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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 NOTRE DAME DE NAMUR)
 UNIVERSITY and COLLEGE OF) Civil Action No. _____
 NOTRE DAME,)
)
 Defendants.)
)

COMPLAINT AND DEMAND FOR JURY TRIAL

The United States of America alleges as follows:

NATURE OF THE ACTION

1. The United States brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 *et seq.*

1 (“Fair Housing Act” or “FHA”). This action is brought on behalf of Kristen Bloom
2 pursuant to 42 U.S.C. § 3612(o).

3 JURISDICTION AND VENUE

- 4 2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, 2201, and
5 2202, and 42 U.S.C. § 3612(o).
- 6 3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the events or
7 omissions giving rise to the United States’ claims occurred there, and the property that is
8 the subject of this suit is located there.

9 INTRADISTRICT ASSIGNMENT

- 10 4. Intradistrict assignment to the San Francisco Division or the Oakland Division is proper,
11 as this action arises out of activity in San Mateo County. Civil L.R. 3-2(d).

12 PARTIES AND PROPERTY

- 13 5. Notre Dame de Namur University (“NDNU” or the “University”) is a private, non-profit,
14 Catholic institution of higher education located at 1500 Ralston Avenue, Belmont,
15 California. The University has approximately 1,700 students and about 200 employees.
16 It maintains on-campus housing for more than 430 students.
- 17 6. NDNU was known as College of Notre Dame until 2001. College of Notre Dame is the
18 property owner of record of some parcels of land located at 1500 Ralston Avenue,
19 Belmont, California.
- 20 7. At all relevant times, Kristen Bloom is and has been a person with a disability as defined
21 by the Fair Housing Act, 42 U.S.C. § 3602(h).
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1 8. At all relevant times, NDNU is and has been responsible for the operation and
2 management of its on-campus housing, including the University-owned apartment in
3 which Ms. Bloom resided.

4 9. The University-owned apartment in which Ms. Bloom resided is a “dwelling” within the
5 meaning of the Fair Housing Act, 42 U.S.C. § 3602(b), and Ms. Bloom was a “renter”
6 within the meaning of the Fair Housing Act, *id.* § 3602(e).
7

8 FACTUAL ALLEGATIONS

9 10. Kristen Bloom was diagnosed with anorexia nervosa in 2011. She received in-patient
10 care for her eating disorder for approximately two months, and out-patient care thereafter.
11

12 11. Ms. Bloom’s anorexia nervosa has altered her digestive system and created lasting side
13 effects that she must continually manage. For example, Ms. Bloom must adhere to a
14 strict diet and eating schedule. She must also control her levels of stress and anxiety so
15 that they do not exacerbate her health problems. Because of her condition and its side
16 effects, she is substantially limited in the major life activities of eating, digestion, and
17 caring for herself.
18

19 12. In July 2013, Ms. Bloom accepted a position as a Residence Life Coordinator at NDNU.
20 The position required her to live on campus. Ms. Bloom’s compensation included a
21 salary of \$32,000, a meal plan, and a University-owned apartment.
22

23 13. Ms. Bloom’s on-campus apartment was a one-bedroom, one-bathroom unit with a
24 kitchen and with private access from the exterior of the building. She also had an office
25 on campus that was separate from her University-owned housing.
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1 14. Accepting the position at NDNU required Ms. Bloom to move to Belmont, California,
2 several hours away from the network of family and friends she relied on to support her
3 recovery from anorexia.

4 15. In or about July 2013, before Ms. Bloom moved to Belmont, her health care providers
5 suggested she would benefit from an emotional support animal to help manage the
6 transition to a new location and job. Ms. Bloom did not pursue that recommendation at
7 the time. Once she began living and working at NDNU, however, Ms. Bloom found the
8 distance from her loved ones to be isolating and stressful.
9

10 16. During the early summer of 2014, Ms. Bloom began experiencing heightened workplace
11 stress. Ms. Bloom's health began to suffer and she and her healthcare providers revisited
12 the idea of an emotional support animal. Together, they determined that obtaining an
13 emotional support animal would help Ms. Bloom manage her increased stress and bolster
14 her recovery.
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16 17. At all relevant times, NDNU had a "no pet" policy for its on-campus housing. The policy
17 included an exception for "a service animal . . . if it is a reasonable accommodation for
18 emotional disabilities of a resident."
19

20 18. On or about June 25, 2014, Ms. Bloom made an oral request to her direct supervisor for a
21 reasonable accommodation to the "no pet" policy so that she could obtain an emotional
22 support animal. Her supervisor advised her to bring her request to the Human Resources
23 department.
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25 19. On or about July 2, 2014, Ms. Bloom informed Mary Haesloop, NDNU's Director of
26 Human Resources, of her doctor's recommendation to obtain an emotional assistance
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1 animal. Ms. Haesloop directed her to supply a note from her doctor and to follow the
2 University's written policies.

3 20. On July 3, 2014, Ms. Bloom's doctor wrote a note stating, in relevant part: "I am
4 requesting an Emotional Service Animal for my patient, Kristen Bloom. She is
5 recovering from an eating disorder and I believe that it would be beneficial to have her
6 dog to stay on track to recovery." Ms. Bloom provided the note to Ms. Haesloop on or
7 about July 14, 2014. She also followed the University's written policies, as Ms.
8 Haesloop had directed.
9

10 21. Around this time, and believing she had satisfied the University's requirements, Ms.
11 Bloom obtained a three-month-old terrier mix named Bailey as an emotional support dog.
12

13 22. Ms. Bloom found that Bailey improved her overall wellbeing. The dog kept Ms. Bloom
14 on a routine, stabilized her eating patterns, reduced her stress, and provided
15 companionship. These benefits, in turn, improved Ms. Bloom's focus and her ability to
16 do her job well. Her direct supervisor noticed that Bailey's presence in Ms. Bloom's
17 home improved Ms. Bloom's work performance.
18

19 23. On or about July 17, 2014, Ms. Haesloop informed Ms. Bloom that she could not keep
20 Bailey on campus. Ms. Bloom broke down in tears at this news. Ms. Haesloop stated
21 that the dog could stay for a short period of time.
22

23 24. Ms. Bloom provided NDNU with a note written by a nurse practitioner in her doctor's
24 office dated July 17, 2014, that stated: "I am requesting an Emotional Service Animal for
25 my patient, Kristen Bloom, for therapeutic support. She is recovering from an eating
26 disorder and I believe that it would be beneficial for her to have her dog to stay on track
27 to recovery."
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1 25. On or about July 23, 2014, Ms. Haesloop instructed Ms. Bloom to remove Bailey from
2 campus. On July 25, 2014, Ms. Bloom moved the dog to her mother's house,
3 approximately three hours away from Ms. Bloom's home at NDNU.

4 26. On August 1, 2014, Ms. Bloom provided NDNU with a note written by her doctor that
5 stated:

6
7 Kristen Bloom is my patient, and has been under my care since 2010. I
8 am intimately familiar with her history and with the functional limitations
9 imposed by her disability. She meets the definition of disability under the
10 Americans with Disabilities Act, the Fair Housing Act, and the
11 Rehabilitation Act of 1973.

12 Her recovery has been going smoothly, but due to the lasting effects of
13 eating disorders and the increased work related stress that Kristen has
14 mentioned, I am prescribing an emotional support animal that will assist
15 Kristen in coping with her disability. I believe that an emotional support
16 animal will help to alleviate the impact that stress and anxiety can have on
17 relapse and enhance her ability to live independently and to fully use and
18 enjoy the dwelling you own and/or administer.

19 I am familiar with the voluminous literature concerning the therapeutic
20 benefits of assistance animals for people with disabilities such as
21 experienced by Kristen. I would be happy to answer any questions you
22 may have concerning my recommendation that Kristen Bloom have an
23 emotional support animal. Should you have any additional questions,
24 within the bounds of HIPAA, please do not hesitate to contact me.

25 27. On several occasions in July and August 2014, Ms. Bloom described her eating disorder,
26 treatment history, current health status, and need for an emotional support animal to
27 officials at NDNU, including Ms. Haesloop, orally and in writing.

28 28. On several occasions in July and August 2014, Ms. Bloom provided documentation about
Bailey to Ms. Haesloop, including veterinary and vaccination records, and a licensing
certificate from San Mateo County.

29 Ms. Bloom never requested to bring Bailey with her to the office or to keep the dog
anywhere other than her apartment.

1 30. On August 11, 2014, Ms. Haesloop wrote a letter stating that Ms. Bloom's
2 accommodation request was denied, and that she was "unable to conclude" whether Ms.
3 Bloom was a person with a disability or how Bailey assisted with her disability.

4 31. On August 14, 2014, Ms. Bloom wrote a letter to Ms. Haesloop providing additional
5 information about her disability and her need for an assistance animal.

6
7 32. On August 22, 2014, Ms. Haesloop again denied Ms. Bloom's request for a reasonable
8 accommodation by letter. She stated that she still could not conclude whether Ms. Bloom
9 was a person with a disability and that she believed Ms. Bloom's accommodation request
10 was not reasonable.

11
12 33. On August 26, 2014, Ms. Bloom went to the doctor because she had been experiencing
13 nausea, vomiting, and severe diarrhea. Her medical provider noted that she had lost
14 seven pounds of weight since her visit a few weeks earlier, on August 1, 2014. The
15 provider placed Ms. Bloom on disability leave for the next two weeks and wrote a note
16 stating: "Kristen Bloom . . . is currently being followed and managed for a chronic
17 medical condition. Her current condition has caused return of her symptoms and because
18 of this, she will need to be removed from her work environment and job." Ms. Bloom
19 vacated her apartment and moved in with her mother and Bailey.
20

21 34. On or about September 18, 2014, the Center for Independence of Individuals with
22 Disabilities ("the Center"), a non-profit organization, sent a letter to Ms. Haesloop
23 renewing Ms. Bloom's reasonable accommodation request. NDNU did not substantively
24 respond to the Center.
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1 35. On or about October 7, 2014, Ms. Haesloop again wrote to Ms. Bloom. In this letter, she
2 stated, "I do presently agree that you are a person with a disability but I remain of the
3 decision that having your dog is not reasonable."

4 36. On or about October 23, 2014, an attorney from the Legal Aid Society of San Mateo
5 County made another reasonable accommodation request on Ms. Bloom's behalf to
6 NDNU. The University denied that request on or about November 4, 2014.

7 37. On or about November 18, 2014, a representative from Project Sentinel, a non-profit fair
8 housing agency, made yet another reasonable accommodation request on Ms. Bloom's
9 behalf. The University never responded.

10 38. Ms. Bloom remained on disability leave under doctor's orders until January 2015. She
11 never returned to live or work at NDNU. On or about December 19 and 20, 2014, Ms.
12 Bloom returned to NDNU and permanently removed her belongings from her apartment.
13 On January 2, 2015, Ms. Bloom resigned from her position.

14 39. On or about January 16, 2015, Ms. Bloom filed a housing discrimination complaint with
15 the U.S. Department of Housing and Urban Development ("HUD") alleging that the
16 University discriminated against her on the basis of disability by refusing to grant her
17 request for a reasonable accommodation to the no-pet policy to allow her to have an
18 assistance animal in her apartment. Pursuant to an agreement between HUD and the
19 California Department of Fair Employment and Housing ("DFEH"), DFEH opened an
20 investigation into the complaint. The investigation was eventually transferred back to
21 HUD and completed by that agency.
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HUD ADMINISTRATIVE PROCESS

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2 40. On or about January 16, 2015, Ms. Bloom filed a timely Fair Housing Complaint with
3 HUD, naming Defendants Notre Dame de Namur University and the College of Notre
4 Dame as respondents. The complaint was amended on September 7, 2017.

5
6 41. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an
7 investigation, attempted conciliation without success, and prepared a final investigative
8 report. Based upon the information gathered in the investigation, the Secretary, pursuant
9 to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that
10 Defendants violated the Fair Housing Act. Therefore, on September 28, 2017, the
11 Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A),
12 charging the Defendants with engaging in discriminatory housing practices on the basis
13 of disability.
14

15 42. On October 10, 2017, Ms. Bloom elected to have the claims asserted in the HUD Charge
16 resolved in a civil action pursuant to 42 U.S.C. § 3612(a). On October 11, 2017, an
17 Administrative Law Judge issued a Notice of Election to Proceed in United States
18 Federal District Court and terminated the administrative proceeding on Ms. Bloom's
19 HUD complaint.
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21 43. Following this Notice of Election, the Secretary of HUD authorized the Attorney General
22 to commence a civil action pursuant to 42 U.S.C. § 3612(o).
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24 44. On November 7, 2017, the United States and the Defendants executed an agreement that
25 tolled the expiration of any statute of limitations in this action until December 11, 2017.
26 On December 7, 2017, the United States and the Defendants executed a second
27 agreement that tolled the expiration of any statute of limitations in this action until
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1 January 26, 2018. On January 23, 2018, the United States and the Defendants executed a
2 third agreement that tolled the expiration of any statute of limitations in this action until
3 February 23, 2018.

4 COUNT I

5 45. Plaintiff re-alleges and incorporates by reference the allegations set forth above.

6 46. By the actions set forth above, Defendants have:

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- 8 a. Discriminated in the rental, or otherwise made unavailable or denied, a dwelling
9 to a renter on the basis of disability, in violation of 42 U.S.C. § 3604(f)(1);
 - 10 b. Discriminated in the terms, conditions or privileges of the rental of a dwelling, or
11 in the provision of services or facilities in connection therewith, on the basis of
12 disability, in violation of 42 U.S.C. § 3604(f)(2); and
 - 13 c. Refused to make reasonable accommodations in rules, policies, practices or
14 services, when such accommodations may be necessary to afford such person
15 equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C.
16 § 3604(f)(3)(B).
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19 47. As a result of Defendants' conduct, Ms. Bloom has been injured and is an "aggrieved
20 person" as defined by 42 U.S.C. § 3602(i).

21 48. The discriminatory actions of the Defendants were intentional, willful, and taken in
22 reckless disregard of the rights of Ms. Bloom.

23 PRAYER FOR RELIEF

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

- 25
- 26 1. A declaration that the discriminatory conduct of Defendants as set forth above
27 violates the Fair Housing Act;
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- 1 2. An injunction against Defendants, their agents, employees, successors, and all
2 other persons in active concert or participation with any of them from:
 - 3 a. Discriminating on the basis of disability, in violation of the Fair Housing Act;
 - 4 b. Failing or refusing to take such affirmative steps as may be necessary to restore,
5 as nearly as practicable, Ms. Bloom to the position she would have been in but for
6 the discriminatory conduct; and
 - 7 c. Failing or refusing to take such affirmative steps as may be necessary to prevent
8 the recurrence of any discriminatory conduct in the future.
- 9 3. An award of monetary damages to Ms. Bloom pursuant to 42 U.S.C. §§ 3612(o)(3) and
10 3613(c)(1).
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1 The United States further prays for such additional relief as the interests of justice may
2 require.

3 Dated: February 22, 2018

4 Respectfully submitted,

5
6 JEFFERSON B. SESSIONS, III
7 Attorney General

8 JOHN M. GORE
9 Acting Assistant Attorney General
Civil Rights Division

10 ALEX G. TSE
11 Acting United States Attorney
12 Northern District of California

13 SAMEENA SHINA MAJEED
14 Chief, Housing and Civil Enforcement Section

15 /s/ Eliza H. Simon
16 ANDREA K. STEINACKER
17 Special Litigation Counsel
ELIZA H. SIMON
18 Trial Attorney

19 Attorneys for Plaintiff United States of America
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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

United States of America

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

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

Eliza H. Simon, U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Ave. NW-NWB, Washington, DC 20530; (202) 305-6785

DEFENDANTS

Notre Dame de Namur University; College of Notre Dame

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

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

Attorneys (If Known)

Michael J. Vartain, Vartain Law Group, 601 Montgomery Street, Suite 780, San Francisco, CA 94111; (415) 391-1155

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

X 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

X 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. § 3601 et seq

Brief description of cause: Discrimination on the basis of disability in housing

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 DOCKET NUMBER

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

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

DATE 02/22/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Eliza H. Simon

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Reset

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.