12, that allows it to sell wine to Ohio residents over the internet and to ship wine from its premises directly to their homes or businesses pursuant to Ohio Rev. Code §§ 4301.01(A)(2), 4303.01, and 4303.27.

14. House of Glunz and other retailers located outside Ohio cannot obtain a C-2 permit or any other permit from the Division of Liquor Control that would allow them to sell wine to Ohio residents over the internet and ship wine from its premises directly to their homes or businesses in Ohio. Ohio law does not authorize the defendants to issue a permit to an out-of-state retailer which would allow it to ship wine directly to Ohio consumers.

15. House of Glunz and other retailers located outside Ohio cannot ship wine directly to Ohio residents because the defendants will not issue them permits to do so and Ohio Rev. Code §§ 4301.58 (B), 4301.60 and 4303.25 prohibit selling and shipping wine without a permit.

16. An out-of-state wine retailer can obtain a C-2 permit, sell wine in the state, and ship wine to Ohio consumers only if it establishes a physical facility in Ohio.

17. House of Glunz has no business reason to establish physical premises in Ohio, cannot afford to do so, and the cost of maintaining a second retail store and hiring staff to operate it would increase the cost of its wine compared and make it more expensive than the same wine sold and shipped from its inventory and premises in Illinois, which would make it less competitive than wine sold and shipped by retailers located in Ohio.

18. House of Glunz carries in its inventory many old, rare and expensive wines that are hard to find and valued by collectors, including 1996 Araujo Estate Eisele Vineyard Cabernet Sauvignon for \$249, 1995 Chateau Mouton-Rothschild Pauillac for \$550, 1998 Petrus Pomerol for \$3800, and 2005 Domaine de la Romanee-Conti La Tache Grand Cru Monopole for \$5999, which are currently not offered for sale at any Ohio retailer.

19. House of Glunz prepares and ships wrapped gift boxes containing wine for personal and corporate gift giving and special events. It supplies the provenance of each bottle for genuine

authenticity, which is difficult for ordinary retailers to do but important to collectors.

20. House of Glunz offers a wine club to consumers whose members are shipped two carefully selected bottles of wine each month, accompanied by information about them.

21. House of Glunz has been in business since 1888. It employs experienced staff to help consumers select wines tailored to their events, tastes and price-ranges. It has developed a loyal customer base that relies upon its selection, expertise, and services. Among those regular customers are some who want House of Glunz to ship wine to Ohio.

22. House of Glunz employs trained staff to fill orders for wine to be shipped to consumers, whose training includes age verification procedures and safe alcohol sales.

23. House of Glunz has received requests that it ship wine to Ohio residents, either as gifts or for personal consumption, but is unable to do so because Ohio law prohibits such transactions. It has lost business and profits because it cannot ship to Ohio.

24. Derek Block is a wine consumer and he wants the opportunity to buy wine directly from wine retailers located outside of Ohio and to have these wines delivered to him in Ohio. There is no wine store in his home town of Mason that carries a wide selection of wine. He has tried to buy wine from out-of-state wine retailers and have it shipped, but was unable to complete those purchases because Ohio prohibits them.

25. Kenneth Miller is a wine enthusiast and collector. He wants the opportunity to buy wine directly from retailers located outside of Ohio that regularly carry high-end wines that have received good reviews, including K&L Wine Merchants in California and Binny's Beverage Depot in Illinois, and to have these wines delivered to him in Ohio, but has been unable to complete those purchases because Ohio prohibits them. Most of these high-end wines are

produced in limited quantities and not available locally.

26. Block and Miller also travel to other states, visit wineries and other wine sellers, and have the opportunity to acquire wine there. They want to be able to obtain wine from out-of-state sources and personally transport the wine back to Ohio in quantities in excess of 4.5 liters, but Ohio law prohibits it.

27. When Block and Miller are unable to buy wine from out-of-state sellers, they spend some of their wine-purchasing dollars at local Ohio retailers that they would otherwise have used to buy wine from out-of-state retailers.

Count I - First Commerce Clause Violation

28. Paragraphs 1-27 are incorporated as if set forth fully herein.

29. Ohio Rev. Code § 4301.20 prohibits consumers from personally transporting into the state more than 4.5 liters of wine, or 6 standard bottles, per 30-day period of wine purchased from out-of-state sellers.

30. Some wine retailers located outside Ohio have wines for sale that the consumer plaintiffs wish to buy and transport home in quantities that exceed 4.5 liters per 30 days, including rare and limited-supply wines, older vintages that may be purchased at auction, wines obtained as gifts from friends and family, and wines not available from wine stores near their homes.

31. The plaintiffs are unable to lawfully purchase and transport these wines into Ohio because of Ohio Rev. Code § 4301.20.

32. Ohio allows consumers to personally transport to their homes an unlimited amount of wine purchased from in-state sellers under Ohio Rev. Code § 4301.60, so the 4.5 liter limit on transporting wine purchased out of state discriminates against interstate commerce and gives

economic protection to Ohio wine sellers, in violation of the Commerce Clause of the U. S. Constitution.

Count II - Second Commerce Clause Violation

33. Paragraphs 1-32 are incorporated as if set forth fully herein.

34. Some wine retailers located outside Ohio have wines for sale that the consumer plaintiffs have not been able to find at Ohio retailers in their areas, including rare, unusual, older vintage, and limited-supply wines.

35. Most of the retailers who carry rare, unusual, older vintage, and limited-supply wines are located in New York, California, Illinois or Florida. The plaintiffs cannot afford the time and expense of traveling to their premises to purchase such wines in person and transport them home six bottles at a time.

36. Some wines sought by the plaintiffs which are offered for sale at out-of-state retailers are not available from retail stores in Ohio because Ohio Rev. Code § 4301.58(C) allows in-state retailers to sell only the wines they can get from Ohio wholesalers, and the wholesalers in Ohio carry less than one-third of the wines available for sale elsewhere in the United States, and do not stock many rare and older vintage wines.

37. The plaintiffs cannot complete the commercial transactions described in paragraphs 23-26 because the Ohio Liquor Control Act, as interpreted and enforced by the defendants, prohibits direct sales and shipments of wine from retailers located outside Ohio to in-state consumers, and the defendants will not issue any kind of permit that would allow such interstate transactions.

38. If House of Glunz were permitted to sell and ship wine directly to Ohio consumers from

its premises in Illinois, it would obtain a permit if one existed and would comply with the same rules concerning labeling, shipping, reporting, obtaining proof of age, and paying taxes as in-state wine retailers do.

39. House of Glunz is in good standing with the Illinois Liquor Control Commission and Secretary of State, and would consent to Ohio jurisdiction, appoint an agent for service of process, and qualify to do business in Ohio if a permit were available.

40. By denying permits to out-of-state wine retailers and prohibiting them from shipping wine to Ohio consumers from retail premises located outside the state, while issuing permits to in-state retailers and allowing them to ship wine to Ohio consumers, Ohio is discriminating against interstate commerce and protecting the economic interest of local businesses by shielding them from competition, and is depriving consumers of their access to the markets of other states upon equal terms, all in violation of the Commerce Clause of the United States Constitution.

Request For Relief

WHEREFORE, Plaintiff seeks the following relief:

A. Judgment declaring the provisions in Ohio Rev. Code §§ 4301.58(B), 4301.60 and 4303.25, which prohibit wine retailers located outside the state from selling and shipping wine from their premises directly to Ohio consumers unconstitutional as a violation of the Commerce Clause of the United States Constitution.

B. Judgment declaring the provisions in Ohio Rev. Code § 4301.20 that prohibits Ohio residents from personally transporting more than 4.5 liters of wine into the state unconstitutional as a violation of the Commerce Clause.

C. An injunction prohibiting defendants from enforcing those laws and requiring them to

allow House of Glunz and other retailers whose premises are located outside the state to sell and ship wine to consumers in Ohio.

D. An injunction prohibiting the defendants from circumventing the court's ruling by applying other provisions in the Liquor Control Code in ways that have the practical effect of prohibiting direct wine shipments.

E. Plaintiffs do not request that state officials be enjoined from collecting any tax due on the sale of wine.

F. An award of costs and expenses, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.

G. Such other relief as the Court deems appropriate to afford Plaintiffs full relief.

Respectfully submitted,
Attorneys for Plaintiffs,

/s/ Nelson E. Genshaft
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To Apply for Admission *Pro Hac Vice*:

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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

Derek Block, Kenneth M. Miller & House of Glunz, Inc
c/o Robert D. Epstein, 50 S. Meridian St., #505
Indianapolis, IN 46204

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

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

Nelson E Genshaft, Strip Hoppers Leithart McGrath & Terlecky
575 S. Third St.
Columbus, OH 43215 (614) 228-6345

DEFENDANTS

Jim Canepa, Dave Yost, Thomas J. Stickrath & Deborah Pryce

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

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

Attorneys (If Known)

Dave Yost, Ohio Attorney General
30 E. Broad St., 17th Floor
Columbus, OH 43215

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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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):
42 U.S.C. §1983

Brief description of cause:
Declaratory Judgment that ban on out-of-state wine sales is unconstitutional

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 Sarah D. Morrison DOCKET NUMBER 2:20-cv-03430-SDM-CMV

DATE 07/21/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Nelson E Genshaft

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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