

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FILMTEC CORPORATION,

Defendant.

COMPLAINT

The United States of America (“United States”), by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), alleges as follows:

NATURE OF THE ACTION

1. This is a civil action brought against FilmTec Corporation (“FilmTec”) pursuant to Sections 113(b) and 167 of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7413(b) and 7477, seeking injunctive relief and civil penalties for violations of: (1) its facility-wide volatile organic compound (“VOC”) emission limit contained in its state-issued Title V permit; (2) the Prevention of Significant Deterioration (“PSD”) provisions of the CAA, 42 U.S.C. §§ 7470–92; and (3) the regulations under the federally approved and enforceable Minnesota State Implementation Plan (“Minnesota SIP”) that implement the PSD and Title V permitting programs. As a result of these violations, FilmTec emitted more VOCs than allowed by law.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 113(b) and 167 of the CAA, 42 U.S.C. §§ 7413(b) and 7477, and pursuant to 28 U.S.C. §§ 1331, 1345, 1355.

3. Venue is proper in this District pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b), (c), and 1395(a), because the violations which constitute the basis of this complaint have occurred and are occurring in this District and the Facility is located in this District.

NOTICES

4. On September 4, 2015, and April 29, 2016, EPA issued Notices and Findings of Violation (“NOV/FOVs”) to FilmTec for violations of the CAA and the Minnesota SIP, in accordance with CAA Section 113(a)(1), 42 U.S.C. § 7413(a)(1). Pursuant to 42 U.S.C. § 7413(a)(1), EPA provided copies of the NOV/FOVs to the State of Minnesota.

5. The United States has provided notice of the commencement of this action to the Minnesota Pollution Control Agency (“MPCA”) as required by Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

AUTHORITY

6. Authority to bring this action is vested in the Attorney General of the United States by Section 305 of the CAA, 42 U.S.C. § 7605, and pursuant to 28 U.S.C. §§ 516 and 519.

THE DEFENDANT

7. FilmTec owns and operates a facility located at 5400 Dewey Hill Road, Edina, Hennepin County, Minnesota (“Facility”) that manufactures water filtration products for domestic and commercial use. Until 2016, FilmTec manufactured the water filters on four

manufacturing lines, known as Lines 200, 300, 400, and 500. FilmTec completed construction of a new manufacturing line, Line 600, in the fall of 2016.

8. FilmTec is the owner and operator of the Facility and the water filter manufacturing lines there.

9. FilmTec operates the Facility pursuant to Minnesota Total Facility Operating Permit No. 05301149-003 (“Title V permit”), issued in 2011. The Title V permit limits the Facility’s total VOC emissions to 235 tons per year (“TPY”).

10. FilmTec is a Delaware Corporation registered as a foreign business corporation in the State of Minnesota and authorized to do business in the Minnesota.

11. FilmTec is a “person” within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

STATUTORY AND REGULATORY BACKGROUND

12. The Clean Air Act is designed to protect and enhance the quality of the nation’s air, so as to promote the public health and welfare and the productive capacity of its population. CAA Section 101(b)(1), 42 U.S.C. § 7401(b)(1).

I. NATIONAL AMBIENT AIR QUALITY STANDARDS

A. General

13. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires EPA to list, and issue air quality criteria for, each air pollutant that may endanger public health or welfare and results from numerous mobile or stationary sources.

14. Section 109(a) of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate regulations establishing primary and secondary national ambient air quality standards (“NAAQS”) for those air pollutants for which air quality criteria have been issued pursuant to

Section 108 of the CAA. Under Section 109(b) of the CAA, 42 U.S.C. § 7409(b), the primary NAAQS must protect public health with an adequate margin of safety, and the secondary NAAQS must protect the public welfare from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air.

15. Pursuant to Sections 108 and 109 of the CAA, 42 U.S.C. §§ 7408 and 7409, EPA issued NAAQS for, *inter alia*, ozone (which is created by chemical reactions between oxides of nitrogen and VOCs). The ozone NAAQS are set forth in 40 C.F.R. §§ 50.9, 50.10, 50.15, and 50.19.

16. Pursuant to Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is an “attainment” area. An area that does not meet the NAAQS is a “nonattainment” area. An area that cannot be classified due to insufficient data is “unclassifiable.” Air quality designations for states are approved by EPA and located at 40 C.F.R. Part 81.

17. FilmTec’s Facility is located in Hennepin County, Minnesota. At all times relevant to this Complaint, the Facility was located in an area designated as being in attainment or unclassifiable for ozone.

B. State Implementation Plan

18. Pursuant to 42 U.S.C. § 7410, each state must adopt and submit to EPA for approval a plan that provides for the implementation, maintenance, and enforcement of the NAAQS in each air quality control region within each state. CAA § 110(a)(2)(A), 42 U.S.C. § 7410(a)(2)(A).

19. After such provisions are approved and/or promulgated by EPA, these provisions constitute a state implementation plan or “SIP.” A SIP is enforceable by the respective state in which it applies and by the United States, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

II. CLEAN AIR ACT PERMITTING REQUIREMENTS

20. There are two sets of Clean Air Act permitting requirements relevant here for owners and/or operators of major sources of air pollution: New Source Review and Operating Permits (also known as “Title V”).

21. In general, New Source Review permitting requires operators to obtain a permit and comply with technology-based emission limits before constructing a major source of air emissions or making a major modification to an existing major source of emissions. The exact requirements applicable to a facility are based on whether the facility is located in an area that is in attainment for the pollutants that will be released from the newly-constructed or modified facility. An operator seeking to construct or modify a facility that will result in a major increase of a pollutant in an area that is classified as an “attainment” area for that same pollutant must obtain a New Source Review Prevention of Significant Deterioration (“PSD”) permit. Operators seeking to construct or modify a facility that will result in a major increase of a pollutant in an area that is classified as a “nonattainment” area for that same pollutant must obtain a New Source Review Non-Attainment (“NA-NSR”) permit.

22. FilmTec’s Facility is subject to PSD permitting for VOCs because it is located in an attainment area for ozone.

23. Title V of the Clean Air Act requires all operators of major sources of air pollution to obtain Title V permits. 42 U.S.C. § 7661a(a).

A. Prevention of Significant Deterioration (“PSD”) Requirements

1. PSD Program in General

24. Part C of Title I of the CAA, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS.

25. Section 165(a)(1) of the CAA, 42 U.S.C. § 7475(a)(1), prohibits the construction and operation of a “major emitting facility” in an area designated as attainment or unclassifiable unless, among other things, a permit has been issued that comports with the requirements of Section 165 of the CAA (typically called a “PSD permit”).

26. A “major emitting facility” includes any source “with a potential to emit two hundred and fifty tons per year or more of any pollutant.” 42 U.S.C. § 7479(1).

27. The term “construction” includes a modification (as defined in 42 U.S.C. § 7411(a)) of any source or facility. 42 U.S.C. § 7479(2)(C).

28. In addition to the requirement to secure a PSD permit, Section 165(a)(4) of the CAA, 42 U.S.C. § 7475(a)(4), prohibits the construction and operation of a major emitting facility unless, among other things, the facility applies the best available control technology (“BACT”) for each pollutant subject to regulation under the CAA that is emitted from the facility.

29. “Major stationary source” is defined to include “any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant.” 40 C.F.R. § 52.21(b)(1)(i)(b).

30. “Major modification” is defined as “any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions

increase (as defined in [40 C.F.R. § 52.21(b)(40)]) of a regulated NSR pollutant (as defined in [40 C.F.R. § 52.21(b)(50)]); and a significant net emissions increase of that pollutant from the major stationary source.” 40 C.F.R. § 52.21(b)(2)(i).

31. “Significant Emissions Increase” is defined as “an increase in emissions that is significant (as defined in [40 C.F.R. § 52.21(b)(23)]) for that pollutant.” 40 C.F.R. § 52.21(b)(40).

32. “Net emissions increase” means “the amount by which the following exceeds zero: (a) [t]he increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to [40 C.F.R. § 52.21(a)(2)(iv)]; and “[a]ny other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.” 40 C.F.R. § 52.21(b)(3)(i).

33. “Significant,” in reference to a net emissions increase of VOCs, is 40 tons per year. 40 C.F.R. § 52.21(b)(23)(i).

2. PSD Regulations Applicable in this Case

34. Sections 110(a) and 161 of the CAA, 42 U.S.C. §§ 7410(a) and 7471, require that each state implementation plan have emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

35. A state may comply with Sections 110(a) and 161 of the CAA, 42 U.S.C. §§ 7410 and 7471, by having its own PSD regulations approved by EPA as part of its SIP. In that case, the state PSD regulations must be at least as stringent as the federal regulations. If a state does not have a PSD program that has been approved by EPA and incorporated into the state’s SIP,

then the federal PSD regulations set forth at 40 C.F.R. § 52.21 are incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).

36. On August 7, 1980, EPA disapproved Minnesota's proposed PSD program and incorporated by reference into the Minnesota SIP the federal PSD regulations of 40 C.F.R. § 52.21(b) through 52.21(w). 45 Fed. Reg. 52741 (Aug. 7, 1980). On January 29, 1981, EPA delegated to Minnesota the authority to implement and enforce the federal PSD program that had previously been incorporated into the Minnesota SIP. 46 Fed. Reg. 9580 (Jan. 29, 1981). Minnesota continues to implement the federal PSD program and incorporates these rules by reference in its administrative code. MINN. R. 7007.3000 (2018).

B. Operating Permit ("Title V") Requirements

37. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, sets the operating permit requirements applicable to "major sources" subject to the construction permitting requirements of Part C of the Title I of the CAA. These requirements are designed to enable EPA and state agencies to efficiently and effectively implement the CAA, and better monitor and enforce compliance.

38. A "major source" for purposes of Title V, is defined in part as a source that emits or has the potential to emit 10 tons per year or more of any HAP, or 100 tons per year or more of any criteria pollutant. 42 U.S.C. § 7661(2).

39. FilmTec's Facility has the potential to emit more than 100 tons per year of VOCs, which is a criteria pollutant. It is therefore a major source of air pollution, requiring FilmTec to operate in compliance with a permit issued under Title V of the Clean Air Act.

40. In 2001, EPA granted final approval to Minnesota's Title V operating permit program, which is codified at 40 C.F.R. Part 70, Appendix A. 66 Fed. Reg. 62,967 (Dec. 4, 2001).

41. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), the implementing regulations at 40 C.F.R. § 70(b), and the Minnesota Title V operating permit program have at all relevant times made it unlawful for any person to operate a major source of criteria pollutants except in compliance with a permit issued under Title V.

ENFORCEMENT PROVISIONS

42. Under the CAA, the EPA Administrator may bring a civil action for civil penalties and appropriate relief, including a temporary or permanent injunction, when any person violates the CAA or its implementing regulations. 42 U.S.C. § 7413(b).

43. Any person who violates any requirement of the CAA, or its respective implementing regulations, is subject to a maximum statutory civil penalty of \$25,000 per day for each violation, as adjusted for inflation, with each day in which a violation occurs constituting a separate violation. 42 U.S.C. § 7413(b).

44. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act of 2015, 28 U.S.C. § 2461 note: Pub. L. 114-74, Section 701, the maximum statutory civil penalties under the CAA have been adjusted for inflation at 40 C.F.R. § 19.4. The applicable civil penalty levels for violations of CAA have increased to \$37,000 per day for each violation occurring after January 12, 2009, and through November 1, 2015. The maximum civil penalty per day for each violation of the CAA after November 2, 2015, is \$93,750. *Id.*

GENERAL ALLEGATIONS

45. On June 11, 2014, EPA conducted a CAA inspection of FilmTec's Edina Facility (the "June 2014 CAA Inspection").

46. FilmTec increased the speed of manufacturing Lines 400 and 500 by at least 15% in February 2012. The increased line speeds also increased the Facility's potential-to-emit to 326 TPY in 2013, the first full year of operations after the improvements were completed. As a result, the Facility is a major source pursuant to the Minnesota SIP, and Federal PSD regulations.

47. Beginning in at least 2012, FilmTec's annual VOC potential-to-emit exceeded the major source threshold of 250 TPY established in the Minnesota SIP and Federal PSD regulations.

48. Beginning in 2014, FilmTec's annual VOC emissions exceeded the facility wide permit limit of 235 TPY.

49. In 2014, FilmTec commenced construction of manufacturing Line 600. FilmTec calculated that the new manufacturing line has the potential-to-emit up to 90 tons of VOCs per year. FilmTec did not secure a PSD construction permit to authorize the construction of the new manufacturing line and did not evaluate whether additional pollution control technology was required to meet BACT requirements for reducing VOC emissions from the new manufacturing line.

FIRST CLAIM FOR RELIEF—CAA

(Failure to obtain a PSD Permit for a Major Modification)

50. Paragraphs 1-49 of this Complaint are re-alleged and incorporated by reference.

51. The FilmTec Facility is a major stationary source.

52. In 2014, Defendant constructed a new production line. This physical construction was expected to and/or actually did result in a significant net emissions increase in VOCs.

53. Defendant did not comply with the PSD requirements in the Act and the Minnesota SIP with respect to the major modifications and subsequent operations at the FilmTec facility.

54. Defendant has violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), the federal PSD regulations, and/or the Minnesota SIP. Unless restrained by an order of this Court, these violations will continue.

55. As provided in CAA § 113(b), 42 U.S.C. § 7413(b), and Section 167 of the Act, 42 U.S.C. § 7477, the violations of this claim subject Defendant to injunctive relief and civil penalties in the amounts set forth in Paragraph 44 of this Complaint.

SECOND CLAIM FOR RELIEF—CAA

(Exceeding Facility-wide Limit for VOCs under Defendant's 2011 Title V Permit)

56. Paragraphs 1-49 of this Complaint are re-alleged and incorporated by reference.

57. Part I B of Defendant's Title V Permit requires Defendant to limit its total facility emissions of volatile organic compounds (VOCs) to no more than 235 tpy. In 2014, FilmTec reported annual emissions of 185 tpy of VOCs. When calculating its emissions, FilmTec used a lower emission factor from a performance test provided to the state under its previous permit instead of engineering test data under its current permit. When properly calculated, FilmTec's actual emissions are greater than 250 tpy.

58. Thus, FilmTec violated its Title V Permit by exceeding facility-wide limits for VOC emissions each year since 2012.

59. Defendant has violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), the federal PSD regulations, and/or the Minnesota SIP. Unless restrained by an order of this Court, these violations will continue.

60. As provided in CAA § 113(b), 42 U.S.C. § 7413(b), the violations of this claim subject Defendant to injunctive relief and civil penalties in the amounts as set forth in Paragraph 44 of this Complaint.

THIRD CLAIM FOR RELIEF—CAA

(Failure to Demonstrate Compliance and Identify Deviations in the Manner Specified in Defendant's 2011 Title V Permit)

61. Paragraphs 1-49 of this Complaint are re-alleged and incorporated by reference.

62. The Title V Permit states that FilmTec shall calculate and record the VOC emissions for each month using equations 1, 1a, and 1b in Appendix B of the permit.

63. The Title V Permit states that FilmTec shall calculate and record the HAP emissions for each month using Equation 3 in Appendix B of the permit.

64. After EPA issued the 2015 NOV/FOV, FilmTec disclosed to EPA that it was not demonstrating compliance with 12-month rolling sum limits for VOCs, total HAPs, and single HAP, in a manner consistent with its Title V Permit since 2011.

65. Pursuant to Table B of the Title V Permit, FilmTec is required to submit an annual Compliance Certification within 31 days of each calendar year documenting all deviations experienced during the preceding year. FilmTec failed to identify deviations in its method of demonstrating compliance in its annual compliance certification, thus violating its Title V permit since 2011.

66. Defendant has violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), the federal PSD regulations, and/or the Minnesota SIP. Unless restrained by an order of this Court, these violations will continue.

67. As provided in CAA § 113(b), 42 U.S.C. § 7413(b), the violations in this claim subject Defendant to injunctive relief and civil penalties in the amounts as set forth in Paragraph 44 of this Complaint.

PRAYER FOR RELIEF

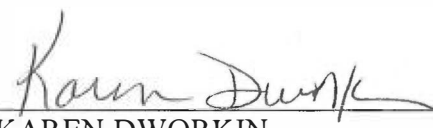
WHEREFORE, based upon the allegations set forth above, the United States requests that this Court:

1. Order such injunctive relief as is necessary to compel Defendant to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, its implementing regulations, and any applicable permits;
2. Assess a civil penalty against Defendant for each day of each separate violation of the CAA;
3. Award Plaintiff its costs of this action; and
4. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

Date: July 18, 2019


KAREN DWORKIN
Deputy Section Chief
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice

A handwritten signature in black ink, appearing to read "Samantha Ricci", is written over a horizontal line.

SAMANTHA M. RICCI
Environmental Enforcement Section
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P.O. Box 7611
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OF COUNSEL:
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77 W. Jackson Blvd.

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

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

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

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

- | | 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)

Click here for: [Nature of Suit Code Descriptions.](#)

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 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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<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"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark 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	<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 <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 Constitutional 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			

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):

Brief description of cause:

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

SIGNATURE OF ATTORNEY OF RECORD

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. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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