

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

SIERRA CLUB,  
85 Second Street, Second Floor  
San Francisco, CA 94105-3441

Plaintiff,

v.

REGINA MCCARTHY,  
in her official capacity as Administrator,  
United States Environmental Protection  
Agency,  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Defendant.

Case No. 1:15-cv-01555

COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

Clean Air Act, 42 U.S.C. § 7401 *et*  
*seq.*

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**INTRODUCTION**

1. This is an action to compel the Administrator of the United States Environmental Protection Agency (“Administrator” or “EPA”) to perform a nondiscretionary duty mandated by the Clean Air Act (“CAA” or “the Act”). Effective August 6, 2012, EPA disapproved, in part, revisions to the State of Louisiana’s state implementation plan (“SIP”) for regional haze and interstate transport. Within two years of that disapproval—no later than August 6, 2014—EPA was required under the Clean Air Act to promulgate a federal implementation plan (“FIP”), or approve a revised SIP that corrects the deficiencies in the State of Louisiana’s plan. Louisiana has not corrected its deficient plan, the statutorily mandated two-year period has elapsed, and EPA has

failed to issue a federal plan. To protect its members' health and recreational interests, Sierra Club now seeks an order compelling EPA to perform its mandatory duty to promulgate a FIP for Louisiana that satisfies the requirements of the Clean Air Act's visibility provisions.

### **JURISDICTION AND VENUE**

2. This action arises under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* This Court has jurisdiction over this action pursuant to 42 U.S.C. § 7604 (CAA citizen suits), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1361 (mandamus action). The relief requested by Plaintiff is authorized pursuant to 42 U.S.C. § 7604 and 28 U.S.C. §§ 2201 (declaratory judgment), 2202, and 1361 (action to compel an officer of the United States).

3. In accordance with 42 U.S.C. § 7604(b)(2) and 40 C.F.R. Part 54, Plaintiff Sierra Club served notice on the Administrator of the Clean Air Act violation alleged in this Complaint, and its intent to initiate the present action. This notice was provided via Federal Express certified mail, posted March 17, 2015, and addressed to the Administrator. *See* Ex. A. More than 60 days have passed since the notice was served and the violations complained of in the notice are continuing.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Defendant Regina McCarthy is an officer of the United States being sued in her capacity as the Administrator of the EPA, and her official residence is in the District of Columbia.

### **PARTIES**

5. Plaintiff Sierra Club is a not-for-profit corporation organized and existing under the laws of California, with its principal place of business located in San Francisco, California. Sierra Club has more than 630,000 members throughout the United States,

including approximately 2,865 members in Louisiana. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out those objectives.

6. Sierra Club and its members are greatly concerned about the diminished visibility caused by air pollution, and have a long history of involvement in activities related to air quality. For many years, Sierra Club has conducted public education on, and advocacy for, effective and timely implementation of Clean Air Act requirements in Louisiana, including the filing of public comments on proposed state and EPA actions relevant to implementation of Clean Air Act standards and permits, as well as the implementation of regional haze rules. Sierra Club brings this action on behalf of itself and its members.

7. To protect air quality in the National Parks and Wilderness Areas and ensure that those iconic and treasured landscapes return to their natural air quality conditions, Congress passed the visibility protection provisions of the Clean Air Act in 1977. 42 U.S.C. § 7491 *et seq.* Under those provisions, the states—or EPA, where a state fails to act—must develop state implementation plans that include enforceable emission limits at “major sources” of haze-causing pollution to ensure “reasonable progress” toward the goal of achieving natural visibility conditions in each “Class I” national park or wilderness area impacted by that state's emissions. *Id.* at § 7491(b)(2).

8. Sierra Club's members use and enjoy at least two Class I areas that suffer from visibility impairment caused by air pollution from Louisiana sources—Breton

National Wilderness Area in Louisiana and Caney Creek National Wilderness Area in Arkansas. Sierra Club members have on numerous occasions travelled to Breton National Wilderness Area for work and recreation, and plan to do so again. Sierra Club members enjoy the scenic vistas, fishing, boating, and wildlife viewing opportunities in the Breton National Wilderness Area. Sierra Club members also visited the Wilderness Area after Hurricane Isaac and the Deep Water Horizon oil spill to monitor and document the migratory birds and wildlife in the area for scientific research, educational, advocacy purposes, and they intend to continue doing so. Similarly, Sierra Club members also use and enjoy the Caney Creek Wilderness Area in Arkansas for recreation and aesthetic purposes, including the enjoyment of scenic vistas.

9. Sierra Club's members use and enjoyment of these Class I areas is adversely affected by manmade haze-causing pollution from Louisiana, which the Clean Air Act requires the states (or EPA where the state fails to act) to reduce.

10. If the Administrator had timely promulgated a haze reduction plan within two years of disapproving Louisiana's deficient plan, as required under the Clean Air Act, air quality and visibility in the Upper Buffalo and Caney Creek would improve more quickly than it has. EPA's failure to timely promulgate a federal implementation plan as required under the Clean Air Act has prolonged existing, and allows future, visibility impairment that significantly interferes with Sierra Club's members' use and enjoyment of Breton National Wildlife Area and Caney Creek Wilderness Areas. The recreational, aesthetic, and environmental interests of Sierra Club's members have been and continue to be adversely affected by EPA's failure to promulgate the required regional haze plan for Louisiana.

11. The relief requested in this lawsuit would redress Sierra Club members' injuries by requiring EPA to timely issue a federal implementation plan that improves visibility and remedies existing visibility impairment in the Upper Buffalo and Caney Creek. When EPA is forced to comply with the mandatory deadlines under the Clean Air Act and promulgates a FIP for regional haze in Louisiana, such action will reduce haze-causing pollution in the Breton and Caney Creek Wilderness Areas. Reductions in these pollutants will bring the area closer to attaining the national goal of natural visibility and help reduce the haze that hangs over those areas. Reducing haze will benefit public health as well as Sierra Club's members' recreational, aesthetic, and environmental interests in the use and enjoyment of those Class I areas.

12. Defendant Regina McCarthy is the Administrator of the United States Environmental Protection Agency and is charged with implementing and enforcing the Clean Air Act. The Administrator's Clean Air Act responsibilities include, *inter alia*, promulgating a federal plan within two years of disapproving a state plan. *See* 42 U.S.C. § 7410(c)(1). Sierra Club is suing Ms. McCarthy in her official capacity as the Administrator of EPA.

### **FACTS AND REGULATORY BACKGROUND**

13. Haze is caused by air pollution that absorbs and reflects light, thereby reducing visibility. Air pollution that causes haze comes from a variety of sources, including power plants, refineries, and other industrial sources.

14. The air pollution that causes haze also causes respiratory health problems.

15. In 1977, Congress declared as a national goal "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I federal

areas which impairment results from manmade air pollution.” 42 U.S.C. § 7491. Mandatory Class I federal areas include 156 national parks and wilderness areas for which the Secretary of the Interior has determined visibility is an important value.

16. Congress directed EPA to issue regulations requiring states to make reasonable progress toward achieving natural visibility in Class I areas, including requiring amended SIPs with emissions limits on certain sources of air pollutants that cause or contribute to visibility impairments in Class I areas. 42 U.S.C. § 7491(b). In particular, the Act requires that certain older, disproportionately polluting sources implement Best Available Retrofit Technology (“BART”) to reduce haze-causing pollution and remedy visibility impacts.

17. Further, the “interstate transport” provision of the Act, also known as the “good neighbor” provision, requires that states control their in-state emissions that may result in visibility impairment in neighboring states’ Class I areas. 42 U.S.C. § 7410(a)(2)(D)(i)(II).

18. In Louisiana, Breton National Wilderness Area has been designated as a Class I area. Louisiana’s emissions may also result in visibility impairment in southwest Arkansas’ Class I Caney Creek Wilderness Area.

19. The Act provides that if EPA disapproves a state’s proposed implementation plan in whole or in part, it has a mandatory duty to promulgate a FIP within two years of its disapproval decision unless EPA approves a revised SIP that corrects the deficiencies in the disapproved plan. 42 U.S.C. § 7410(c)(1).

20. On June 13, 2008, Louisiana submitted a revision to the state’s SIP intended to address the state’s obligations under the Act’s regional haze requirements and

interstate transport requirements for visibility. *See* 77 Fed. Reg. 11,737, 11,839 (Feb. 28, 2012) (describing history of Louisiana regional haze submissions).

21. On July 3, 2012, EPA issued a final rule approving in part and disapproving in part Louisiana's regional haze and interstate transport SIP revisions. 77 Fed. Reg. 39,385, 39,425 (July 3, 2012).

22. In particular, EPA found that Louisiana did not properly satisfy its obligation to require certain sources to install BART to reduce SO<sub>2</sub>, NO<sub>x</sub>, and other visibility-impairing pollution. 77 Fed. Reg. at 39,427 (final rule); *see also* 77 Fed. Reg. at 11,841 (proposed rule). As a result, EPA concluded that Louisiana would be required to reconsider whether reductions of SO<sub>2</sub> from EGUs, whether subject to BART or not, are appropriate for ensuring reasonable progress toward the national visibility goal. 77 Fed. Reg. at 39427.

23. EPA's disapproval decision took effect on August 6, 2012.

24. The Act therefore required EPA to issue a FIP by August 6, 2014, unless EPA approved a revised State plan that corrected the deficiencies in the plan EPA disapproved. 77 Fed. Reg. at 39,426; 77 Fed. Reg. at 11,841; 42 U.S.C. § 7410(c)(1)(B) (requiring EPA to issue a FIP within two years of disapproving a SIP in whole or in part).

25. EPA has not approved a revised state plan that corrects the deficiencies EPA identified on July 3, 2012.

26. In fact, Louisiana has not submitted a revised regional haze plan since EPA's disapproval decision.

27. EPA has not issued a federal implementation plan since its disapproval of Louisiana's SIP on July 3, 2012.

28. EPA failed to issue a FIP within the two-year statutory deadline.

**CLAIM FOR RELIEF**  
**Failure to Promulgate Federal Implementation Plan**

29. Plaintiff hereby incorporates all previous paragraphs by reference.

30. Under the Clean Air Act, any person may commence a civil action against the EPA Administrator “where there is alleged a failure of the Administrator to perform any act or duty under [the Clean Air Act] which is not discretionary with the Administrator.” 42 U.S.C. § 7604(a)(2).

31. EPA’s partial disapproval of Louisiana’s regional haze and interstate transport SIP took effect on August 6, 2012. 77 Fed. Reg. at 39,425.

32. Under 42 U.S.C. § 7410(c)(1)(B), EPA is required to issue a FIP within two years of disapproving a SIP in whole or in part. The two-year period ended on August 6, 2014.

33. Because EPA has failed to timely promulgate a Louisiana FIP to address regional haze and interstate transport, it has failed to meet its mandatory duty to establish a FIP within two years of disapproving a SIP.

34. EPA’s failure to promulgate a FIP constitutes a failure to perform acts or duties that are not discretionary with the Administrator within the meaning of 42 U.S.C. § 7604(a)(2). Such failure is ongoing and, on information and belief, will continue absent the relief sought herein.

35. Accordingly, Plaintiff is entitled to an order from this Court directing EPA to promulgate a FIP for regional haze in Louisiana by a date certain.

36. THEREFORE, Plaintiff asks that this Court:

(1) Declare that EPA's failure to promulgate a regional haze and interstate transport Federal Implementation Plan for Louisiana as complained of herein constitutes a failure to perform a nondiscretionary duty;

(2) Order the Administrator to issue a regional haze and interstate transport Federal Implementation Plan for Louisiana by a date certain;

(3) Award Plaintiff its reasonable costs of litigation, including attorneys' fees, under 42 U.S.C. § 7604(d);

(4) Retain jurisdiction over this action to ensure compliance with the Court's orders; and

(5) Grant such other relief as the Court deems just and proper.

DATED: this 22nd day of September, 2015.

Respectfully submitted,

/s/ Joshua Smith

JOSHUA D. SMITH (Oregon Bar No. 071757)

(Pro Hac Vice Motion To Be Filed)

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Josh.stebbins@sierraclub.org

*Attorneys for Plaintiff Sierra Club*



March 17, 2015

**Via Federal Express**

Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., N. W.  
Washington, D.C. 20460

Ron Curry  
Administrator, Region 6  
U.S. Environmental Protection Agency  
1445 Ross Avenue,  
Dallas, Texas 75202

Guy Donaldson  
Section Chief  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Dallas, TX 75202-2733

**Re: Notice of Intent to File Suit Under Section 304(b) of the Clean Air Act, 42 U.S.C. § 7604(b), for Failure to Issue a Federal Implementation Plan or Approve a Revised State Implementation Plan as Required by 42 U.S.C. § 7410(c)(1)**

Dear Administrator McCarthy,

Pursuant to Section 304(b)(2) of the Clean Air Act, 42 U.S.C. § 7604(b)(2), and 40 C.F.R. part 54, I hereby provide notice of Sierra Club's intent to file suit against the Administrator of the U.S. Environmental Protection Agency ("EPA") for the "failure of the Administrator to perform an[] act or duty under this chapter which is not discretionary with the Administrator." 42 U.S.C. § 7604(a)(2). Specifically, the Administrator has

violated 42 U.S.C. § 7410(c)(1) by failing to promulgate a Federal Implementation Plan (“FIP”) within two years of partially disapproving Louisiana’s June 13, 2008 Regional Haze State Implementation Plan (“SIP”). *See* 77 Fed. Reg. 39,425 (July 3, 2012).

**A. The Clean Air Act’s Visibility Requirements**

In the 1977 amendments to the Clean Air Act, Congress determined that air quality in our national parks, wilderness areas, and treasured “Class I” federal areas should enjoy the highest level of protection, and it set a national goal of eliminating all human-caused visibility impairment at these areas. 42 U.S.C. § 7491(a)(1). EPA set a goal of achieving natural visibility conditions at every Class I area by 2064, and the agency directed states to make incremental, reasonable progress toward that goal. 40 C.F.R. § 51.308(d)(1)(i)(B), (d)(1)(ii). States and EPA are to make reasonable progress toward the 2064 natural visibility goal by issuing regional haze plans that improve visibility at a pace sufficient to eliminate human-caused visibility impairment at each Class I area by 2064. *See id.*

To that end, the CAA requires states to develop and implement SIPs that reduce the pollution that causes visibility impairment over a wide geographic area, known as Regional Haze, and ensure “reasonable progress” toward the goal of achieving natural visibility conditions in those areas. *Id.* at § 7491(b)(2). As one means of achieving that goal, the states must also impose best available retrofit pollutant control technologies (“BART”) at many of the largest and oldest individual sources of pollution affecting the Nation’s designated Class I parks and wildernesses.

After a state submits a SIP or SIP revisions to the EPA, EPA must make a finding within six months as to whether the SIP submittal complies with the requirements of 42 U.S.C. § 7410(a)(2), a determination known as the completeness finding. 42 U.S.C. § 7410(k)(1)(B). Once a submittal is deemed complete, EPA has a mandatory duty to take final action on the submittal within 12 months by approving in full, disapproving in full, or approving in part and disapproving in part. *Id.* § 7410(k)(2)–(3). If EPA disapproves a SIP submittal in whole or in part, it has a mandatory duty to promulgate a FIP within two years of its disapproval decision. *Id.* § 7410(c)(1)(B).

**B. EPA Failed to Timely Promulgate a FIP for Louisiana Regional Haze in Violation of 42 U.S.C. § 7410(c)(1)**

On June 13, 2008, Louisiana submitted a SIP intended to address the state’s obligations under the Regional Haze Rule. *See* 77 Fed. Reg. at 11,839. On July 3, 2012, EPA issued a final rule partially disapproving the Louisiana Regional Haze SIP because it found, among other flaws, that Louisiana did not properly satisfy its obligation to make BART determinations for certain sources of SO<sub>2</sub>, NO<sub>x</sub>, and other visibility impairing pollutants. 77 Fed. Reg. 39,425, 39427 (adopting proposed rule with one minor exception relevant to the state’s BART determination for the Rhodia Sulfuric Acid Plant); *see also* 77 Fed. Reg. 11,841. EPA further concluded that Louisiana would be required to reconsider whether reductions of SO<sub>2</sub> from EGUs, whether subject to BART or not,

are appropriate for ensuring reasonable progress. *Id.* For this reason, among others, EPA partially disapproved Louisiana's Regional Haze SIP. 77 Fed. Reg. 39,425.

EPA's disapproval decision took effect on August 6, 2012, thereby triggering EPA's "mandatory FIP clock" to issue a FIP by August 6, 2014. 77 Fed. Reg. at 39,426; 77 Fed. Reg. at 11,841; 42 U.S.C. § 7410(c)(1)(B) (requiring EPA to issue a FIP within two years of disapproving a SIP in whole or in part). EPA has failed to issue a FIP within the two year deadline after partially disapproving Louisiana's Regional Haze SIP. Nor has EPA approved a revised Regional Haze plan submitted by Louisiana that corrects the deficiencies EPA identified in its proposed February 28, 2012 partial disapproval, or its final July 3, 2012 disapproval. Consequently, EPA is in violation of its mandatory duty to promulgate a Regional Haze FIP for Louisiana under 42 U.S.C. § 7410(c)(1).

As required by 40 C.F.R. § 54.3, the person providing this notice is:

Joshua Smith  
Staff Attorney  
Sierra Club Environmental Law Program  
85 Second Street, 2nd Floor  
San Francisco, CA 94105  
Phone: (415) 977-5560  
Email: [joshua.smith@sierraclub.org](mailto:joshua.smith@sierraclub.org)

Sierra Club would prefer to resolve this matter without the need for litigation. Quickly and fairly resolving this matter would be a clear indication that EPA intends to respect the rule of law. Therefore, we look forward to EPA contacting the undersigned counsel to resolve this matter. If we do not hear from EPA in 60 days, we will assume that you are not interested in settling this matter, and we will file a complaint.

Sincerely,



Joshua Smith  
Counsel for Sierra Club



March 20, 2015

Dear Customer:

The following is the proof-of-delivery for tracking number **806676344877**.

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**Delivery Information:**

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<b>Status:</b>	Delivered	<b>Delivered to:</b>	Receptionist/Front Desk
<b>Signed for by:</b>	M.EMMERSON	<b>Delivery location:</b>	DC
<b>Service type:</b>	FedEx Standard Overnight	<b>Delivery date:</b>	Mar 18, 2015 10:29
<b>Special Handling:</b>	Deliver Weekday		

Signature image is available. In order to view image and detailed information, the shipper or payor account number of the shipment must be provided.

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**Shipping Information:**

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<b>Tracking number:</b>	806676344877	<b>Ship date:</b>	Mar 17, 2015
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<b>Recipient:</b>	<b>Shipper:</b>
DC US	SAN US

Thank you for choosing FedEx.

**CIVIL COVER SHEET**

JS-44 (Rev. 7/13 DC)

<b>I. (a) PLAINTIFFS</b>  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b>  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>																								
<input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  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 362 Medical Malpractice 365 Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  151 Medicare Act  <u>Social Security</u> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <u>Other Statutes</u> 891 Agricultural Acts 893 Environmental Matters 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>		<b>OR</b>	<input type="radio"/> <b>F. Pro Se General Civil</b>	
<u>Real Property</u> 210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property  <u>Personal Property</u> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<u>Bankruptcy</u> 422 Appeal 27 USC 158 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Conditions 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> 820 Copyrights 830 Patent 840 Trademark  <u>Federal Tax Suits</u> 870 Taxes (US plaintiff or defendant) 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> 625 Drug Related Seizure of Property 21 USC 881 690 Other  <u>Other Statutes</u> 375 False Claims Act 400 State Reapportionment 430 Banks & Banking 450 Commerce/ICC Rates/etc. 460 Deportation 462 Naturalization Application 465 Other Immigration Actions 470 Racketeer Influenced & Corrupt Organization	480 Consumer Credit 490 Cable/Satellite TV 850 Securities/Commodities/Exchange 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  530 Habeas Corpus – General 510 Motion/Vacate Sentence 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  895 Freedom of Information Act 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Labor Railway Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  441 Voting (if not Voting Rights Act) 443 Housing/Accommodations 440 Other Civil Rights 445 Americans w/Disabilities – Employment 446 Americans w/Disabilities – Other 448 Education	<input type="radio"/> <b>M. Contract</b>  110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 153 Recovery of Overpayment of Veteran’s Benefits 160 Stockholder’s Suits 190 Other Contracts 195 Contract Product Liability 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding   
  2 Removed from State Court   
  3 Remanded from Appellate Court   
  4 Reinstated or Reopened   
  5 Transferred from another district (specify)   
  6 Multi-district Litigation   
  7 Appeal to District Judge from Mag. Judge

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____ JURY DEMAND: <input type="checkbox"/>	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: _____	SIGNATURE OF ATTORNEY OF RECORD <u>      /s/ Josh Stebbins      </u>
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET 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 services 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

