IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

JULIE ANN BRYANT and PHILIP BRYANT, **Plaintiffs,** **v.** **ATRIUM MEDICAL CORPORATION, MAQUET CARDIOVASCULAR, LLC, and GETINGE AB,** **Defendants.**	**Civil Action No.: _____** **Jury Trial Demanded**

COMPLAINT

Come now Plaintiffs, Julie Ann Bryant and Philip Bryant, by and through undersigned counsel, and bring this action against Defendants Atrium Medical Corporation, Maquet Cardiovascular, LLC, and Getinge AB (hereinafter "Defendants," to allege the following causes of action against Defendants:

Parties

1. Plaintiffs Julie Ann Bryant and Philip Bryant are individuals residing in Bogart, Oconee County, Georgia. Plaintiffs are and have at all pertinent times been residents and citizens of the State of Georgia.

2. Atrium Medical Corporation ("Atrium") is incorporated under the laws of Delaware. At all pertinent times, Atrium's manufacturing and support facilities were located in Hudson, NH. Atrium is a medical device company involved in the research, development, testing, manufacture, production, marketing, promotion and/or sale of medical devices including C-QUR Mesh (hereinafter "C-QUR" or "product" or "mesh").

3. Maquet Cardiovascular, LLC ("Maquet") is a limited liability company organized under the laws of New Jersey, with its principal place of business located at 45 Barbour Pond Drive, Wayne, NJ 07470. Maquet is registered with the Georgia Secretary of State to transact business in Georgia. At all times pertinent hereto, Atrium has operated within, and as a business unit of, Maquet.

4. Getinge AB ("Getinge") is a Swedish corporation, organized under the laws of Sweden with its principal place of business in Sweden. At all times pertinent hereto, Maquet was a wholly-owned subsidiary of Getinge AB.

5. Getinge is a holding company the purpose of which is to coordinate the administration, finances and activities of its subsidiary companies, including Maquet and its business unit/division Atrium, and to act as managers and to direct or coordinate the management of its subsidiary companies or of the business, property and estates of any subsidiary company, including Maquet and its business unit/division Atrium.

6. The financial accounts of Maquet and its business unit/division Atrium are consolidated within those of Getinge.

7. In 2011, prior to the implantation of the C-QUR Mesh in Plaintiff Julie Ann Bryant, Getinge acquired Atrium through a merger. When Getinge acquired Atrium through a merger, it acquired Atrium's assets and assumed Atrium's liabilities.

8. Since the merger, Atrium has operated as a division/business unit of Getinge subsidiary Maquet.

9. Getinge is the owner of 100% of the controlling shares of Atrium stock and assets, including the rights to Atrium's C-QUR patents. Maquet has direct control over Atrium's

activities. Following the merger with Atrium, Getinge and Maquet have continued to manufacture and sell the same defective C-QUR product line as Atrium under the same brand so as to hold themselves out to the public as a continuation of Atrium and benefit from Atrium's brand and goodwill. The Maquet Getinge Group website (www.maquet.com) lists the C-QUR product as one of Maquet Getinge Group's "biosurgery" products. (http://www.maquet.com/us/products/C-QUR-mesh/?ccid=231).

10. Defendants Getinge and Maquet represent that Atrium had become "part of 'Maguet Getinge Group.'" See http://www.atriummed.com (stating that "Atrium is now part of Maguet Getinge Group"); http://www.atriummed.com/News/atriumnews.asp?articleid=60&zoneid=1 (press release detailing the acquisition of Atrium by Maguet Getinge Group).

11. Getinge and Maquet are liable for any acts and/or omissions by or through Atrium. Following the merger, which occurred prior to the sale and implantation of the C-QUR mesh implanted in Plaintiff Julie Ann Bryant, Atrium was so organized and controlled and its business conducted in such manner as to make it merely an alter ego or business conduit of Getinge and Maquet. Because Atrium's assets and capital are subject to the ownership and control of Maquet and Getinge, Atrium is undercapitalized and the failure to disregard Atrium's corporate form would result in the inequitable and unjust result that Plaintiffs may be unable to satisfy any judgment ultimately obtained against Atrium. Atrium acts as agent for Getinge and Maquet. Maquet, Getinge and Atrium combine their property and labor in a joint undertaking for profit, with rights of mutual control.

12. Maquet and Getinge, directly and/or through the actions of their Atrium division and business unit, have at all pertinent times been responsible for the research, development, testing, manufacture, production, marketing, promotion, distribution and/or sale of C-QUR Mesh.

13. Defendants are individually, jointly and severally liable to Plaintiff for damages suffered by Plaintiff arising from the Defendants' design, manufacture, marketing, labeling, distribution, sale and placement of its defective mesh products at issue in the instant suit, effectuated directly and indirectly through their respective agents, servants, employees and/or owners, all acting within the course and scope of their representative agencies, services, employments and/or ownership.

14. Defendants are vicariously liable for the acts and/or omissions of its employees and/or agents who were at all times relevant hereto acting on behalf of Defendants and within the scope of their employment or agency with Defendants.

Jurisdiction and Venue

15. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) based on complete diversity of citizenship between Plaintiffs and all Defendants. The amount in controversy exceeds $75,000.

16. This Court has personal jurisdiction over each of the Defendants pursuant to the Georgia Long-Arm Statute, O.C.G.A. § 9-10-91. Defendants transact business within the State of Georgia, and Defendants committed tortious acts and omissions in Georgia. Defendants' tortious acts and omissions caused injury to Plaintiffs in the State of Georgia. Defendants have purposefully engaged in the business of developing, manufacturing, publishing information,

marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties, as successor in interest, or other related entities, medical devices including C-QUR mesh products in Georgia, for which they derived significant and regular income. The Defendants reasonably expected that that their defective mesh products, including C-QUR, would be sold and implanted in Georgia.

17. Maquet is registered to transact business in Georgia, and is thus also subject to personal jurisdiction pursuant to O.C.G.A. § 14-2-510.

18. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) and M.D. Ga. Local Rule 3.4.

Facts Common To All Counts

19. Plaintiff Julie Ann Bryant was implanted with Defendants' defective C-QUR Mesh to repair an abdominal hernia on or about May 23, 2014. Mrs. Bryant suffered severe injury caused by the C-QUR mesh, including but not limited to a seroma which spontaneously drained to the abdomen and nerve damage to the abdomen. Mrs. Bryant's surgeon removed the defective C-QUR Mesh on September 09, 2014. Upon removal, Mrs. Bryant's surgeon encountered a sclerotic area of tissue, along with underlying tissue inflamed but not infected in appearance. Cultures taken at the time of removal showed no evidence of infection. Due to the failure of the defective and dangerous C-QUR Mesh, Mrs. Bryant was forced to undergo an additional surgery for an abdominal hernia expansion on March 19, 2015 at Emory University Hospital. This procedure resulted in Plaintiff missing more than six weeks of work and required extensive treatment due to pain from scar tissue buildup and nerve damage to the abdomen.

20. Getinge and Maquet were, at all times relevant hereto, responsible for the actions of Atrium and exercised control over Atrium's functions specific to the oversight and compliance with applicable safety standards relating to including C-QUR Mesh sold in the United States. In such capacity, they committed or allowed to be committed tortious and wrongful acts, including the violation of numerous safety standards relating to device manufacturing, quality assurance/control, and conformance with design and manufacturing specifications. Their misfeasance and malfeasance caused Plaintiffs to suffer injury and damages.

21. Defendants were responsible for the research, design, development, testing, manufacture, production, marketing, promotion, distribution and sale of C-QUR™ Mesh, including providing the warnings and instructions concerning the product.

22. Among the intended purposes for which Defendants designed, manufactured and sold C-QUR Mesh was use by surgeons for hernia repair surgeries, the purpose for which the C-QUR Mesh was implanted in Plaintiff Julie Ann Bryant.

23. Defendants represented to Plaintiff Julie Ann Bryant's physicians that C-QUR Mesh was a safe, effective, appropriate, cost-effective and suitable product for hernia repair surgeries.

24. Defendants' C-QUR Mesh was defectively designed and/or manufactured, and was not reasonably safe for its intended use in hernia repair, and the risks of the design outweighed any potential benefits associated with the design. As a result of the defective design and/or manufacture of the C-QUR Mesh, there was an unreasonable risk of severe adverse reactions to the mesh or mesh components including: foreign body response; rejection;

inadequate or failure of incorporation/ingrowth; scarification; improper wound healing; excessive and chronic inflammation; allergic reaction; adhesions; granulomatous response; seroma formation; nerve damage; tissue damage and/or death; and other complications.

25. The C-QUR Mesh was manufactured from polypropylene, and has an Omega 3 gel coating derived from fish oil ("Omega 3 coating"). The Omega 3 coating was represented by the Defendants to prevent or minimize adhesion and inflammation and to facilitate incorporation of the mesh into the body, but it did not. Instead, the Omega 3 coating prevented adequate incorporation of the mesh into the body and caused an intense inflammatory and chronic foreign body response resulting in an adverse tissue reaction including damage to surrounding tissue in the form of sclerotic, granulomatous and/or fibrotic, unhealthy, tissue and improper healing. In addition, due to serious problems with sterilization and quality control in the Atrium manufacturing facilities, the Omega 3 coating was not uniformly applied to the C-QUR Mesh devices. The Omega 3 coating applied to the mesh caused or contributed to the propensity of the C-QUR Mesh to roll, curl and deform upon insertion into the body, intensifying the inflammatory and foreign body response to the mesh, and exacerbating the lack of adequate incorporation and improper healing response. The Omega 3 coating was also unreasonably susceptible to deterioration and degradation, both in the packaging and inside the body. The Omega 3 coating of the C-QUR Mesh also failed to conform to the manufacturer's specifications in terms of shelf-life, thickness, durability, and quality. These manufacturing and design defects associated with the C-QUR Mesh were directly and proximately related to the injuries suffered by Plaintiff Julie Ann Bryant.

26. Neither Plaintiff Julie Ann Bryant nor her implanting physician were adequately warned or informed by Defendants of the defective and dangerous nature of C-QUR Mesh. Moreover, neither Plaintiff Julie Ann Bryant nor her implanting physician were adequately warned or informed by Defendants of the risks associated with the C-QUR Mesh.

27. The C-QUR Mesh implanted in Plaintiff Julie Ann Bryant failed to reasonably perform as intended. The mesh caused serious injury and had to be surgically removed via invasive surgery, and necessitated additional invasive surgery to repair the hernia that the C-QUR was initially implanted to treat.

28. Plaintiff Julie Ann Bryant's severe adverse reaction, and the necessity for surgical removal of the C-QUR Mesh, directly and proximately resulted from the defective and dangerous condition of the product and Defendants' defective and inadequate warnings about the risks associated with the product. Plaintiff Julie Ann Bryant has suffered, and will continue to suffer, both physical injury and pain and mental anguish, permanent and severe scarring and disfigurement, lost wages and earning capacity, and has incurred substantial medical bills and other expenses, resulting from the defective and dangerous condition of the product and from Defendants' defective and inadequate warnings about the risks associated with the product. Plaintiff Philip Bryant has suffered a loss of consortium as a direct and proximate result of Defendants' conduct.

COUNT I: Strict Product Liability
Defective Design, Manufacture and Failure to Warn

29. Plaintiff incorporates herein by reference the allegations in all prior Paragraphs.

30. At the time the C-QUR Mesh that was implanted in Plaintiff Julie Ann Bryant's body, the product was defectively designed and/or manufactured, and the warnings and

instructions provided by Defendant for the C-QUR Mesh were inadequate and defective. As described above, there was an unreasonable risk that the product would not perform safely and effectively for the purposes for which it was intended, and Defendants failed to design and/or manufacture against such dangers, and failed to provide adequate warnings and instructions concerning these risks.

31. Defendants expected and intended the C-QUR Mesh product to reach users such as Plaintiff Julie Ann Bryant in the condition in which the product was sold.

32. Defendants' manufacturing and quality control/assurance facilities where the C-QUR Mesh is manufactured, processed, inspected and packed failed to comply to minimum industry and governmental standards and regulatory requirements, and as a result, the C-QUR Mesh products manufactured and sold by Defendants, including the C-QUR Mesh implanted in Plaintiff Julie Ann Bryant, suffered manufacturing defects affecting the safety and efficacy of the device.

33. Defendants' manufacturing and quality control/assurance non-compliance resulted in the non-conformance of the C-QUR Mesh implanted in Plaintiff Julie Ann Bryant with intended manufacturing and design specifications, including but not limited to with respect to the Omega-3 gel coating.

34. The implantation of C-QUR Mesh in Plaintiff's body was medically reasonable, and was a type of use that Defendants intended and foresaw when it designed, manufactured and sold the product.

35. The risks of the C-QUR Mesh outweigh any benefits associated with the product.

36. The C-QUR Mesh implanted in Plaintiff Julie Ann Bryant failed to reasonably perform as intended, and had to be surgically removed necessitating further invasive surgery to repair the very issue that the product was intended to repair, and thus provided no benefit to her.

37. Plaintiff and her physicians were unaware of the defects and dangers of C-QUR Mesh, and were unaware of the frequency, severity and duration of the risks associated with the C-QUR Mesh.

38. If Plaintiff Julie Ann Bryant and/or her physicians had been properly warned of the defects and dangers of C-QUR Mesh, and of the frequency, severity and duration of the risks associated with the C-QUR Mesh, Plaintiff Julie Ann Bryant would not have consented to allow the C-QUR Mesh to be implanted in her body, and Plaintiff Julie Ann Bryant's physicians would not have implanted the C-QUR Mesh in Plaintiff Julie Ann Bryant.

39. As a result of the defective and unreasonably dangerous condition of the product, the defective manufacture, and the inadequate and defective warnings and instructions, Plaintiffs suffered injuries and damages as summarized herein.

COUNT II: Negligence

40. Plaintiff incorporates herein by reference the allegations in all prior Paragraphs.

41. Defendants had a duty to use reasonable care in designing, testing, inspecting, manufacturing, packaging, labeling, marketing, distributing, and preparing written instructions and warnings for C-QUR Mesh, but failed to do so.

42. Defendants knew, or in the exercise of reasonable care should have known, that C-QUR Mesh was defectively and unreasonably designed and/or manufactured, and was unreasonably dangerous and likely to injure patients in whom C-QUR Mesh was implanted.

43. As a direct and proximate result of Defendants' negligence in designing, testing, inspecting, manufacturing, packaging, labeling, marketing, distributing, and preparing written instructions and warnings for C-QUR Mesh, Plaintiffs suffered injuries and damages.

44. If Plaintiff Julie Ann Bryant and/or her physicians had been properly warned of the defects and dangers of C-QUR Mesh, and of the frequency, severity and duration of the risks associated with the C-QUR Mesh, Plaintiff Julie Ann Bryant would not have consented to allow the C-QUR Mesh to be implanted in her body, and Plaintiff Julie Ann Bryant's physicians would not have implanted the C-QUR Mesh in Plaintiff Julie Ann Bryant.

COUNT III: Loss of Consortium

45. Plaintiffs incorporate herein by reference the allegations in all prior Paragraphs as if fully set forth herein.

46. As a direct and proximate result of the above-described injuries sustained by Plaintiff Julie Ann Bryant, her husband, Plaintiff Philip Bryant, has suffered a loss of his wife's consortium, companionship, society, affection, services and support.

Count IV: Punitive Damages

47. Plaintiff incorporates herein by reference the allegations in all prior Paragraphs. Defendants continued to manufacture and sell C-QUR Mesh after obtaining knowledge and information that the product was defective and unreasonably unsafe. Defendants were aware of the probable consequences of implantation of the dangerous and defective C-QUR Mesh, including the risk of failure and serious injury, such as suffered by Plaintiff Julie Ann Bryant. Defendants willfully and deliberately failed to avoid those consequences, and in doing so, Defendants acted with conscious indifference, indifference to, and/or flagrant disregard of, the

safety of those persons who might foreseeably have been harmed by the C-QUR product, including Plaintiffs, justifying the imposition of punitive damages.

Count V: Attorney's Fees and Expenses of Litigation

Because Defendants have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense, Plaintiffs are entitled to an award of their expenses of litigation and attorneys' fees against Defendants.

WHEREFORE, as a result of the acts and omissions and conduct of Defendants set forth herein, Plaintiff Julie Ann Bryant is entitled to recover for her own personal injuries; past, present, and future medical and related expenses; past, present, and future lost wages; past, present and future loss of earning capacity; past, present and future mental and physical pain and suffering; and Plaintiff Philip Bryant is entitled to recover for his loss of consortium and services.

Plaintiffs demand trial by jury, judgment against Defendants, jointly and severally, for compensatory and punitive damages in an amount exceeding $75,000, as well as costs, attorney fees, interest, or any other relief, monetary or equitable, to which they are entitled.

BLASINGAME, BURCH, GARRARD & ASHLEY, P.C.
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JS 44 (Rev. 08/16)

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

JULIE ANN BRYANT AND PHILIP BRYANT

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Blasingame, Burch, Garrard & Ashley
Josh B. Wages, James B. Matthews, Patrick H. Garrard
440 College Avenue, Suite 320, Athens, GA 30601, 706-354-4000

DEFENDANTS

Atrium MEdical Corporation, Maquet Cardiovasular, LLC and Getinge AB

County of Residence of First Listed Defendant New Hampshire
(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)*
(For Diversity Cases Only)

	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	PERSONAL INJURY	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☒ 365 Personal Injury - Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability			☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability		PROPERTY RIGHTS	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability	PERSONAL PROPERTY		☐ 820 Copyrights	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 340 Marine	☐ 370 Other Fraud	LABOR	☐ 830 Patent	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 345 Marine Product Liability	☐ 371 Truth in Lending	☐ 710 Fair Labor Standards Act	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 380 Other Personal Property Damage	☐ 720 Labor/Management Relations	SOCIAL SECURITY	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 385 Property Damage Product Liability	☐ 740 Railway Labor Act	☐ 861 HIA (1395ff)	☐ 480 Consumer Credit
☐ 190 Other Contract	☐ 360 Other Personal Injury		☐ 751 Family and Medical Leave Act	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 195 Contract Product Liability	☐ 362 Personal Injury - Medical Malpractice		☐ 790 Other Labor Litigation	☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/ Exchange
☐ 196 Franchise			☐ 791 Employee Retirement Income Security Act	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions
				☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	Habeas Corpus:	☐ 462 Naturalization Application	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 220 Foreclosure	☐ 441 Voting	☐ 463 Alien Detainee	☐ 465 Other Immigration Actions	☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
☐ 230 Rent Lease & Ejectment	☐ 442 Employment	☐ 510 Motions to Vacate Sentence			☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 240 Torts to Land	☐ 443 Housing/ Accommodations	☐ 530 General			☐ 950 Constitutionality of State Statutes
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	☐ 535 Death Penalty			
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	Other:			
	☐ 448 Education	☐ 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)***:
28 U.S.C. Sec. 1332

Brief description of cause:
Personal Injury/Product Liability

VII. REQUESTED IN COMPLAINT:

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

DEMAND $ >$75,000

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 09/02/2016

SIGNATURE OF ATTORNEY OF RECORD /s/ Josh B. Wages

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

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.