

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

CASE NO.: 3:17-cv-1268-J-205RK

MEGAN HIATT; MEGAN HIATT as PERSONAL REPRESENTATIVE of the ESTATE of H R H a/k/a H R W ; MEGAN HIATT as PERSONAL REPRESENTATIVE of the ESTATE of K R H a/k/a K R W ; MELISSA BATEH as PERSONAL REPRESENTATIVE of the ESTATE of TRAVIS HIATT,

Plaintiffs

v.

THE UNITED STATES OF AMERICA,

Defendant.

\_\_\_\_\_ /

COMPLAINT

The Plaintiffs, MEGAN HIATT; MEGAN HIATT as PERSONAL REPRESENTATIVE of the ESTATE of H [REDACTED] R [REDACTED] H [REDACTED] A/K/A H [REDACTED] R [REDACTED] W [REDACTED]; MEGAN HIATT as PERSONAL REPRESENTATIVE of the ESTATE of K [REDACTED] R [REDACTED] H [REDACTED] A/K/A K [REDACTED] R [REDACTED] W [REDACTED]; MELISSA BATEH as PERSONAL REPRESENTATIVE of the ESTATE of TRAVIS HIATT, citizens of the State of Florida, file suit against the Defendant, THE UNITED STATES OF AMERICA and state the following:

**I. STATEMENTS OF JURISDICTION, VENUE, AND APPLICABLE LAW**

1. GAWAIN WILSON was an employee of and worked for the United States of America, Department of the Navy at the time of and prior to the November 13, 2015 incident.

2. At all material times, GAWAIN WILSON'S coworkers and supervisors were working for the United States of America, Department of the Navy and were acting within the course and scope

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MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION  
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of their employment with the United States of America, Department of the Navy.

3. The Plaintiffs' actions against the United States of America for money damages arise under the Federal Tort Claims Act, 28 U.S.C. §1346(b), 28 U.S.C. §2401 and 28 U.S.C. §§2671-2680. (hereinafter "FTCA").

4. The Plaintiffs have complied with the pre-suit requirements for filing a lawsuit pursuant to the FTCA:

A. By timely presenting their administrative claims to the United States of America, Department of the Navy on April 27, 2017, which were received by the United States of America, Department of the Navy on April 28, 2017 2013. (Attached hereto as Exhibits "A" through "H", along with the Defendants's confirmation of receipt, attached as Exhibit "I").

B. Having received denials of their claims from the United States of America, Department of the Navy, dated July 21, 2017. (Attached hereto as Exhibits "J" through "Q").

5. The Plaintiffs reside in Florida.

6. The acts or omissions giving rise to the Plaintiffs' claims occurred in Jacksonville, Duval County, Florida.

7. The substantive law of the place where the acts or omissions giving rise to the Plaintiffs' claims occurred is the law of the State of Florida.

8. This action contains claims for wrongful death, pursuant to Section 768.16 - 768.27, Florida Statutes.

9. The Plaintiff, Megan Hiatt, is the duly appointed Personal Representative of the Estates of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED] and K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED]

W [REDACTED], and has been and continues to be a Florida resident at all material times hereto.

10. Megan Hiatt was the mother of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED] and K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED] at the time of their deaths.

11. The Plaintiff, Melissa Bateh, is the duly appointed Personal Representative of the Estate of Travis Hiatt, and has been and continues to be a Florida resident at all material times hereto.

12. At the time of Travis Hiatt's death, Megan Hiatt and Tyler Hiatt were his minor children, under the age of 25.

## **II. GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

13. Gawain Wilson had a prior history of committing violence and violent acts against women, including women he dated and other female domestic partners.

14. The Defendant knew about Gawain Wilson's prior history of committing violence and violent acts against women, including women he dated and other female domestic partners.

15. Gawain Wilson was working for the Defendant on the day of the incident and was involved in a telephone conversation with Megan Hiatt, while Gawain Wilson was still on duty.

16. Another employee of the Defendant, who was also on duty at the time, was present in the room with Gawain Wilson while this telephone conversation was occurring and heard the telephone conversation.

17. Gawain Wilson became agitated during the telephone conversation, while he also got angry and made threatening and/or violent comments to Megan Hiatt during that same telephone conversation.

18. Instead of staying on duty until the end of his shift, Gawain Wilson left his station prior to his shift ending, without authorization from his supervisor.

19. The Defendant negligently created a foreseeable zone of risk to the Plaintiffs and the

decedents, because immediately before Gawain Wilson left his station, he made threatening comments and/or acted in a way whereby the Defendant, through its employees and/or agents, knew or should have known he posed a threat to and was going to harm his domestic partner and the mother of his children, Megan Hiatt, and/or his children, H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED] and K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED] yet the Defendant did nothing to stop, retain, or prevent Gawain Wilson from leaving its property, but instead allowed him to leave.

20. The Defendant, through its agents and/or employees, owed one or more of the following non discretionary duties to the Plaintiffs and the decedents:

- a. full compliance with Florida Statute 39.201,
- b. stop Gawain Wilson from leaving the Defendant's property,
- c. retain Gawain Wilson until the Plaintiffs and the decedents could be removed from the foreseeable zone of risk,
- d. prevent Gawain Wilson from driving to his home directly from the Defendant's property,
- e. Notifying law enforcement of the danger and immediate threat Gawain Wilson posed to Megan Hiatt and her two children, and/or
- f. properly supervise Gawain Wilson so they would have been able to eliminate the foreseeable zone of risk when he left their property in an agitated, angry and/or violent state.

21. The Defendant knew or should have known that its creation of a foreseeable zone of risk and/or its breaches of one or more of the duties it owed to the Plaintiffs and decedents, would cause harm to the Plaintiffs and the decedents.

22. Due to the Defendant's creation of a foreseeable zone of risk and/or due to the

Defendant's breaches of one or more of the above stated duties, Gawain Wilson shot Megan Hiatt and caused significant injuries to her, while he also shot and killed Travis Hiatt, H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED] and K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED]

23. The negligent acts of the Defendant and/or the Defendant's breaches of one or more of the duties it owed to the Plaintiffs was a proximate cause of the injuries and damages sustained by the Plaintiffs and the decedents.

### **III. COUNT ONE - MEGAN HIATT**

24. Pursuant to Rule 10(b), FED. R. CIV. P., Plaintiff, Megan Hiatt, realleges paragraphs 1-23 as though fully pled in Count One.

25. The negligence of the Defendant caused significant, multiple injuries to Megan Hiatt.

26. Megan Hiatt was holding her two children when they were killed. Megan Hiatt also was in close proximity to her father when he was killed and heard him being killed. Therefore, the injuries to Megan Hiatt also include past and future damages due to negligent infliction of emotional distress in witnessing her two children being killed and being in close proximity to her father when he was killed and hearing him killed.

27. As a direct and proximate result of the negligence of the Defendant, Megan Hiatt suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity to enjoy life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, in the past and in the future, and aggravation of a previously existing condition.

WHEREFORE, Megan Hiatt demands judgment against the United States of America, in excess of \$75,000.00, costs of this action, interest, and any other relief this Court deems just and proper.

**IV. COUNT TWO – Megan Hiatt, as Personal Representative of the Estate of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED]**

28. Pursuant to Rule 10(b), FED. R. CIV. P., Megan Hiatt, as Personal Representative of the Estate of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED], realleges paragraphs 1-23 as though fully pled in Count Two.

29. Megan Hiatt, as the mother of decedent, H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED], has suffered past and future mental pain and suffering, and medical and funeral expenses.

30. The Estate has suffered medical and funeral expenses.

WHEREFORE, the Plaintiff, Megan Hiatt, as Personal Representative of the Estate of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED], demands judgment for damages on behalf of: Megan Hiatt, as the Decedent's surviving mother; and on behalf of the Estate of H [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED], against the Defendant, the United States of America, in excess of \$75,000.00, costs of this action, interest, and any other relief this Court deems just and proper.

**V. COUNT THREE - Megan Hiatt, as Personal Representative of the Estate of K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED]**

31. Pursuant to Rule 10(b), FED. R. CIV. P., Megan Hiatt, as Personal Representative of the Estate of K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED] realleges paragraphs 1-23 as though fully pled in Count Three.

32. Megan Hiatt Megan Hiatt, as the mother of decedent, K [REDACTED] R [REDACTED] H [REDACTED] a/k/a H [REDACTED] R [REDACTED] W [REDACTED] has suffered past and future mental pain and suffering, and medical and funeral expenses.

33. The Estate has suffered medical and funeral expenses.

WHEREFORE, the Plaintiff, Megan Hiatt, as Personal Representative of the Estate of K [REDACTED] R [REDACTED] H [REDACTED] a/k/a K [REDACTED] R [REDACTED] W [REDACTED], demands judgment for damages on behalf of:

Megan Hiatt, as the Decedent's surviving mother; and on behalf of the Estate of K██████████ R██████████ H██████████ a/k/a K██████████ R██████████ W██████████ against the Defendant, the United States of America, in excess of \$75,000.00, costs of this action, interest, and any other relief this Court deems just and proper.

**VI. COUNT FOUR - Melissa Bateh, as Personal Representative of the Estate of Travis Hiatt**

34. Pursuant to Rule 10(b), FED. R. CIV. P., Melissa Bateh, as Personal Representative of the Estate of Travis Hiatt, realleges paragraphs 1-23 as though fully pled in Count Four.

35. Megan Hiatt, as one of the Decedent's minor children, has suffered the past and future loss of the Decedent's support and services; the past and future loss of the Decedent's parental companionship, instruction, and guidance; and past and future mental pain and suffering.

36. Tyler Hiatt, as one of the Decedent's minor children, has suffered the past and future loss of the Decedent's support and services; the past and future loss of the Decedent's parental companionship, instruction, and guidance; and past and future mental pain and suffering.

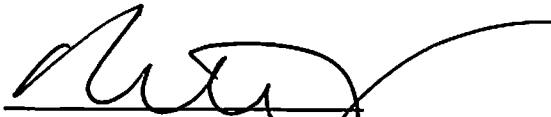
37. The Estate has suffered a loss of earnings, the loss of prospective net accumulations, as well as medical and funeral expenses.

WHEREFORE, Melissa Bateh, as Personal representative of the Estate of Travis Hiatt, demands judgment for damages on behalf of: Megan Hiatt, as one of the Decedent's minor children; Tyler Hiatt, as one of the Decedent's minor children; and the Estate of Travis Hiatt; against the

*(This space intentionally left blank)*

Defendant, the United States of America, in excess of \$75,000.00, costs of this action, interest, and any other relief this Court Deems just and proper.

**COKER, SCHICKEL, SORENSON,  
POSGAY, and IRACKI P.A.**



**MATTHEW N. POSGAY, ESQ.**

Florida Bar No.: 0046590

136 East Bay Street

Jacksonville, FL 32202

(904)356-6071

(904)353-2425 facsimile

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13th day of November, 2017, I filed the foregoing document with the Clerk of the Court.



**MATTHEW N. POSGAY, ESQ.**



JS 44 (Rev. 11/15)

### 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.)

<p><b>I. (a) PLAINTIFFS</b> Megan Hiatt et al</p> <p>(b) County of Residence of First Listed Plaintiff <u>St. Johns</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Matthew N. Posgay Coker, Schickel, Sorenson, Posgay, &amp; Iracki 136 E. Bay Street, Jacksonville, FL 32202 ph. 904-356-6071</p>	<p><b>DEFENDANTS</b> United States of America</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>PTF</td> <td>DEF</td> <td></td> <td>PTF</td> <td>DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State.</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" 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
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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)

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input checked="" type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p>	<p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
<p><b>REAL PROPERTY</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease &amp; Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p><b>CIVIL RIGHTS</b></p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><b>Other:</b></p> <p><input type="checkbox"/> 540 Mandamus &amp; Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>	<p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p>	<p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p>	<p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>

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

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 2674

Brief description of cause:  
Federal Tort Claims Act - Negligence and Wrongful Death

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 75,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE None    DOCKET NUMBER \_\_\_\_\_

DATE 11/13/2017    SIGNATURE OF ATTORNEY OF RECORD 

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \$ 400 APPLYING IFP \_\_\_\_\_ JUDGE 20 MAG. JUDGE JRK

Box 25841

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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