

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	CASE NO.
ROBERT S. CAIRNS AND KATERINA D.)	
CAIRNS,)	
)	
Defendants.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

The United States of America alleges:

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601, *et seq.* (the "Fair Housing Act" or the "Act"). The United States brings this action on behalf of DeV Vaughn Duncan and her three children, James Gainey, Charles Tucker and RW, pursuant to Section 812(o) of the Fair Housing Act, 42 U.S.C. § 3612(o).

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3612(o).
3. Venue is proper under 28 U.S.C. § 1391 because the events or omissions giving rise to the United States' claims occurred in this judicial district.

Parties and Property

4. Defendants Robert S. Cairns and Katerina D. Cairns, a married couple, jointly own and manage several rental properties in the Tampa area, including a single-family, three-

bedroom home located at 11331 Southwind Lake Drive, Gibsonton, Florida (the “subject property”). They have rented these properties through the Tampa Housing Authority (“THA”) Housing Choice Voucher (“Section 8”) Program.

5. The subject property is a dwelling within the meaning of 42 U.S.C. § 3602(b).
6. At all times relevant to this action, Defendants were both involved in all aspects of the rental of their jointly owned properties, including the subject property, and served as agents for each other with respect to such rentals.

Factual Allegations

7. Complainant DeVaughn Duncan is an African-American woman. Ms. Duncan’s children, Complainants James Gainey, Charles Tucker and RW, who are also African-American, were sixteen (16), fifteen (15), and eleven (11)-years old, respectively, in August 2007.
8. In mid-July 2007, Ms. Duncan, who was a participant in THA’s Section 8 voucher program, visited THA’s Section 8 office seeking a home for herself and her children. At the office, she saw a listing for the subject property.
9. Shortly afterward, Ms. Duncan contacted Mr. Cairns and told him she would like to see the property. The two met at the property on or about July 9, 2007, and, after Mr. Cairns showed her the home, Ms. Duncan informed him that she would like to rent it for herself and her three minor children beginning in late July or early August 2007.
10. On or about July 12, 2007, THA issued Ms. Duncan a Section 8 voucher for the home, setting the maximum monthly rental value of the property and stating that a “payment notice” of the rental amount Ms. Duncan would be obligated to pay under the voucher

program would be issued after the unit passes inspection and the family moves in. Under the terms of the program, THA would pay the remainder of any approved rental amount.

11. On or about July 30, 2007, Mr. Cairns and Ms. Duncan met again and signed a lease for the subject property, and Mr. Cairns gave Ms. Duncan the keys to the property. Mr. Cairns informed Ms. Duncan that he would work with her if she were unable to pay a full month's rent and the full security deposit by the move-in date. Accordingly, the two agreed orally that Ms. Duncan would pay approximately half of the first month's rent and half of the security deposit after the move-in date.
12. Defendants offered to reduce or defer move-in payments, such as the first month's rent and security deposit, to other Section 8 tenants of theirs.
13. On August 2, 2007, Ms. Duncan and her three children moved into the subject property. Ms. Duncan and Mr. Cairns agreed to meet at the property at 1:00 p.m. on August 4, 2007, at which time Ms. Duncan was to pay Mr. Cairns approximately half of the first month's rent and half of the security deposit, with the expectation that THA would pay the balance of the rent after it inspected the property and set a maximum monthly rent.
14. On the evening of August 3, 2007, Ms. Duncan telephoned Mr. Cairns to remind him of their scheduled meeting the next day. During that conversation, Mr. Cairns said he thought they were to meet at 11:00 a.m., rather than 1:00 p.m., but Ms. Duncan reminded him that the scheduled time of their meeting was 1:00 p.m.
15. On August 4, 2007, Mr. Cairns telephoned Ms. Duncan at her office shortly after 11:00 a.m., informing her that he was at the property and demanding to know why she was not there to meet him. She reminded him again that they were to meet at 1:00, not 11:00, and said that she had arranged to have someone else meet him at the property at

- 1:00 to pay him because she could not leave work. Mr. Cairns told Ms. Duncan that if she were not at the property in fifteen minutes, he would change the locks on the doors.
16. At that point, Ms. Duncan lost her cell phone connection with Mr. Cairns and immediately tried to call him several times from her office phone, but he did not pick up.
17. Ms. Duncan telephoned her husband, Michael Brown, and asked him to go directly to the property to pay Mr. Cairns with money she had given him previously for that purpose. Mr. Brown arrived at the property at approximately 12:30 p.m. with the agreed-upon amount to pay Mr. Cairns. Upon his arrival, Mr. Brown saw Mr. Cairns coming out of the house with a clear plastic bag full of locks. When Mr. Brown approached Mr. Cairns and offered him the money, Mr. Cairns told him it was too late because he had already changed the locks.
18. Mr. Brown asked Mr. Cairns where Ms. Duncan's children were. Mr. Cairns replied that he told them they had to get out of the house and to go to the neighbors' house because he was changing the locks. Then Mr. Cairns drove away with Mrs. Cairns, who was waiting for him in a vehicle in front of the property. Mr. Brown confirmed that the locks had been changed and that the children were not inside the house, and he checked the neighbors' house but the children were not there.
19. Mr. Brown telephoned Ms. Duncan, who became frantic when he told her what had happened. He initiated a search for the children and found them nearly three hours later under an underpass approximately a quarter-mile from the subject property. The children were still dressed in their night clothes.
20. Later that day, Ms. Duncan checked into a motel with her three children and drove with Mr. Brown to the subject property. From there she telephoned the Hillsborough County

Sheriff's Department to report that she and her children had been evicted and locked out of their home. A sheriff's deputy met them at the property and telephoned Mr. Cairns from his cell phone. When Mr. Cairns answered, the deputy explained to him that under Florida law, he could not evict the family without a court order.

21. While the deputy was talking with Mr. Cairns, Mrs. Cairns took the phone and the deputy repeated what he had told her husband. Mrs. Cairns replied that it was her house and she could do what she wanted. When the deputy told her she was mistaken, Mrs. Cairns responded, "Let me talk to that f**king nigger," or words to that effect, referring to Ms. Duncan. The deputy advised her that her language was inappropriate and she cursed at him.
22. The deputy handed the phone to Ms. Duncan, and Mrs. Cairns said to her, "I can't believe you niggers called the police on us. You niggers make me sick. I just want your nigger asses out of my house," or words to that effect.
23. The Cairns refused to come to the property that night to let Ms. Duncan and her children back into the house. Ms. Duncan attempted to reach them by telephone the next day, August 5, 2007, but Defendants did not answer the phone or return her phone messages.
24. On August 6, 2007, Mrs. Cairns met Ms. Duncan at the property and gave her the keys in exchange for the previously-negotiated rental payment and security deposit, the same amount of money Mr. Brown had tendered two days earlier. The two women also entered into a written agreement that day requiring Ms. Duncan to pay the balance of the monies owed in two installments, on August 11 and August 25, 2007.
25. On or about August 6, 2007, Ms. Duncan telephoned her Section 8 counselor to inform her of the Cairns' actions. Her counselor told her that THA would not complete the work

necessary for THA to contribute to Ms. Duncan's rental payments because the counselor had received an irate call from Mr. Cairns saying he wanted Ms. Duncan out of his home.

26. Accordingly, Ms. Duncan and her children moved out of the property on September 2, 2007.

HUD Administrative Process

27. On or about December 6, 2007, Complainants filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Defendants violated the Fair Housing Act by discriminating in the rental of the subject property because of race or color.
28. In accordance with 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based on the information gathered in this investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on or about September 30, 2010, the Secretary issued a charge of discrimination pursuant to 42 U.S.C. § 3610(g), charging the Defendants with engaging in discriminatory practices on the basis of race or color in violation of the Fair Housing Act, 42 §§ 3604(a) and 3604(c), and 3617.
29. On October 25, 2010, Ms. Duncan and her children elected to have the claims asserted in HUD's charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a).
30. On October 26, 2010, the Administrative Law Judge issued a Notice of Election and terminated the administrative proceeding on the HUD complaint.

31. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

Fair Housing Act Violations

32. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-31, above.
33. By the actions set forth above, Defendants have:
- (a) Refused to negotiate for the rental of housing, or otherwise made unavailable or denied housing because of race or color, in violation of 42 U.S.C. § 3604(a);
 - (b) Made or caused to be made one or more statements with respect to the rental of a dwelling that indicated a preference, a limitation, or discrimination based on race or color, in violation of 42 U.S.C. § 3604(c); and
 - (c) Coerced, intimidated, threatened, or interfered with Complainants in the exercise or enjoyment of, or on account of their having exercised or enjoyed, rights granted or protected by Section 804 of the Fair Housing Act, 42 U.S.C. § 3604, based on race or color, in violation of 42 U.S.C. § 3617.
34. The Complainants are aggrieved persons within the meaning of 42 U.S.C. § 3602(i), and have suffered injuries as a result of Defendants' discriminatory conduct.
35. Defendants' actions as described above were intentional, willful, and taken in disregard for the rights of the Complainants.

Prayer for Relief

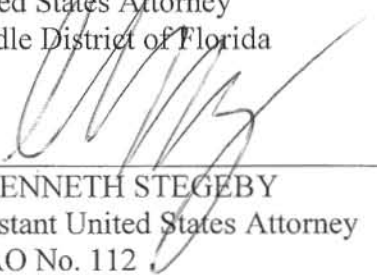
WHEREFORE, the United States requests that the Court enter an Order:

1. Declaring that the discriminatory conduct of Defendants as set forth above violates the Fair Housing Act;

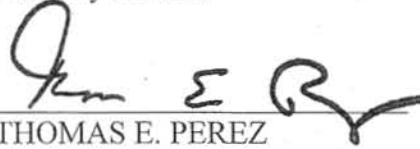
2. Enjoining Defendants, their employees, agents, and successors, and all other persons in active concert or participation with any of them, from discriminating on the basis of race or color in violation of the Fair Housing Act; and
3. Awarding monetary damages to the Complainants pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

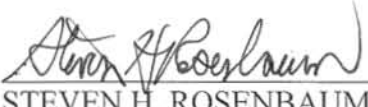
The United States further prays for such additional relief as the interests of justice may require.

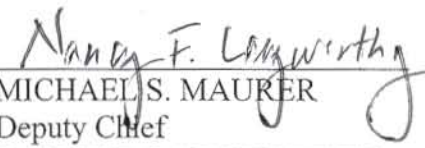
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JS 44 (Rev. 12/07)

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

United States of America

DEFENDANTS

Robert S. Cairns and Katerina D. Cairns

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

Hillsborough County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Nancy F. Langworthy; Attorney for the United States; 950 Pennsylvania Avenue, N.W., Washington, D.C. 20006

Attorneys (If Known)

Thomas A. Smith, Esq., 800 W. Platt, Suite 3, Tampa, FL 33606

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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

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): Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601, et seq. (the "Fair Housing Act")

Brief description of cause: Defendants made housing unavailable or otherwise denied housing because of race.

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

01/14/2011

SIGNATURE OF ATTORNEY OF RECORD

Nancy F. Langworthy

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.