

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION  
CASE NO.:**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**MARK E. SALYER,**

**Defendant,**

**SALMAR INVESTORS GROUP, LLC, AND  
HORIZON HOLDINGS, INC.**

**Relief Defendants.**

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**COMPLAINT**

Plaintiff Securities and Exchange Commission alleges and states as follows:

**INTRODUCTION**

1. The Commission brings this action to enjoin Defendant Mark E. Salyer, a former registered representative with MetLife Securities, Inc. ("MetLife"), from violating the antifraud provisions of the federal securities laws.

2. From at least June 2005 through October 2007, Salyer engaged in a scheme to defraud at least 33 MetLife customers by taking approximately \$6 million from MetLife customer accounts and investing it in real estate ventures in which he had an interest without the permission of his customers. Salyer illegally took the money by forging customer signatures on wire transfer forms or by convincing customers to invest in a company he controlled under the

guise that it was a MetLife investment. To facilitate and conceal his fraud, Salyer falsified customer brokerage account statements or provided customers with false explanations for discrepancies in their statements.

3. By engaging in this conduct, Salyer violated, and unless enjoined is reasonably likely to continue to violate, Section 17 (a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C §77q(a), and Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act"), 15 U.S.C §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

4. The Commission seeks various forms of equitable relief against Salyer, including a permanent injunction against future violations of the federal securities laws, disgorgement plus pre-judgment interest, and a civil penalty.

#### **DEFENDANT AND RELIEF DEFENDANTS**

5. Salyer is a resident of Kingsport, Tennessee. From 1993 until his termination on October 19, 2007, Salyer was a registered representative in the Kingsport branch office of MetLife. Salyer is also the President of Relief Defendant Horizon Holdings, Inc. ("Horizon") and the registered agent of Relief Defendant Salmar Investors Group, LLC ("Salmar").

6. Horizon is a Tennessee corporation incorporated on December 1, 2005, with its principal business address in Knoxville, Tennessee. Salyer diverted approximately \$3,133,461 from MetLife customer accounts to Horizon. At all times relevant to the allegations of this complaint, Salyer controlled Horizon.

7. Salmar is a Tennessee limited liability company organized on August 11, 2004, with its principal business address in Kingsport, Tennessee. Salyer improperly transferred at least \$30,000 of MetLife customer funds to Salmar, and also transferred customer funds from Horizon to Salmar. At all times relevant to the allegations of this complaint, Salyer controlled Salmar.

### **JURISDICTION AND VENUE**

8. The Court has jurisdiction over this action pursuant to Sections 21(d) 21(e), and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e) and 78aa, and Sections 20(b), 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d) and 77v(a).

9. This Court has personal jurisdiction over Salyer and venue is proper in the Eastern District of Tennessee. Salyer's principal place of business while MetLife employed him was in the Eastern District, and he also resides there. In addition, he undertook the acts that constitute the fraud alleged in this complaint while working in the Eastern District.

10. Salyer, directly and indirectly, made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business set forth in this complaint. Specifically, Salyer used the telephone, facsimiles, and other electronic communication to offer fraudulent investments to MetLife's customers and to transfer fraudulently obtained funds to entities he controlled or with which he was affiliated including, but not limited to, the relief defendants.

### **SALYER'S FRADULENT SCHEME**

11. From 1993 until his termination on October 19, 2007, MetLife employed Salyer as a registered representative at a branch office located in Kingsport, Tennessee.

12. Between 2003 and his termination, Salyer was involved in several business activities outside the scope of his employment at MetLife, including the management and development of multiple real estate projects in Tennessee and Alabama, which he operated through Horizon, Salmar and other entities. Salyer did not tell anyone at MetLife the nature and extent of his involvement in these projects, including his participation in raising capital and his

personal guaranty obligations to several investors. Salyer also did not tell anyone at MetLife that several large monetary judgments had issued against Salmar and Salyer personally.

13. In 2005, Salmar signed a contract to buy a 3,372-acre piece of property in Leeds, Alabama for about \$25.9 million. Salmar paid approximately \$1.6 million as a down payment. The property was appraised at \$53 to \$63 million.

14. Throughout 2005 and 2006, Salmar had to make additional payments on the contract. After exhausting his own liquid assets of approximately \$1.2 million, Salyer began tapping into customer accounts to cover the payments.

15. Salyer's primary method of illegally using MetLife customer funds to pay for this and other properties through Horizon, Salmar, and other entities was to forge customer signatures on wire distribution request forms, IRA distribution request forms and variable annuity surrender forms, which he then faxed from his Kingsport office to MetLife's office in Inslin, New Jersey for processing.

16. To ensure these forms were properly processed and the money transferred to the entities he controlled, Salyer also forged the required MetLife medallion guarantee signature on the various forms. In this manner, Salyer managed to transfer funds out of 15 to 20 MetLife customer accounts.

17. For example, on April 10, 2006, Salyer faxed to the MetLife New Jersey office an IRS distribution request form purportedly on behalf of customer Patsy C. Goad. Salyer's cover letter represented the customer needed the funds to close a real estate transaction. The form requested that MetLife distribute \$160,000 to Horizon's bank account, and was purportedly signed by Goad. The signature was, in fact, a forgery, as Goad never signed the form or authorized MetLife to make the transfer.

18. On May 1, 2006, Salyer faxed to the MetLife New Jersey office a wire request form purportedly on behalf of customers Shirley and Eckle Cox. Salyer's cover letter said the customers needed the funds to close a real estate transaction. The wire request form instructed MetLife to transfer \$150,000 to Horizon's bank account and included the signatures of both account owners.

19. Again, both signatures were forgeries, and neither of the Coxes ever authorized the transfer. In fact, when they discovered the unauthorized transfer and confronted Salyer about it, Salyer falsely represented that the funds had been moved to another MetLife securities investment and gave them false account balance information.

20. On August 21, 2006, Salyer faxed to the MetLife New Jersey office a wire request form purportedly on behalf of customer Betty Z. King. Salyer's cover letter represented she also needed the funds to close a real estate transaction. The wire request form instructed MetLife to transfer \$58,500 to Horizon's bank account and included King's signature. As with the other customers, Salyer had forged King's signature and she had not authorized the transfer.

21. In the case of customer Joseph N. Greene, Salyer faxed several different forms with forged signatures to MetLife's New Jersey office to arrange the transfer of almost \$200,000 of Greene's money to Horizon's bank account – two variable annuity surrender forms dated September 20, 2007, and an IRA distribution request form dated November 2, 2006.

22. In this fashion, Salyer forged customer signatures on at least 26 wire request forms from June 2005 through September 2007, thereby illegally diverting approximately \$3,580,300 from MetLife customer accounts.

23. Salyer also defrauded MetLife customers by convincing them to invest funds in Horizon under the guise that it was a MetLife investment. In some cases, Salyer persuaded

MetLife's customers to liquidate securities holdings at MetLife to invest with Horizon. Salyer represented to these customers the Horizon investment would pay interest of 6 to 6.5 percent.

24. In several cases, customers received checks from MetLife from their accounts. When they asked Salyer why they had gotten the checks, he told the customers it was in connection with a new investment they had discussed, and instructed them to deposit the checks in their personal accounts and write a new check to Horizon.

25. Based on Salyer's representations, at least 12 MetLife customers wrote checks directly to Horizon totaling approximately \$2,309,961 between June 2005 and October 2007. Some customers wrote more than one check, and many of the checks were for six-figure amounts.

26. For example, one customer, Joyce Akers, wrote a \$400,000 check to Horizon on September 17, 2005, and another \$150,000 check on July 26, 2007. Another customer, Phillip Gaddis, wrote a \$200,000 check on June 23, 2005 and a \$100,000 check on February 27, 2007. A third client, Katherine McGhee, wrote three checks in 2006 and 2007 totaling \$336,000.

27. To conceal his wrongdoing, Salyer either provided customers with altered account statements or provided fraudulent explanations about discrepancies between the amount of funds reflected in account statements and the amounts the customers believed were invested with MetLife.

28. For example, in August 2007, Salyer wired \$250,000 from customer Betty McClure's account to another entity without McClure's permission. When McClure learned of the wire, she confronted Salyer about it. Salyer told her the money had been wired to another MetLife investment fund, and that it would be reflected on her next statement. Salyer then sent

her a statement purporting to be from MetLife showing the \$250,000 invested in a CD. The document was false, because the money was no longer with MetLife.

29. Another customer, Thomas Pendleton, received a statement from MetLife showing money had been wired out of his account. When he called Salyer to ask about it, Salyer lied and told him the money had been moved to another MetLife investment.

30. During the time period alleged in this complaint, Salyer diverted approximately \$6 million from the accounts of at least 33 MetLife customers to at least nine different companies. Relief Defendant Horizon received at least \$3 million in MetLife customer funds.

### **COUNT I**

#### **Fraud in Violation of Section 17(a)(1) of the Securities Act**

31. The Commission repeats and realleges Paragraphs 1 through 30 of this complaint as if fully set forth herein.

32. From at least June 2005 through October 2007, Salyer directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described in this complaint, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

33. By reason of the foregoing, Salyer has directly or indirectly violated and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act, 15 U.S.C. §77q(a)(1).

### **COUNT II**

#### **Fraud in Violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act**

34. The Commission repeats and realleges Paragraphs 1 through 30 of this complaint as if fully set forth herein.

35. From at least June 2005 through October 2007, Salyer, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, as described in this complaint: (a) obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (b) engaged in transactions, practices and courses of business which are now operating and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

36. By reason of the foregoing, Salyer has directly or indirectly violated and, unless enjoined, is reasonably likely to continue to violate, Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§77q(a)(2) and 77q(a)(3).

### **COUNT III**

#### **Fraud in Violation of Section 10(b) of the Exchange Act and Rule 10b-5**

37. The Commission repeats and realleges Paragraphs 1 through 30 of this complaint as if fully set forth herein.

38. From at least June 2005 through October 2007, Salyer, directly or indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of the securities, as described in this complaint, knowingly, willfully or recklessly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices and courses of business which have operated as a fraud upon the purchasers of such securities.



39. By reason of the foregoing, Salyer has directly or indirectly violated and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

### **RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests the Court:

#### **I. Declaratory Relief**

Declare, determine and find that Salyer committed the violations of the federal securities laws alleged in this Complaint.

#### **II. Permanent Injunction**

Issue a Permanent Injunction, enjoining Salyer, his agents, servants, employees, attorneys, and representatives, and all persons in active concert or participation with them, and each of them, from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) and Rule 10b-5 of the Exchange Act, 15 U.S.C. §78j(b) and 17 C.F.R. §240.10b-5.

#### **III. Disgorgement**

Issue an Order directing Salyer and the Relief Defendants to disgorge all profits or proceeds that they received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest.

#### **IV. Penalties**

Issue an Order directing Salyer to pay a civil money penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d).

#### **V. Further Relief**

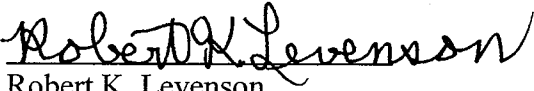
Grant such other and further relief as may be necessary and appropriate.

## VI. Retention of Jurisdiction

Further, the Commission respectfully requests the Court to retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

June 20, 2008

Respectfully submitted,

By:   
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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

## SECURITIES AND EXCHANGE COMMISSION

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

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

**Robert K. Levenson, Regional Trial Counsel**  
**Securities and Exchange Commission, Suite 1800**

**801 Brickell Avenue, Miami, FL 33131 (305-982-6241)**

## DEFENDANTS

**MARK SALYER, et al.**

County of Residence of First Listed Defendant Greenville  
(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)

- |   | 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	<b>PERSONAL INJURY</b> <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	<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 <b>PERSONAL PROPERTY</b> <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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input 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	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <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	<b>LABOR</b> <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 <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<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 checked="" 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
<b>FEDERAL TAX SUITS</b> <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)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

## 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):

15 U.S.C. § 77q(a)(1), § 77q(a)(2), § 77q(a)(3), 15 U.S.C. § 78j(b), 17 C.F.R.

§ 240, 10b-5, 15 U.S.C. § 77e(d), 15 U.S.C. § 78u(d)  
**Violation of Federal Securities Laws**

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMANDS

**Disgorgement,**  
**Civil Penalty**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6-20-08

SIGNATURE OF ATTORNEY OF RECORD

Robert K. Levenson

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.