

UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA, and)
ALABAMA DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)

Plaintiffs,)

v.)

WIREGRASS CONSTRUCTION)
COMPANY, INC.,)

Defendant.)

Civil Action No. _____

COMPLAINT

Plaintiff United States of America, by authority of the Attorney General of the United States, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and Plaintiff Alabama Department of Environmental Management (“ADEM”), file this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil enforcement action against Defendant Wiregrass Construction Company, Inc., under Section 309 of the Clean Water Act (“CWA”), 33 U.S.C. § 1319, and under the Alabama Water Pollution Control Act (“AWPCA”), Alabama Code 22-22-1 et seq.

2. This action alleges violations of the CWA and AWPCA at two separate sites: the Poly Pit Site, an approximately 750-acre property in Macon County, Alabama located on Banks McDade Road, approximately three miles northwest of Shorter, Alabama, near 32.402526° north latitude and 85.991582° west longitude) (“Poly Pit Site”); and the Trace Pit Site, an approximately 400-acre property north and south of County Road 85, in Deatsville, Autauga County, Alabama, near 32.625° north latitude and 86.426° west longitude (“Trace Pit Site”).

3. In this action, the United States and ADEM allege that Defendant, commencing in November of 2007 and continuing through April of 2018, during the course of sand and gravel mining and processing operations, violated CWA Section 301(a) by discharging dredged or fill material to waters of the United States without CWA Section 404 authorization at the Poly Pit Site.

4. In this action the Plaintiffs allege that Defendant, commencing in November of 2007 and continuing to the present date, also violated CWA Section 301(a) and Section 22-22-9 of the Alabama Code at the Poly Pit Site by discharging pollutants (other than dredged or fill material) to waters of the United States and waters of the State without a National Pollutant

Discharge Elimination System (“NPDES”) permit issued by ADEM, which at all relevant times has been authorized by EPA to administer the NPDES permit program in the State of Alabama pursuant to CWA Section 402.

5. In this action, the Plaintiffs allege that Defendant, commencing in November of 2007 and continuing to the present date, also violated CWA Section 301(a) and Section 22-22-9 of the Alabama Code at the Poly Pit Site by failing to comply with the conditions of a NPDES permit issued by ADEM.

6. In this action, the Plaintiffs allege that Defendant, commencing approximately in November 2017 and continuing until the present, during and following the course of sand and gravel processing operations, violated CWA Section 301(a) and Section 22-22-9 of the Alabama Code at the “Trace Pit Site,” by discharging pollutants (other than dredged or fill material) to waters of the United States and waters of the State without a NPDES permit issued by ADEM.

7. In this action, the Plaintiffs allege that Defendant, commencing approximately in November 2017 and continuing until the present, also violated CWA Section 301(a) and Section 22-22-9 of the Alabama Code at the Trace Pit Site by failing to comply with the conditions of a NPDES permit issued by ADEM.

8. In this action, the Plaintiffs seek: (a) injunctive relief prohibiting Defendant from further unauthorized discharges, including by complying with any permit issued under Sections 402 or 404 of the CWA, 33 U.S.C. §§ 1342 or 1344; (b) injunctive relief compelling Defendant to restore, remediate, stabilize, and/or mitigate the impacts of the unauthorized discharges; (c) a civil penalty award in favor of the Plaintiffs and against Defendant; and (d) such other relief as the Court may deem appropriate.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355 and 33 U.S.C. § 1319(b). Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over ADEM’s state law claims under the AWPCA because the state law claims are related to the federal law claims and form part of the same case or controversy.

10. Venue is proper in this District, i.e., the United States District Court for the Middle District of Alabama, pursuant to 33 U.S.C. § 1319(b) and 28 U.S.C. §§ 1391(b) and 1395 because Defendant conducts business in this District, and the causes of action and CWA violations alleged in this action arose in this District.

11. The United States has authority to bring this action on behalf of the Administrator of EPA (“Administrator”) under Section 506 of the Act, 33 U.S.C. § 1366. Acting on behalf of the Attorney General of the State of Alabama, the Alabama Department of Environmental Management has the authority to bring this suit in accordance with and pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, the Alabama Water Pollution Control Act (“AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, and the regulations promulgated pursuant thereto..

PARTIES

12. Plaintiffs are the United States of America (“United States”) and the Alabama Department of Environmental Management (“ADEM”).

13. Defendant is Wiregrass Construction Company, Inc., an Alabama corporation with a registered office at 2 North Jackson Street, Suite 605, Montgomery, AL 36104 and a corporate office at 1830 Hartford Hwy, Dothan, AL 36301.

STATUTORY BACKGROUND

14. Section 101(a) of the CWA, 33 U.S.C. § 1251(a), provides that “[t]he objective of this chapter is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

15. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the “discharge of any pollutant by any person” without authorization, e.g., except as in compliance with a permit issued by the United States Army Corps of Engineers or an authorized state pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, which applies to discharges of dredged or fill material; or a permit issued by EPA or an authorized state pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, which applies to discharges of pollutants other than dredged or fill material.

16. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include a “corporation.”

17. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include “dredged spoil,” “biological materials,” “rock,” “sand,” and “industrial . . . waste discharged into water.”

18. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

19. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.”

20. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.” Traditional navigable waters (i.e., all waters which are currently used, or were used in the past, or may be susceptible to use in

interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide); relatively permanent waters connected to traditional navigable waters; and wetlands with a continuous surface connection to such relatively permanent waters (i.e., “adjacent wetlands”) are included in this definition. *See Sackett v. EPA*, 598 U.S. 651 (2023).

21. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes EPA to commence a civil action for appropriate relief, including a temporary or permanent injunction, against any person that violates Section 301 of the CWA, 33 U.S.C. § 1311(a).

22. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), subjects any person that violates Section 301 of the CWA, 33 U.S.C. § 1311, to civil penalties.

GENERAL ALLEGATIONS

The Sites where the alleged CWA violations occurred

23. As described in Paragraph 2, above, the alleged CWA violations occurred at two separate sites: the Poly Pit Site and the Trace Pit Site.

24. For shorthand purposes, this Complaint refers to the Poly Pit Site and the Trace Pit Site collectively as “the Sites.”

25. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, Defendant has controlled the Sites through ownership.

The Sites’ waters and adjacent wetlands

26. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, a water body known as Cubahatchee Creek has existed at the Poly Pit Site, along with tributaries of Cubahatchee Creek and adjacent wetlands. Cubahatchee Creek and the tributaries of Cubahatchee Creek are relatively permanent and connect to the Tallapoosa River.

27. The Tallapoosa River is a traditional navigable water under the CWA and is also under the jurisdiction of Section 10 of the Rivers and Harbors Act.

28. Cubahatchee Creek flows north through and then from the Site for approximately 1.8 miles before its confluence with the Tallapoosa River.

29. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, the Poly Pit Site contained wetlands, i.e., areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances did support, a prevalence of trees and other vegetation typically adapted for life in saturated soil conditions.

30. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, the Poly Pit Site's wetlands were adjacent to, i.e., have a continuous surface connection with Cubahatchee Creek.

31. Cubahatchee Creek, its relatively permanent tributaries and its adjacent wetlands constitute "waters of the United States" and "navigable waters" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

32. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, a water body known as Mortar Creek has existed at the Trace Pit Site, along with tributaries of Mortar Creek and adjacent wetlands.

33. Mortar Creek is a relatively permanent water that originates upstream of the Trace Pit Site, flows through the Trace Pit Site, and connects to the Coosa River downstream of the Site.

34. Approximately 11 miles downstream of the Trace Pit Site, Mortar Creek enters the ordinary pool of the impounded Coosa River in R.E Woodruff Lake, a traditional navigable water under the CWA.

35. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, the Trace Pit Site contained wetlands, i.e., areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances did support, a prevalence of trees and other vegetation typically adapted for life in saturated soil conditions.

36. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, the Site's wetlands were adjacent to, i.e., have a continuous surface connection with Mortar Creek.

37. Mortar Creek, its relatively permanent tributaries, and its adjacent wetlands constitute "waters of the United States" and "navigable waters" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

Defendant's sand and gravel mining and processing activities

38. Defendant is a corporation and thus constitutes a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

39. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, Defendant has conducted sand and gravel mining activities at the Poly Pit Site.

40. Defendant has created multiple mining pits and a processing plant at the Poly Pit Site. The raw sand and gravel materials are strip mined in the pit areas. The excavated material is then moved to the processing plant. At the processing plant, the mined material is sent through various wet and dry separation processes. After processing, finished products are stored in outdoor storage piles located the Poly Pit Site until shipment from the Poly Pit Site.

41. The Poly Pit Site also includes retention ponds that Defendant has used to remove sediment from wastewater and stormwater that is generated by Defendant's mining

activities prior to discharge to Cubahatchee Creek or its tributaries. The Poly Pit Site has been manipulated by grading, constructing berms, and creating diversion ditches to capture and direct wastewater and stormwater to the retention ponds. Several of the ponds have designated outfalls, including to Cubahatchee Creek and/or its tributaries.

45. At all times relevant to the claims asserted by the United States and ADEM in this Complaint, Defendant has conducted sand and gravel processing activities at the Trace Pit Site.

46. Defendant has operated a processing plant at the Trace Pit Site. At the processing plant, raw sand and gravel mined material is sent through various wet and dry separation processes. After processing, finished products are stored in outdoor storage piles located the Trace Pit Site until shipment from the Trace Pit Site.

47. The Trace Pit Site also includes retention ponds that Defendant has used to remove sediment from wastewater and stormwater that is generated by Defendant's mining activities prior to discharge to Mortar Creek or its tributaries. The Trace Pit Site has been manipulated by grading, constructing berms, and creating diversion ditches to capture and direct wastewater and stormwater to the retention ponds. Several of the ponds have designated outfalls, including to Mortar Creek and/or its tributaries.

Defendant's CWA permitting history

42. Defendant has never obtained a permit authorizing discharges of dredged or fill material at the Poly Pit Site or the Trace Pit Site pursuant to Section 404 of the CWA, 33 U.S.C. § 1344.

43. Defendant has obtained a permit relative to discharges of pollutants covered by the NPDES permit program established by Section 402 of the CWA, 33 U.S.C. § 1342 at the Sites. However, Defendant did not obtain NPDES permit coverage for all discharges at the Poly Pit Site or the Trace Pit Site and did not comply with all conditions of its NPDES permits.

44. EPA has granted the State of Alabama, through ADEM, authorization to issue NPDES permits pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). Under Sections 309 and 402(i) of the CWA, 33 U.S.C. § 1319 and 1342(i), EPA retains concurrent authority with authorized states such as Alabama to enforce NPDES-related CWA violations.

45. ADEM issued an NPDES Permit (Permit No. AL0078131) to Lambert Materials, LLC on July 31, 2006, to authorize discharges associated with mining activity at the Poly Pit Site (the “Poly Pit NPDES Permit”). On April 25, 2008, after a merger of Lambert Materials, LLC into Defendant, ADEM issued a Permit Modification effecting a transfer of the Poly Pit NPDES Permit to Defendant. On August 30, 2011, and again on November 1, 2013, ADEM reissued and/or modified the Poly Pit NPDES Permit. The most recent issuance of the Poly Pit NPDES Permit expired on October 31, 2018 but has been administratively continued by ADEM since that date.

46. On September 26, 2013, ADEM issued a notice of general permit coverage to Allstate Deatsville, LLC for authorization of mining and materials processing related discharges at the Trace Pit Site under NPDES General Permit No. ALG850043. On February 4, 2014 the transfer of Trace Pit NPDES General Permit coverage from Allstate Deatsville, LLC to Allstate Materials, LLC, was approved by ADEM. On April 13, 2017, ADEM issued a Notice of General Permit Coverage under renewed General Permit ALG850043 to Allstate Materials, LLC, for discharges associated with mining and processing operations at the Trace Pit Site (2017 Trace Pit NPDES Permit). On November 8, 2017, ADEM approved the transfer of coverage under the Trace Pit NPDES Permit for discharges associated with mining and processing operations at the Trace Pit from Allstate Materials, LLC to Defendant. Defendant’s coverage under the 2017 Trace Pit NPDES Permit has been administratively continued.

COUNT ONE:

UNAUTHORIZED DISCHARGES OF DREDGED OR FILL MATERIAL – POLY PIT SITE

47. The United States and ADEM reallege and incorporate Paragraphs 1 through 52 of this Complaint.

48. During Defendant’s operations at the Poly Pit Site, Defendant or persons acting at Defendant’s behest, operated excavators, bulldozers, and/or other earthmoving equipment at and throughout the Site.

49. As operated, this equipment constituted a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

50. Operation of this equipment resulted in the placement of dredged spoil, biological materials, rock, sand, or other earthen material constituting “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to waters of the United States, including Cubahatchee Creek, its tributaries, and adjacent wetlands.

51. Operation of this equipment involved the mechanized pushing, dragging, or other redepositing of excavated soil material.

52. Operation of this equipment had the effect of replacing one or more portions of waters of the United States with dry land and/or changing the bottom elevation of one or more portions of waters of the United States.

53. Operation of this equipment resulted in the “discharge of any pollutant” within the meaning of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

54. Defendant violated 33 U.S.C. § 1311(a) at the Site.

55. Defendant has allowed dredged or fill material that had been discharged without authorization to remain in waters of the United States at the Site.

56. Defendant remains in violation of 33 U.S.C. § 1311(a) at the Poly Pit Site.

COUNT TWO:

**UNAUTHORIZED DISCHARGES OF POLLUTANTS
OTHER THAN DREDGED OR FILL MATERIAL
(INCLUDING VIOLATIONS OF NPDES PERMIT) AT THE
POLY PIT SITE**

57. The United States and ADEM reallege and incorporate Paragraphs 1 through 52 of this Complaint.

58. The Poly Pit Site consists of treatment ponds, treatment pond levees, additional ponds, berms, emergency spillways, ditches, rills, gullies, and/or other conduits or channels, and the manner in which Defendant used them means that they constituted “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

59. During Defendant’s operations at the Poly Pit Site, Defendant violated various requirements and conditions of the 2013 Poly Pit NPDES Permit. For example, Defendant violated the requirement in Part II.A.1. of the 2013 Poly Pit NPDES Permit to “at all times operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit.” During Defendant’s operations at the Poly Pit site, berms and dams/levees at various times had not been built in accordance with the Permit and associated plans, berms and dams/levees were not properly maintained, and waters of the state identified prior to mining were not adequately protected with setbacks/buffers. Therefore, Defendant failed to operate and maintain all systems of treatment and control in violation of Part II.A.1 of the 2013 Poly Pit NPDES Permit.

60. During Defendant’s operations at the Poly Pit Site, effluent from previously mined areas flowed without appropriate treatment into Cubahatchee Creek and its tributaries and their adjacent wetlands through one or more outfalls not covered under the 2013 Poly Pit NPDES

Permit in violation of Permit Part II.D.1.f, which provides that “the discharge of a pollutant from a source not specifically identified in the permit application for this Permit and not specifically included in the description of an outfall in this Permit is not authorized and shall constitute noncompliance with this permit.”

61. NPDES permittees must comply with all conditions of their NPDES permits, and any noncompliance with a permit constitutes a violation of the CWA and the AWPCA. *See* CWA Section 309(a), (b), and (d), 33 U.S.C. § 1319(a), (b), and (d).

62. Defendant’s failures to comply with all conditions of the 2013 Poly Pit NPDES Permit constitute violations of the CWA and the AWPCA.

63. Defendant discharged untreated wastewater containing pollutants from point sources to waters of the United States at locations not authorized by an NPDES permit, in violation of 33 U.S.C. § 1311(a), Ala. Code § 22-22-9(i)(3), and ADEM Admin Code rs. 335-6-6-.03, -.04.

COUNT THREE:

UNAUTHORIZED DISCHARGES OF POLLUTANTS OTHER THAN DREDGED OR FILL MATERIAL (INCLUDING VIOLATIONS OF NPDES PERMIT) AT THE TRACE PIT SITE

64. The United States and ADEM reallege and incorporate Paragraphs 1 through 52 of this Complaint.

65. During the Defendant’s operation of the Trace Pit Site, Defendant conducted processing operations that washed and sorted raw mined sand and gravel material and generated process wastewater that was discharged to waters of the United States and waters of the State through conduits or channels and treatment ponds, and the manner in which Defendant used these features means that they constituted “point sources” within the

meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

66. During Defendant's operations at the Trace Pit Site, Defendant violated various requirements and conditions of the 2017 Trace Pit NPDES Permit. For example, Defendant violated the requirement in Part IV.A.2. of the 2017 Trace Pit NPDES Permit to properly implement, maintain and update the facility's Pollution Abatement Plan ("PAP") as there were discrepancies between the March 2020 PAP and the conditions at facility, including lack of berms where specified in the PAP and a failure to conduct needed pond maintenance.

67. During Defendant's operations at the Trace Pit Site, effluent from processing operations was discharged into ponds that were constructed in waters of the United States and waters of the State for treatment without any NPDES permit authorization for the discharge into those waters. This violated Part V.G.5 of the 2017 Trace Pit NPDES Permit which provides that the discharge of wastewater "not identified specifically in the description of an outfall in the NOI is not authorized by this Permit."

68. NPDES permittees must comply with all conditions of their NPDES permits, and any noncompliance with a permit constitutes a violation of the CWA. See CWA Section 309(a), (b), and (d), 33 U.S.C. § 1319(a), (b), and (d).

69. Defendant's failures to comply with all conditions of the 2017 Trace Pit NPDES Permit constitute violations of the CWA and AWPCA.

70. Defendant discharged untreated wastewater containing pollutants from point sources to waters of the United States at locations not authorized by an NPDES permit, in violation of 33 U.S.C. § 1311(a), Ala. Code § 22-22-9(i)(3), and ADEM Admin Code rs. 335-6-6-.03, -.04.

REQUESTS FOR RELIEF

The United States and ADEM respectfully requests that this Court grant the following relief:

- A. Injunctive relief prohibiting Defendant from further unauthorized discharges, including by complying with any permit issued under Sections 402 or 404 of the CWA, 33 U.S.C. §§ 1342 or 1344;
- B. Injunctive relief compelling Defendant to restore, remediate, stabilize, and/or mitigate the impacts of the unauthorized discharges;
- C. A civil penalty award against Defendant; and
- D. Such other relief as the Court may deem appropriate.

Respectfully submitted,

ADAM R. F. GUSTAFSON
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United States Department of Justice
Environment and Natural Resources Division

Dated: July 12, 2026

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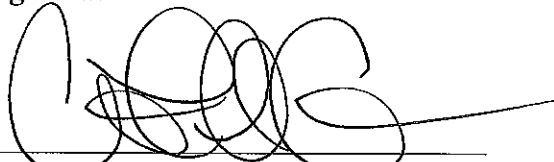
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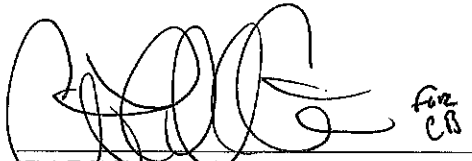
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 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
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 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.
- 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 cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

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