

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WENDY DAVIS, 2737 Calder Court,)
Fort Worth, Texas; MARC VEASEY,)
8224 Longfellow, Fort Worth, Texas;)
ROY BROOKS, 5032 Highland Meadow Drive,)
Fort Worth, Texas; VICKY BARGAS,)
3301 East Drew Street, Fort Worth, Texas;)
Fort Worth Texas; PAT PANGBURN,)
4620 Redwood Court, Irving, Texas;)
FRANCES DELEON, 4521 Diaz Avenue,)
Fort Worth, Texas; DOROTHY DEBOSE,)
5713 Humbert Avenue, Fort Worth, Texas; and)
SARAH JOYNER, 9201 Brody Lane, #4302,)
Austin, Texas,)
Plaintiffs,)

Case No. 5:11-cv-788

v.)

RICK PERRY, in his official capacity as)
Governor of the State of Texas;)
HOPE ANDRADE, in her official capacity)
as Secretary of State for the State of Texas;)
BOYD RICHIE, in his official capacity as Chair)
Of the Texas Democratic Party; and)
STEVE MUNISTERI, in his official capacity as)
Chair of the Texas Republican Party,)
Defendants.)

Three-Judge Court Requested

COMPLAINT

Plaintiffs, WENDY DAVIS, MARC VEASEY, ROY BROOKS, VICKY BARGAS, PAT PANGBURN, FRANCES DELEON, DOROTHY DEBOSE, and SARAH JOYNER (“Plaintiffs”) allege:

1. Plaintiffs bring this action to enforce their voting rights guaranteed by the United States Constitution and federal law. As registered voters in the State of Texas, Plaintiffs

have exercised, and wish to continue exercising, their right to vote for their preferred candidate to the Texas State Senate from Senate Districts 8, 10, 12 and 25, both in primary elections and general elections. As registered voters in the State of Texas, Plaintiffs have exercised, and wish to continue exercising their right to vote for their preferred candidate to the Texas State Senate from Senate Districts 8, 10, 12, and 25 both in primary elections and general elections. As recently released census data demonstrate, however, population shifts during the last decade have now diluted Plaintiffs' voting strength and have rendered Texas' state senate districting plan unconstitutional under the rule of "one person, one vote."

2. Plaintiffs also bring this action to enforce their voting rights guaranteed by the Voting Rights Act of 1965, as amended, 42 U.S.C. §§1973 and 1973c. In May 2011, the State enacted a new state senate plan (Plan S148) but that plan has not and likely will not receive the requisite preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. §1973c. Even in the unlikely event that Plan S148 receives Section 5 preclearance, the state's proposed state senate redistricting plan cannot be administered because Plan S148 dilutes the voting strength of minority voters in the Dallas and Tarrant area of North Texas in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

3. The State's proposed state senate plan was drawn with the purpose, and has the effect, of minimizing and reducing the voting strength of minority populations in the Tarrant and Dallas counties area of North Texas. The intentional fracturing and dismantling of the coalition of minority voters in Senate District 10 constitutes unlawful vote dilution and discrimination in violation of Section 2 of the Voting Rights Act, as well as the Fourteenth and Fifteenth Amendments to the United States Constitution.

PARTIES

4. Plaintiff WENDY DAVIS resides at 2737 Calder Court, in Fort Worth, Texas. Plaintiff MARC VEASEY resides at 8224 Longfellow, in Fort Worth, Texas. Plaintiff ROY BROOKS resides at 5032 Highland Meadow Drive in Fort Worth, Texas, VICKY BARGAS resides at 3301 East Drew Street in Fort Worth, Texas. Plaintiffs DAVIS, VEASEY, BROOKS and BARGAS are registered voters who live in Senate District 10.

5. Plaintiff PAT PANGBURN resides at 4620 Redwood Court in Irving, Texas. Plaintiffs PANGBURN is a registered voter who lives in Senate District 8.

6. Plaintiff FRANCES DELEON resides at 4521 Diaz Avenue in Fort Worth, Texas. Plaintiff DOROTHY DEBOSE resides at 5713 Humbert Avenue in Fort Worth, Texas. Plaintiffs DELEON and DEBOSE are registered voters who live in Senate District 12.

7. Plaintiff SARAH JOYNER resides at 9201 Brody Lane, #4302, in Austin, Texas 78748. Plaintiff JOYNER is a registered voter who lives in Senate District 25.

8. Defendants are Texas State officials who have duties under the laws of Texas to draw state senate boundaries in Texas following the release of population data from each federal decennial census and then to conduct elections under those districts. Governor Rick Perry is the Governor of Texas. Hope Andrade is the Secretary of State and oversees Texas' electoral process. Defendant BOYD RICHIE is the Chair of the Texas Democratic Party. Defendant STEVE MUNISTERI is Chair of the Texas Republican Party. All Defendants are sued in their official capacities.

JURISDICTION AND VENUE

9. This case is brought pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1973c. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1343(a)(3),

1343(a)(4), 1357, 2201, 2202, 2284, and 42 U.S.C. §1973j(d). Venue is proper in this district under 28 U.S.C. 1391(b).

BASIS OF CLAIMS

10. The Equal Protection Clause of Section 1 of the Fourteenth Amendment to the United States Constitution prohibits any state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” This provision creates a guarantee of “one person, one vote” – requiring a state’s senate districts to achieve population equality as nearly as is practicable.

11. On December 21, 2010, the Secretary of Commerce reported to the President of the United States the tabulation of population for each of the fifty states, including the State of Texas. Those population figures show Texas’ total population to be 25,145,561. The ideal population for each of the 31 state senate districts using this figure is 811,147 (25,145,561 divided by 31).

12. The official 2010 federal decennial census figures for Texas show that population shifts during the last decade have generated substantial inequality among Texas’ thirty one state senate districts, whose populations now range from a low of 641,007 (for State Senate District 16) to a high of 1, 015,027 (State Senate District 7). Thus, the total deviation is now 374,020 persons.

13. According to the 2010 federal decennial census figures for Texas, State Senate District 10 contains population from fast growing Tarrant County, and has significantly increased its population over the last decade and now contains 834,265 persons. These official census figures show that State Senate District 10 exceeds by 23,118 the ideal

population figure of 811,147 for each state senate district in Texas. State Senate District 10 is overpopulated relative to other state senate districts in the State of Texas.

14. The existing malapportionment of state senate districts in Texas dilutes the voting strength of Plaintiffs DAVIS, VEASEY, BROOKS and BARGAS in overpopulated State Senate District 10, as the weight or value of plaintiffs DAVIS', VEASEY's and BROOKS' vote is less than that of other voters residing in underpopulated districts state senate districts.

15. State Senate District 8 contains population from fast growing Collin County as well as Dallas County, and has significantly increased its population over the last decade and now contains 940,963 persons. These official census figures show that state senate District 8 exceeds by 129,816 the ideal population figure of 811,147 for each state senate district in Texas. State Senate District 8 is overpopulated relative to other state senate districts in the State of Texas.

16. The existing malapportionment of state senate districts in Texas dilutes the voting strength of Plaintiff PANGBURN in overpopulated State Senate District 8, as the weight or value of Plaintiff PANGBURN's vote is less than that of other voters residing in underpopulated districts state senate districts.

17. According to the 2010 federal decennial census figures for Texas, State senate District 12 contains population from fast growing Tarrant and Denton Counties, has significantly increased its population over the last decade and now contains 1,013,641 persons. These official census figures show that State Senate District 12 exceeds by 202,494 the ideal population figure of 811,147 for each state senate district in Texas.

State Senate District 12 is overpopulated relative to other state senate districts in the State of Texas.

18. The existing malapportionment of state senate districts in Texas dilutes the voting strength of Plaintiffs DELEON and DEBOSE in overpopulated State Senate District 12, as the weight or value of plaintiffs DELEON's and DEBOSE's vote is less than that of other voters residing in underpopulated districts state senate districts.

19. According to the 2010 federal decennial census figures for Texas, State Senate District 25 contains population from the fast growing region of Bexar, Travis, Hays, Guadalupe, Kendall and Comal Counties, and has significantly increased its population over the last decade and now contains 984,664 persons. These official census figures show that State Senate District 25 exceeds by 173,517 the ideal population figure of 811,147 for each state senate district in Texas. State Senate District 25 is overpopulated relative to other state senate districts in the State of Texas.

20. The existing malapportionment of state senate districts in Texas dilutes the voting strength of Plaintiff JOYNER in overpopulated State Senate District 25, as the weight or value of plaintiff JOYNER's vote is less than that of other voters residing in underpopulated districts state senate districts.

21. The Texas Legislature adopted a new state senate redistricting plan, Plan S148, on or about May 17, 2011. Defendant Governor Perry, however, did not sign the senate redistricting bill until June 17, 2011. State officials then delayed another month, until July 19, 2011, to submit the state senate redistricting plan to federal authorities under Section 5 of the Voting Rights Act, 42 U.S.C §1973c.

22. In addition to waiting more than 60 days to submit the legislatively-enacted state senate redistricting plan for Section 5 preclearance, State officials also submitted the new state senate plan to a three-judge district court in the District of Columbia for judicial preclearance, rather than choosing the speedier alternative of administratively submitting the plan to the United States Attorney General. On September 19, 2011, the United States Attorney General filed his Answer to the State's complaint in the D.C. preclearance lawsuit. In his answer, the United States Attorney General took the position that the proposed state senate redistricting plan met the requirements of Section 5 of the Voting Rights Act. Plaintiffs DAVIS and VEASEY, among others including the NAACP and LULAC and the Texas Legislative Black Caucus, have intervened in the D.C. Court case and will vigorously oppose preclearance of the state senate map. A trial in that D.C. judicial preclearance case is not expected until November 2011, at the earliest.

23. A redistricting plan is not legally enforceable unless and until it receives the requisite preclearance under Section 5 of the Voting Rights Act of 1965, as amended. See 42 U.S.C. §1973c. It is unlikely that the State of Texas will have a legally enforceable state senate redistricting plan when candidate qualifying opens later this year because it does not meet the requirements of the Voting Rights Act. This Court's intervention is thus necessary to remedy the existing constitutional violation of Plaintiffs' rights and to protect their rights to cast an undiluted vote for the state senate.

CLAIM I

24. Plaintiffs reallege the facts set forth in paragraphs 1-23 above.

25. The facts alleged herein constitute a denial to the plaintiffs of the equal protection of the laws as guaranteed to them by the Equal Protection Clause of Section 1 of the Fourteenth Amendment to the United States Constitution.

CLAIM II

26. Plaintiffs reallege the facts set forth in paragraphs 1-23 above.

27. The facts alleged herein constitute an abridgement of the privileges and immunities of citizenship guaranteed to Plaintiffs by the Privileges and Immunities Clause of Section 1 of the Fourteenth Amendment to the United States Constitution.

CLAIM III

28. Plaintiffs reallege the facts set forth in paragraphs 1-23, above.

29. The State's proposed state senate redistricting plan cannot be administered because S148 has not been precleared pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.

CLAIM IV

30. Plaintiffs reallege the facts set forth in paragraphs 1-23, above.

31. The State's proposed state senate plan violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, by minimizing and diluting the opportunities for African-American and Hispanic voters to participate in the political process, and to elect a candidate of their choice to the Texas Senate.

32. When Senate District 10 was drawn in the 2001 redistricting cycle, it was 56.6 percent Anglo, 16.7 percent African American and 22.9 percent Hispanic. In its 2001 Section 5 submission to the Department of Justice for Voting Rights Act preclearance,

the State of Texas acknowledged that the minority population in District 10 was growing and justified its configuration of the district by stating:

...District 10 contain[s] significant minority communities that are essentially kept intact within [the] district. The voting strength of these minority communities in the future will depend on the cohesion within and between Black and Hispanic voters and the ability of such voters to form coalitions with other racial or ethnic groups in support of their preferred candidates. (State of Texas Section 5 Preclearance submission, August 2001).

33. DOJ precleared the senate map referenced in paragraph 21, above, in 2001. Throughout the last decade, the minority population in the DFW metroplex in general and in Senate District 10 in particular, grew dramatically while the Anglo population significantly shrunk as a percentage of the district. For example, between 2000 and 2010, the total Anglo population in Dallas and Tarrant counties decreased by more than 156,000, whereas the Latino population in that two county area grew by more than 440,000 and the black population in that area grew by more than 152,000. By the end of the decade, Senate District 10's minority population had increased by 9 percent and its Anglo population percentage had fallen by 9 percent. By the time of the 2010 census, Anglos no longer comprised a majority of Senate District 10's total population.

34. Minority voters in Senate District 10 realized the potential predicted by the State's 2001 DOJ preclearance submission in 2008 when they elected their preferred candidate of choice to the State Senate, Wendy Davis. Minority leaders in Tarrant County were leaders in the coalition that recruited and supported Wendy Davis in her 2008 campaign in Senate District 10.

35. In the 2008 election, African-American and Hispanic voters in Senate District 10 united and voted cohesively to provide overwhelming support to candidate Wendy Davis and she was elected to office.

36. In electing their candidate of choice to the state senate in 2008, African-American and Hispanic voters in Senate District 10 overcame the opposing bloc vote of Anglos who voted against the candidate of choice of minority voters.

37. Plan S148 dramatically changes the demographic makeup of Senate District 10. The State's plan adds 58,846 Anglos to the District while removing 61,562 African Americans and Hispanics. This raises the Anglo percentage to 54.4 percent (from the benchmark of 47.6 percent). The State's plan also lowers the African American voting age population from 17.9 percent to 13.4 percent and lowers the Hispanic voting age population from 24.8 percent to 22.1 percent.

38. Plan S148 destroys the coalition of minority voters who elected their preferred candidate of choice in Senate District 10 in 2008, which is majority-minority in total population (52.4% combined Hispanic, Black and Other) according to the 2010 census. The State's proposed state senate plan both lowers the minority percentage and eliminates minority voters' ability to elect their candidate of choice and their ability to participate effectively in the political process.

39. The State's proposed state senate plan was drawn to insure that population gains in minority communities from 2000 to 2010 in the Dallas-Tarrant counties region of North Texas were not reflected in the proposed state senate plan.

40. The reconfiguration of Senate District 10 in the 2011 state senate redistricting plan was not free of a racially discriminatory purpose and harms plaintiffs' rights. The

redrawing of Senate District 10 was a cynical and intentional cleaving of an effective concentration of minority voter neighborhoods into disparate pieces that will now have no political impact on any of the districts they are placed within. State legislative leaders knew Senate District 10 was majority minority in population at the time of redistricting, they acknowledged that Senator Davis was the minority voters' candidate of choice in 2008 when minority voters elected her, and they were warned that dismantling Senate District 10 would harm minority voting rights. In the face of this evidence, they intentionally eliminated Senate District 10 as a minority opportunity district.

41. The State's proposed state senate plan was drawn with the purpose, and has the effect, of minimizing and reducing the voting strength of minority populations in the Tarrant and Dallas counties area of North Texas. The fracturing and dismantling of Senate District 10 harms plaintiffs herein and constitutes unlawful vote dilution and discrimination in violation of Section 2 of the Voting Rights Act, as well as the Fourteenth and Fifteenth Amendments to the United States Constitution.

42. The minority population in the Dallas-Tarrant County area of North Texas (Black, Hispanic, and Other) is sufficiently large and geographically compact to comprise the majority of citizen voting age persons in at least two state senate districts. Dallas and Tarrant Counties contain over 2.1 million African American and Hispanic residents. Since the 2000 census, the Anglo population in the two counties combined has decreased while the both African American and Hispanic populations have increased. Yet, under the State's plan, the entire north Texas region contains only one district SD23 that allows minority citizens the opportunity to elect their candidate of choice.

43. Minority voters in Tarrant and Dallas Counties are sufficiently politically cohesive that they can elect two candidates of choice to the state senate in the Dallas and Tarrant counties region of North Texas.

44. Anglos vote sufficiently as a bloc to enable them usually to defeat the minority voters' preferred candidates in Texas, including the areas in which two majority-minority, citizen voting age population state senate districts can be drawn.

45. In addition to being malapportioned, the current and proposed Texas state senate redistricting plans operate to dilute the voting strength of minority voters in the Dallas and Tarrant area of North Texas in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

1. Assume jurisdiction of this action and immediately convene a three-judge district court pursuant to 28 U.S.C. §2284;
2. Issue a declaratory judgment, that the existing state senate districting plan presently in effect in Texas violates Plaintiffs' rights under the aforesaid provisions of the United States Constitution and federal law;
3. Issue a declaratory judgment finding that the current Texas state senate redistricting plans are malapportioned, in violation of the Fourteenth Amendment to the United States Constitution;
4. In the unlikely event that Section 5 preclearance is obtained, issue a declaratory judgment finding that the 2011 proposed state senate redistricting plan illegally dilutes the voting rights of minority voters (African Americans and Latinos) in the Dallas and

Tarrant counties region of North Texas in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973;

5. In the unlikely event that Section 5 preclearance is obtained, issue a declaratory judgment finding that the 2011 proposed state senate redistricting plan was enacted with a racially discriminatory purpose in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973, and the Fourteenth and Fifteenth Amendments to the United States Constitution;

6. Enjoin permanently the Defendants, their agents, employees, and those persons acting in concert with them, from enforcing or giving any effect to the proposed state senate plan S148 because that plan that has not received the requisite preclearance approval under Section 5 of the Voting Rights Act;

7. Enjoin permanently the Defendants, their officers, agents, employees attorneys, successors in office, and all persons acting in concert or participation with them, from conducting primary, general or special elections using the existing state senate districting plan, or any other state senate plan that violates the United States Constitution and federal law;

8. Order into effect a new state senate redistricting plan that meets the requirements of the United States Constitution and federal and state law;

9. Make all further orders as are just, necessary, and proper to ensure complete fulfillment of this Court's declaratory and injunctive orders in this case;

10. Issue an order requiring Defendants to pay Plaintiffs' costs, litigation expenses and reasonable attorneys' fees incurred in the prosecution of this action; and

11. Grant such other and further relief as it deems is proper and just.

Respectfully submitted,

/s/ David Richards

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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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number)
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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)
(For Diversity Cases Only)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT TORTS FORFEITURE/PENALTY LABOR IMMIGRATION BANKRUPTCY SOCIAL SECURITY FEDERAL TAX SUITS 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 (Excl. 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
PERSONAL INJURY 362 Personal Injury - Med. Malpractice 365 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
610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC 881 630 Liquor Laws 640 R.R. & Truck 650 Airline Regs. 660 Occupational Safety/Health 690 Other
422 Appeal 28 USC 158 423 Withdrawal 28 USC 157
820 Copyrights 830 Patent 840 Trademark
861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609
400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 810 Selective Service 850 Securities/Commodities/Exchange 875 Customer Challenge 12 USC 3410 890 Other Statutory Actions 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice 950 Constitutionality of State 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 7 Appeal to District Judge from Magistrate Judgment

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 F.R.C.P. 23 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.C.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; 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 clerks 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 seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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.