

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
GRADY SMITH,)	
individually and d/b/a)	
ONE PRICE REFUNDS,)	
8384 Trondheim Road)	
Cordova, Tennessee,)	
)	
Defendant.)	

COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTION

PLAINTIFF, the United States of America, complains against Defendant, Grady Smith, as follows:

1. This is a civil action in which the United States seeks to enjoin Grady Smith, individually and doing business as One Price Refunds, from directly or indirectly:

- a. Preparing, assisting in the preparation of, or filing others’ federal tax returns, amended returns, and related documents;
- b. Engaging in any activity subject to penalty under the internal revenue laws;
- c. Engaging in conduct that substantially interferes with the proper administration of the internal revenue laws; and

- d. Engaging in conduct that interferes with the enforcement of the internal revenue laws.

JURISDICTION & VENUE

2. This civil action is commenced at the request and with the authorization of the Chief Counsel for the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, pursuant to 26 U.S.C. §§ 7402, 7407, and 7408.

3. Jurisdiction over this action is conferred upon this court by virtue of 26 U.S.C. §§ 7402(a), 7407(a), and 7408(a), as well as 28 U.S.C. §§ 1340 and 1345.

4. Grady Smith resides in this district, he operates One Price Refunds in this district, and a substantial part of the events giving rise to this action occurred in this district. Venue is, therefore, proper pursuant to 28 U.S.C. §1391.

PARTIES

5. Plaintiff is the United States of America.

6. Defendant Grady Smith resides at 8384 Trondheim Road, Cordova, Tennessee, within the jurisdiction of this court.

7. Grady Smith has operated One Price Refunds from at least ten locations within the jurisdiction of this court, including 3113 South 3rd Street, Memphis, Tennessee. Smith is the sole-proprietor and one-hundred-percent owner of One Price Refunds.

SUMMARY OF DEFENDANT'S ACTIVITIES

8. Grady Smith is a compensated tax return preparer who does business as One Price Refunds. Smith obtains financial information from his customers, places information onto internal documents from which customers' returns are prepared, prepares customers' returns, supervises the preparation of customers' returns, signs customers' returns, and submits customers' returns to the Internal Revenue Service on customers' behalf.

9. Since 2009, Grady Smith has personally prepared over 800 returns.

10. Since 2009, One Price Refunds has prepared over 2,000 returns.

11. Since 2009, Grady Smith has repeatedly prepared or caused to be prepared tax returns that: report fabricated income, fabricate and misrepresent business income and expenses, fabricate and misrepresent unreimbursed employee expenses, and fabricate and misrepresent educational expenses. As a result, Smith's customers have repeatedly reported and paid less tax than they actually owe, claimed the earned income tax credit ("EITC") when they were not eligible for it, claimed the EITC in amounts that exceeded what they were entitled to claim, claimed educational credits when they were not eligible for them, and claimed educational credits in amounts that exceeded what they were entitled to claim.

//

//

12. Since 2009, Grady Smith has repeatedly prepared or caused to be prepared tax returns using a fictitious taxpayer identification number and failed to maintain copies of returns. This has made it has been more difficult for the Service to investigate Smith's improper activities.

13. Grady Smith's repeated and continuing preparation of false tax returns results in lost tax revenue, forces the government to devote scarce resources to investigating him, exposes his customers to civil and criminal penalties, and undermines public confidence in the federal tax system.

14. To date, the United States estimates that Grady Smith has caused harm to the government that may exceed \$800,000.

15. Absent a permanent injunction, Grady Smith is likely to continue preparing or causing the preparation of false federal tax returns.

Misrepresentation of Self-Employment Income and Business Expenses

16. Since 2009, Grady Smith has repeatedly prepared or caused to be prepared tax returns that: report taxpayers have self-employment income when the taxpayers are not, in fact, self-employed; report greater self-employment income than the taxpayers actually earned; and do not accurately report the business expenses that the taxpayers incurred.

17. For example, Grady Smith prepared a federal income tax return for Lasherie Hunt for the 2011 tax year that falsely reported Hunt received self-employment income.

18. For example, Grady Smith prepared a federal income tax return for Carolyn Cleaves for the 2011 tax year that falsely reported Cleaves incurred business expenses.

19. For example, Grady Smith prepared a federal income tax return for Clarence Stewart for the 2011 tax year that falsely reported Stewart incurred business expenses.

20. For example, Grady Smith prepared a federal income tax return for Freida Maclin for the 2008 tax year that falsely reported income and expenses greater than what Maclin actually earned and incurred.

21. For example, Grady Smith prepared federal income tax returns for Bertha Clark for the 2009, 2010, and 2011 tax years that falsely reported income greater than what Clark actually earned and expenses lower than what Clark actually incurred.

22. For example, Grady Smith prepared a federal income tax return for Laquita Weeks for the 2012 tax year that falsely reported income and expenses greater than what Weeks actually earned and incurred.

23. For example, Grady Smith prepared a federal income tax return for Christina Nelson for the 2010 tax year that falsely reported expenses higher than what Nelson actually incurred.

24. By reporting self-employment income when none exists or in amounts greater than what taxpayers actually earned, Grady Smith enables taxpayers to claim the EITC when they are not eligible for the ETIC.

25. By reporting self-employment income when none exists or in amounts greater than what taxpayers actually earned, Grady Smith enables taxpayers to claim the EITC in amounts that exceed what they are entitled to claim.

26. By reporting business expenses that taxpayers did not incur or in different amounts than what the taxpayers actually incurred, Grady Smith enables taxpayers to claim the EITC when they are not eligible for the ETIC.

27. By reporting business expenses that taxpayers did not incur or in different amounts than what the taxpayers actually incurred, Grady Smith enables taxpayers to claim the EITC in amounts that exceed what they are entitled to claim.

28. By reporting business expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to report and pay less tax than they actually owe.

Misrepresentation of Unreimbursed Employee Business Expenses

29. Since 2009, Grady Smith has repeatedly prepared or caused to be prepared tax returns that report unreimbursed employee business expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred.

30. For example, Grady Smith prepared a federal income tax return for Carlos Smith for the 2010 tax year that falsely reported expenses higher than what Smith actually incurred.

31. For example, Grady Smith prepared a federal income tax return for Charletee and Steven Wright for the 2011 tax year that falsely reported expenses that the Wrights did not actually incur.

32. By reporting employee business expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to claim the EITC when they are not eligible for the ETIC.

33. By reporting employee business expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to claim the EITC when they are not eligible for the ETIC.

34. By reporting employee business expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to report and pay less tax than they actually owe.

Fabrication and Misrepresentation of Educational Expenses

35. Since 2009, Grady Smith has repeatedly prepared or caused to be prepared tax returns that report educational expenses that the taxpayers did not incur or in amounts greater than what the taxpayers actually incurred.

36. For example, Grady Smith prepared a federal income tax return for Lewis Dandridge for the 2012 tax year that falsely reported educational expenses higher than what Dandridge actually incurred.

37. For example, Grady Smith prepared a federal income tax return for Glenda Farmer for the 2012 tax year that falsely reported Farmer incurred educational expenses.

38. By reporting educational expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to report and pay less tax than they actually owe.

39. By reporting educational expenses that taxpayers did not incur or in amounts greater than what the taxpayers actually incurred, Grady Smith enables taxpayers to obtain tax refunds greater than the refunds to which they are entitled.

Use of Fictitious Taxpayer Identification Number

40. Compensated tax return preparers are required to list their taxpayer identification number on the returns they prepare. From 2009 to 2011, Grady Smith repeatedly prepared or caused to be prepared tax returns using a fictitious taxpayer identification number.

41. By using a fictitious taxpayer identification number, Grady Smith has made it more difficult for the Internal Revenue Service to investigate his improper activities.

Failure to Maintain Records

42. Compensated tax return preparers are required to maintain copies of their customers' returns for at least seven years. From 2009 to 2012, Grady Smith failed to retain copies of the returns he prepared or caused to be prepared.

43. By failing to retain copies of the returns he has prepared or caused to be prepared, Grady Smith has made it more difficult for the Internal Revenue Service to investigate his improper activities.

COUNT I

ENJOIN DEFENDANT UNDER SECTION 7407 OF THE INTERNAL REVENUE CODE FOR CONDUCT SUBJECT TO PENALTY UNDER I.R.C. 6694 AND 6695

44. The United States incorporates paragraphs 1 through 43 of this complaint as if fully set forth herein.

45. Section 7407 of the Internal Revenue Code provides that a court can enjoin an individual from acting as a return preparer if he has, *inter alia*, engaged in “any conduct subject to penalty under section 6694 or 6695” or “any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.”

46. Conduct subject to penalty under sections 6694 and 6695 of the Internal Revenue Code includes, *inter alia*:

- a. preparing a tax return that sets forth a position that the return preparer knew or should have known is unreasonable;
- b. willfully attempting to understate a customer’s tax liability;
- c. recklessly or intentionally disregarding rules or regulations;
- d. failing to furnish a valid identifying number;

- e. failing to retain copies of customers' returns or maintain a list of customers; and
- f. failing to exercise due diligence in determining a customer's eligibility for, or the amount of, the EITC.

47. Grady Smith has repeatedly prepared or caused to be prepared tax returns that he knew or should have known set forth positions that were factually inaccurate and, therefore, unlikely to be sustained if examined.

48. Grady Smith has repeatedly and willfully prepared or caused to be prepared tax returns that were factually inaccurate and, therefore, understated customers' tax liabilities.

49. Grady Smith has repeatedly and recklessly or intentionally prepared or caused to be prepared tax returns that were factually inaccurate in violation of federal tax laws, regulations, and other rules.

50. Grady Smith has repeatedly prepared or caused to be prepared tax returns that did not contain a valid identifying number.

51. Grady Smith has repeatedly failed to retain copies of customers' returns or maintain a list of customers.

52. Grady Smith has repeatedly failed to exercise due diligence in determining customers' eligibility for, or the amount of, the EITC by using factually inaccurate information to justify and calculate the EITC.

53. Grady Smith's repeated fabrications, misrepresentations, and disregard for the law substantially interfere with the proper administration of the Internal Revenue laws.

54. Grady Smith's repeated fabrications, misrepresentations, and disregard for the law demonstrate that a permanent injunction is necessary to prevent him from continuing to prepare false federal tax returns.

COUNT II

ENJOIN DEFENDANT UNDER SECTION 7408 OF THE INTERNAL REVENUE CODE FOR CONDUCT SUBJECT TO PENALTY UNDER I.R.C. 6701

55. The United States incorporates paragraphs 1 through 54 of this complaint as if fully set forth herein.

56. Section 7408 of the Internal Revenue Code provides that a court can enjoin an individual from acting as a return preparer if he has, *inter alia*, engaged in "any action, or failure to take action, which is . . . subject to penalty under section . . . 6701."

57. Conduct subject to penalty under section 6701 includes aiding, assisting, procuring, or advising a taxpayer with respect to the preparation or presentation of a return with knowledge or reason to believe that the return may be used to understate the taxpayer's tax liability.

58. Grady Smith has repeatedly prepared or caused to be prepared tax returns that he knew or should have known set forth positions that were factually inaccurate and would result in understatement of his customers' tax liabilities.

59. Grady Smith's repeated fabrications, misrepresentations, and disregard for the law demonstrate that a permanent injunction is necessary to prevent him from continuing to prepare false federal tax returns.

COUNT III

ENJOIN DEFENDANT UNDER SECTION 7402 OF THE INTERNAL REVENUE CODE FOR UNLAWFUL INTERFERENCE WITH THE ENFORCEMENT OF INTERNAL REVENUE LAWS

60. The United States incorporates paragraphs 1 through 59 of this complaint as if fully set forth herein.

61. Section 7402 of the Internal Revenue Code provides that a court can enter such "orders of injunction . . . as may be necessary or appropriate for the enforcement of the internal revenue laws."

62. Grady Smith has repeatedly prepared or caused to be prepared false tax returns and thus interfered with the United States' ability to enforce the internal revenue laws.

63. Grady Smith's repeated fabrications, misrepresentations, and disregard for the law demonstrate that a permanent injunction is necessary to prevent him from interfering with the enforcement of the internal revenue laws by continuing to prepare false federal tax returns.

//

//

WHEREFORE, the United States of America respectfully prays for relief as follows:

(A) That this Court permanently enjoin Grady Smith from preparing, assisting in the preparation of, or filing others' federal tax returns;

(B) That this Court permanently enjoin Grady Smith from engaging in any activity subject to penalty under the internal revenue laws, including 26 U.S.C. §§ 6694, 6695, and 6701;

(C) That this Court permanently enjoin Grady Smith from engaging in conduct that substantially interferes with the proper administration of the internal revenue laws;

(D) That this Court permanently enjoin Grady Smith from engaging in conduct that interferes with the enforcement of the internal revenue laws;

(E) That this Court order Grady Smith to contact all customers for whom he or One Price Refunds prepared a tax return since 2009 and provide them with copies of the final judgment entered in this action;

(F) That this Court order Grady Smith to provide the United States with the names, addresses, telephone numbers, email addresses, and taxpayer identification numbers of all customers for whom he or One Price Refunds prepared a tax return since 2009;

(G) That this Court order that the United States be allowed to take post-judgment discovery to ensure compliance with the Court's injunction; and

(H) That this Court grant the United States such other and further relief as it deems just and proper.

DATE: December 6, 2013.

EDWARD L. STANTON, III
United States Attorney

KATHRYN KENEALLY
Assistant Attorney General

/s/ Geoffrey J. Klimas
GEOFFREY J. KLIMAS
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 227
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6346
Facsimile: (202) 514-6866
Email: Geoffrey.J.Klimas@usdoj.gov

JS 44 (Rev. 12/12)

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

UNITED STATES OF AMERICA

DEFENDANTS

GRADY SMITH

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

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Geoffrey J. Klimas, Department of Justice, Tax Division, P.O. Box 227,
Ben Franklin Station, Washington, DC 20044

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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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)

CONTRACTS	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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other 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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" 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 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	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions			

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 U.S.C. 7402, 7407, and 7408

Brief description of cause:
Suit to enjoin Grady Smith from acting as a compensated tax return preparer

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 12/6/2013 SIGNATURE OF ATTORNEY OF RECORD Geoffrey J. Klimas

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 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.
- 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

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:

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 \$ _____ .

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: