

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ELISA NORIEGA,

Plaintiff,

v.

MAGNOLIA VOLUNTEER FIRE
DEPARTMENT AND
MONTGOMERY COUNTY
EMERGENCY SERVICES
DISTRICT NO. 10

Defendant(s).

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No. _____
Jury

PLAINTIFF ELISA NORIEGA’S ORIGINAL COMPLAINT

Plaintiff Elisa Noriega (referred to as “Noriega”) brings this action against Defendants Magnolia Volunteer Fire Department (referred to as “MVFD”) and Montgomery County Emergency Services District No. 10 (referred to as “MCESD”) (collectively referred to as “Defendants”) for violations of Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. §§ 2000e-2000e-17, (“Title VII”) and the Texas Commission on Human Rights Act, Tex. Lab. Code ch. 21 (“TCHRA”).

I. Nature of Suit

1. Noriega’s claims arise under Title VII and the TCHRA.

2. Title VII was enacted to prohibit employment discrimination based on race, color, religion, sex and national origin. *See*, 42 U.S.C. § 2000e-2; *see also*, 29 C.F.R. § 1608.1(b) (“Congress enacted title VII in order to improve the economic and social conditions of minorities and women by providing equality of opportunity in the workplace.”).

3. The TCHRA was enacted to “secure for persons in [Texas] ... freedom from discrimination in certain employment transactions[and] to protect their personal dignity[.]” Tex. Lab. Code § 21.001(4).

4. MVFD and MCESD violated Title VII and the TCHRA by discriminating against and harassing Noriega based on sex (female), and by retaliating against Noriega based on protected activity. *See*, 42 U.S.C. §§ 2000e-2(a)[, 42 U.S.C. § 2000e-3(a)]; Tex. Lab. Code §§ 21.051[, 21.055].

II. Jurisdiction & Venue

5. This action arises under a federal statute, Title VII. 28 U.S.C. § 1331 (federal-question jurisdiction).

6. The Court has supplemental jurisdiction over Noriega’s TCHRA claim(s) because it is so related to the Title VII claim that they form part of the same case or controversy under U.S. Const. art. III. 28 U.S.C. § 1367(a) (supplemental jurisdiction).

7. Venue is proper in this district and division because MVFD and MCESD reside in this district and division. 28 U.S.C. § 1391(b)(1); *see also*, 42 U.S.C. § 2000e-5(f)(3) (Title VII lawsuit may be brought in “any judicial district in the State in which the unlawful employment practice is alleged to have been committed[]”).

III. Parties

8. Noriega is an individual who resides in Montgomery County Texas and who was employed by MVFD and MCESD.

9. Defendant MVFD is a Texas nonprofit corporation that may be served with process by serving its registered agent:

Alan W. Paulk
18215 Buddy Riley Road
Magnolia, Texas 77354

Alternatively, if the registered agent of MVFD cannot with reasonable diligence be found at the company’s registered office, MVFD may be served with process by serving the Texas Secretary of State. *See*, Tex. Bus. Org. Code §§ 5.251-5.254; *see also*, Tex. Civ. Prac. & Rem. Code § 17.026.

10. Defendant MCESD is a political subdivision of the State of Texas that may be served that may be served with process by serving its counsel:

John W. Peeler
Coveler & Peeler, P.C.
820 Gessner St. Suite 1710,
Houston, Texas 77024.

IV. Facts

11. Defendant MVFD provides emergency services to the citizens located in MCESD No. 10.

12. Defendant MCESD is a political subdivision that supports and provides local emergency, including emergency medical services, emergency ambulance services, rural fire prevention and control services, and other emergency services authorized by the Texas Legislature in a district that covers an area between Tomball, The Woodlands, Montgomery and Waller Counties.

13. MVFD and MCESD do business in the territorial jurisdiction of this Court.

14. Defendants MVFD and MCESD employed Noriega from approximately June 2019 until to December 31, 2021.

15. During Noriega's employment with MVFD and MCESD, the organizations had fifteen or more employees for each working day in each of twenty or more calendar weeks.

16. MVFD and MCESD employed Noriega as an Assistant Chief/Director of Communications.

17. During her employment with MVFD and MCESD, Noriega was always dependable and always met (and usually exceeded) expectations.

18. Noriega is a female.

19. During Noriega's employment with MVFD and MCESD, the organization discriminated against her based on her gender, female.

20. Employee of MVFD and MCESD are encouraged to continue their education, attend industry trainings and conferences.

21. However, during her employment with MVFD and MCESD, she was denied training and certification opportunities as well as prohibited from attending trainings and conference while her male counterparts were allowed to continue their industry education by attending trainings and conferences.

22. Noriega was intentionally excluded from Chief Hevey's meetings with her fellow male Assistant Chiefs.

23. Noriega was denied opportunities and treated less favorably because she is female.

24. In July of 2021, because MVFD and MCESD did not have a human resources department, Noriega complained to Larry Smith, MCESD's Board President, about the discriminatory treatment, but MVFD and MCESD did nothing.

25. In November of 2021, Noriega complained directly to Chief Hevey about the discriminatory treatment, but MVFD and MCESD.

26. Almost immediately after Noriega's complaint to Chief Hevey she was abruptly terminated.

27. MVFD and MCESD's alleged legitimate non-discriminatory reason for Noriega's termination was that she had a class A misdemeanor conviction on her record.

28. At the same time, there were and continue to be many male MVFD and MCESD employees that have class A misdemeanor conviction on their records that were not terminated.

29. During Noriega's employment with MVFD and MCESD, she was subjected to unwelcome harassment based on her her gender, female.

30. Specifically, employees of MVFD and MCESD are encouraged to continue their education, attend industry trainings and conferences.

31. However, during Noriega's employment with MVFD and MCESD, she was denied training and certification opportunities as well as prohibited from attending trainings and conference while her male counterparts were allowed to continue their industry education by attending trainings and conferences.

32. Noriega was intentionally excluded from Chief Hevey's meetings with her fellow male Assistant Chiefs.

33. Ultimately Noriega was terminated for allegedly having a class A misdemeanor conviction while male employees with class A misdemeanor convictions were not terminated.

34. The harassment was sufficiently severe or pervasive to affect a term, condition or privilege of Noriega's employment with MVFD and MCESD and/or to create a hostile or abusive work environment.

35. MVFD and MCESD knew or should have known of the harassment and failed to take prompt remedial action.

36. During Noriega's employment with MVFD and MCESD, MVFD and MCESD retaliated against him based on his protected activity.

37. In July of 2021, because MVFD and MCESD did not have a human resources department, Noriega complained to Larry Smith, MCESD's Board President, about the discriminatory treatment, but MVFD and MCESD did nothing.

38. In November of 2021, Noriega complained directly to Chief Hevey about the discriminatory treatment, but MVFD and MCESD.

39. Because she did so, MVFD and MCESD she was terminated almost immediately.

40. MVFD and MCESD acted with malice or reckless indifference to its employees' federally protected rights, including Noriega's federally protected rights, under Title VII and the TCHRA.

41. MVFD and MCESD is liable to Noriega for her reasonable attorney's fees (including expert fees). *See*, 42 U.S.C. § 2000e-5(k); *see also*, Tex. Lab. Code § 21.259.

**V. Count One—
Discrimination Based on Sex in Violation of
42 U.S.C. § 2000e-2(a)**

42. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

43. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

44. During Noriega's employment with MVFD and MCESD, the organizations were covered by Title VII.

45. Under Title VII, an employer commits an unlawful employment practice if it fails or refuses to hire or discharges "any individual, or otherwise ... discriminate[s] against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin[]" or if it limits, segregates or classifies its employees or applicants for employment "in any way which would deprive or tend to deprive any individual of

employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a).

46. By treating Noriega less favorably than her male counterparts, MVFD and MCESD discriminated against Noriega because of her gender, female.

47. MVFD and MCESD acted with malice or reckless indifference with respect to the Title VII violation(s) described above.

48. As a result of the Title VII violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney's fees (including expert fees) under Title VII. *See*, 42 U.S.C. §§ 1981a(a)(1), 1981a(b), 2000e-5.

**VI. Count Two—
Harassment Based on Sex in Violation of
42 U.S.C. § 2000e-2(a)**

49. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

50. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

51. During Noriega's employment with MVFD and MCESD, the organizations were covered by Title VII.

52. Under Title VII, an employer commits an unlawful employment practice if it fails or refuses to hire or discharges "any individual, or otherwise ... discriminate[s] against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin[]" or if it limits, segregates or classifies its employees or applicants for employment "in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a).

53. During Noriega's employment with MVFD and MCESD, she was subjected to unwelcome harassment based on her gender.

54. Specifically, employees of MVFD and MCESD are encouraged to continue their education, attend industry trainings and conferences.

55. However, during Noriega's employment with MVFD and MCESD, she was denied training and certification opportunities as well as prohibited from attending trainings and conference while her male counterparts were allowed to continue their industry education by attending trainings and conferences.

56. Noriega was intentionally excluded from Chief Hevey's meetings with her fellow male Assistant Chiefs.

57. Ultimately Noriega was terminated for allegedly having a class A misdemeanor conviction while male employees with class A misdemeanor convictions were not terminated.

58. The harassment was sufficiently severe or pervasive to affect a term, condition or privilege of Noriega's employment with MVFD and MCESD and/or to create a hostile or abusive work environment.

59. MVFD and MCESD knew or should have known of the harassment and failed to take prompt remedial action.

60. MVFD and MCESD acted with malice or reckless indifference with respect to the Title VII violation(s) described above.

61. As a result of the Title VII violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney's fees (including expert fees) under Title VII. *See*, 42 U.S.C. §§ 1981a(a)(1), 1981a(b), 2000e-5.

**VII. Count Three—
Retaliation Based on Protected Activity in Violation of
42 U.S.C. § 2000e-3(a)**

62. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

63. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

64. During Noriega's employment with MVFD and MCESD, the organizations were covered by Title VII.

65. Under Title VII, an employer may not retaliate against an employee because the employee "has opposed any practice made an unlawful employment practice by [Title VII], or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under [Title VII]." 42 U.S.C. § 2000e-3(a).

66. By terminating Noriega almost immediately following her complaints of gender discrimination, MVFD and MCESD retaliated against Noriega based on protected activity.

67. MVFD and MCESD acted with malice or reckless indifference with respect to the Title VII violation(s) described above.

68. As a result of the Title VII violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney's fees (including expert fees) under Title VII. *See*, 42 U.S.C. §§ 1981a(a)(1), 1981a(b), 2000e-5.

**VIII. Count Four—
Discrimination Based on Gender in Violation of
Tex. Lab. Code § 21.051**

69. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

70. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

71. During Noriega's employment with MVFD and MCESD, the organizations were covered by the TCHRA.

72. Under the TCHRA, an employer "commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer (1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or (2) limits,

segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.” Tex. Lab. Code § 21.051.

73. By treating her less favorably than her male counterparts, MVFD and MCESD discriminated against Noriega because of her gender, female.

74. MVFD and MCESD acted with malice or reckless indifference with respect to the TCHRA violation(s) described above.

75. As a result of the TCHRA violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (future pecuniary losses and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney’s fees (including expert fees) under the TCHRA. *See*, Tex. Lab. Code §§ 21.258-21.259.

**IX. Count Five—
Harassment Based on Gender in Violation of
Tex. Lab. Code § 21.051**

76. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

77. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

78. During Noriega's employment with MVFD and MCESD, the organizations were covered by the TCHRA.

79. Under the TCHRA, an employer "commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer (1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or (2) limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee." Tex. Lab. Code § 21.051.

80. During Noriega's employment with MVFD and MCESD, she was subjected to unwelcome harassment based on his gender, female.

81. Specifically, employees of MVFD and MCESD are encouraged to continue their education, attend industry trainings and conferences.

82. However, during Noriega's employment with MVFD and MCESD, she was denied training and certification opportunities as well as prohibited from attending

trainings and conference while her male counterparts were allowed to continue their industry education by attending trainings and conferences.

83. Noriega was intentionally excluded from Chief Hevey's meetings with her fellow male Assistant Chiefs.

84. Ultimately Noriega was terminated for allegedly having a class A misdemeanor conviction while male employees with class A misdemeanor convictions were not terminated.

85. The harassment was sufficiently severe or pervasive to affect a term, condition or privilege of Noriega's employment with Def Short and/or to create a hostile or abusive work environment.

86. MVFD and MCESD acted with malice or reckless indifference with respect to the TCHRA violation(s) described above.

87. As a result of the TCHRA violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (future pecuniary losses and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney's fees (including expert fees) under the TCHRA. *See*, Tex. Lab. Code §§ 21.258-21.259.

**X. Count Six—
Retaliation Based on Protected Activity in Violation of
Tex. Lab. Code § 21.055**

88. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

89. MVFD and MCESD employed Noriega from June 2019 until to December 31, 2021 as an Assistant Chief/Director of Communications.

90. During Noriega's employment with MVFD and MCESD, the organization was covered by the TCHRA.

91. Under the TCHRA, "[a]n employer commits an unlawful employment practice if the employer[] ... retaliates or discriminates against a person who[] ... (1) makes or opposes a discriminatory practice; (2) makes or files a charge; (3) files a complaint; or (4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing." Tex. Lab. Code § 21.055.

92. By terminating her almost immediately following her complaints of discrimination, MVFD and MCESD retaliated against Noriega based on protected activity.

93. MVFD and MCESD acted with malice or reckless indifference with respect to the TCHRA violation(s) described above.

94. As a result of the TCHRA violation(s) described above, MVFD and MCESD are liable to Noriega for compensatory damages (future pecuniary losses and emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay and attorney's fees (including expert fees) under the TCHRA. *See*, Tex. Lab. Code §§ 21.258-21.259.

**XI. Count Seven—
Attorney's Fees Under 42 U.S.C. § 2000e-5(k)
& Tex. Lab. Code § 21.259**

95. Noriega adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

96. Noriega is authorized to recover attorney's fees (including expert fees) on her claims by statute. *See*, 42 U.S.C. § 2000e-5(k); *see also*, Tex. Lab. Code § 21.259.

97. Noriega has retained the professional services of the undersigned attorneys.

98. Noriega has complied with the conditions precedent to recovering attorney's fees.

99. Noriega has incurred or may incur attorney's fees in bringing this lawsuit.

100. The attorney's fees incurred or that may be incurred by Noriega were or are reasonable and necessary.

101. MVFD and MCESD are liable to Noriega for attorney's fees (including expert fees) by reason of the Title VII and TCHRA violations described above. *See*, 42 U.S.C. § 2000e-5(k); *see also*, Tex. Lab. Code § 21.259.

XII. Conditions Precedent

102. All conditions precedent have been performed or have occurred. *See*, Fed. R. Civ. P. 9(c).

XIII. Relief Sought

103. Noriega demands the following relief:
- a. judgment against MVFD and MCESD in Noriega's favor for compensatory damages (emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, both in the past and in the future) and punitive damages, back pay (including interest on back pay), front pay, attorney's fees (including expert fees), plus interest and costs; and
 - b. all other relief and sums that may be adjudged against MVFD and MCESD in Noriega's favor.

Respectfully Submitted,

MOORE & ASSOCIATES
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440 Louisiana Street | Suite 1110
Houston, Texas 77002-1055
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By:  _____

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ATTORNEYS FOR PLAINTIFF

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

Elisa Noriega

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Moore & Associates - (713) 222-6775 440 Louisiana St., Ste. 1110, Houston, Texas 77002

DEFENDANTS

Magnolia Volunteer Fire Department and Montgomery County Emergency Services District No. 10

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)

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

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

Click here for: Nature of Suit Code Descriptions.

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

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): Titel VII and the TCHRA. Brief description of cause: Employment Discrimination

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 1/19/2023 SIGNATURE OF ATTORNEY OF RECORD [Signature]

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 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.