

**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

v.

**BRION RANDALL and 2RANDALL CONSULTING  
GROUP, LLC,**

**Defendants.**

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**

AUG - 6 2009

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_

3 09 CV 1465 - 0

Case No.:

**COMPLAINT**

Plaintiff, the U.S. Securities and Exchange Commission ("Commission"), files this Complaint against Brion Randall and 2Randall Consulting Group, LLC, defendants, and would respectfully show the Court as follows:

**SUMMARY**

1. Since at least 2007, Brion Randall, individually and through 2Randall Consulting Group, LLC, has operated an advisory program in which clients were purportedly placed through a master account in an AllianceBernstein, LP, ("AllianceBernstein") mutual fund with high minimum balance requirements and offered investors the opportunity to pool funds through 2Randall for investment in a small business loan participation program. Randall emphasized the safety of investments in the AllianceBernstein account and promised investors that he would aggregate their funds in sub-accounts under 2Randall's master account at the firm. He solicited investments in the pooled loan program by emphasizing the loans' high returns. At least six investors

transferred approximately \$3 million to Randall and 2Randall with the understanding that Brion Randall would invest the money for them.

2. Randall misrepresented his intended use of the investors' funds. Neither 2Randall nor Brion Randall has an account with AllianceBernstein. Notwithstanding the foregoing, Randall prepared account statements for his investors specifically showing the value of 2Randall's account with AllianceBernstein as well as the investor's purported "sub-account." In addition to the bogus AllianceBernstein account statements, Randall provided investors with other documents to cover up his fraudulent scheme, including Forms 1099 reflecting interest earned on their investments. Randall's offerings are ongoing, as are his continuing breaches of his duties as an investment adviser.

3. The Commission, in the interest of protecting investors from any further illegal activity, brings this action against the defendants seeking temporary, preliminary and permanent injunctive relief, disgorgement of all illicit profits and benefits defendants have received plus accrued prejudgment interest, civil monetary penalties and other emergency and equitable relief.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to § 22(a) of the Securities Act of 1933 (the "Securities Act"), § 27 of the Securities Exchange Act of 1934 ("Exchange Act") and § 214 of the Investment Advisers Act of 1940 ("Advisers Act"). Defendants, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and courses of business described in this Complaint. Venue is proper because certain of the

transactions, acts, practices and courses of business described below occurred within the jurisdiction of the Northern District of Texas.

### PARTIES

5. **Brion G. Randall (“Randall”)**, age 47, of Plano, Texas, was a registered representative holding Series 7, 31, 63 and 65 licenses, and an investment adviser registered with the Texas State Securities Board (“TSSB”). Randall is a managing member of 2Randall. In 2005, after he had left the financial services industry, FINRA suspended Randall for 4 months and fined him \$10,000 for improperly exercising discretion in customer accounts without prior written permission. He is not currently registered with the TSSB or FINRA, and has never registered with the Commission in any capacity.

6. **2Randall Consulting Group, LLC**, a Texas Limited Liability Company formed in September 2005, is located in Plano, Texas. 2Randall currently is not in good standing with the Texas Comptroller of Public Accounts due to failure to pay taxes. 2Randall is not registered with the Commission or the state as an investment adviser. 2Randall’s website lists Randall as a principal and co-founder.

### BACKGROUND FACTS

7. Brion Randall persuaded at least six investors to engage him and 2Randall as an investment adviser to manage their investments. Randall used 2Randall’s website to publicize services and promote his investment expertise, particularly in non-traditional investment strategies that he claimed outperform traditional ones. 2Randall’s website states that the firm looks for short-term investments in private ventures with varying degrees of risk but that its long term assets are safe and secure. It also claims that the

firm “specialize[s] in developing comprehensive strategies utilizing proprietary models to address each partner’s specific goals and objectives” and further states “when our clients succeed, we have done our job.” 2Randall’s website also touts Randall’s expertise. It describes Brion Randall’s background in banking and as a financial advisor at a large brokerage firm, where he supposedly received numerous awards, honors, and accolades as one of the firm’s top producers. There is no mention, however, of the fact that FINRA suspended Randall for 4 months and fined him \$10,000 for improperly exercising discretion in customer accounts without prior written permission.

8. From 2007 through at least early 2009, Randall solicited clients to invest in an AllianceBernstein fund that he told investors required a \$5 million minimum balance. Randall told prospective investors that 2Randall had a master account at AllianceBernstein, under which investors held sub-accounts totaling tens of millions of dollars. He represented to his clients that he placed each investor’s money into a separate sub-account and claimed that this structure gave smaller investors access to high returns in the AllianceBernstein fund. Randall told his clients that they would be investing in a tax-exempt, municipal bond fund with an effective yield of approximately 6%. To induce clients to allow him to manage their funds, Randall emphasized to investors that AllianceBernstein was a respected firm and their invested principal and returns would be safe. In at least one instance, in September 2008, Brion Randall persuaded an investor to sell other securities and invest the proceeds through 2Randall. Randall convinced the investor that her money would be much safer at AllianceBernstein because the stock market did not affect bond values.

9. Randall convinced at least six investors to place \$3 million with him and 2Randall to invest in the AllianceBernstein “master account.” In reality, no such master account exists.

10. Randall also offered investors a “loan participation program.” He told investors that 2Randall would search for, evaluate, select, and fund appropriate short-term small business loans to reputable area businesses. Often, investors elected to “roll-over” their investments into new loans. Randall is currently, and as recently as July 21, 2009, continuing to solicit investors to participate in the loan participation program.

11. On July 21, 2009, Randall solicited and obtained from an investor \$100,000, which he said was to be used for a loan to 84 Lumber under a Small Business Administration (“SBA”) loan program. After the investor learned a few days later that 2Randall’s AllianceBernstein master account did not exist, she repeatedly attempted to get her money back, but Randall has failed to respond to her requests.

12. To facilitate the fraud and to prevent his investors from learning the truth about his use and disposition of the investors’ funds, Randall has engaged in, and persists in, an ongoing pattern of providing false information to his advisory clients. Randall and 2Randall lulled investors with false account statements and other information misrepresenting that their investments were legitimate and profitable. Randall provided investors periodic statements purportedly showing the principal and earnings in their 2Randall accounts. The statements typically included positive announcements from 2Randall. For instance, in September 2008, 2Randall announced that, although the stock market was down, “the total return for the 2Randall portfolio is annualizing just over

6%.” 2Randall further reassured investors that their investment was legitimate by sending them Forms 1099 reflecting purported tax-exempt income from 2Randall.

13. Randall also used account statements and other information to entice new investors. In one instance, an investor was provided account statements of an earlier investor. In at least two other instances, Randall gave clients fabricated computer screenshots that purported to show an AllianceBernstein “Online Banking” account. The screenshots showed an AllianceBernstein logo superimposed on what appeared to be an online banking screen, complete with buttons for account details, bill pay, and similar functions. Each screenshot purported to show a master account in the name of 2Randall; one screenshot showed a \$19.5 million account balance and the other reflected a \$27 million balance. One of the screenshots identified Randall as the account manager. In addition, one of the screenshots reflected the investor’s two sub-accounts in the AllianceBernstein fund and “the loan participation program” and listed accurate amounts for the investments in each purported asset. These documents were forgeries—AllianceBernstein does not have any record of the master or sub-accounts in question, and it does not offer online banking services.

14. In July 2009, an investor who was updating her will asked Randall for documentation from AllianceBernstein confirming her investment and the amount invested. Randall initially provided only a purported master account number and sub-account number. The investor, however, insisted on additional account documentation for herself and a friend who also invested under 2Randall’s master account at AllianceBernstein. Unknown to the investors, on July 21, 2009, Randall filled out AllianceBernstein account-opening documents for both of the investors and induced an

associate in the AllianceBernstein Dallas office to fax the documents to his office. On July 22, 2009, Randall met with the two investors and gave them the account documentation with an AllianceBernstein fax imprint in an attempt to prove to them that their accounts existed. He also showed them a computer screen that displayed a spreadsheet of investor names and amounts, and said that their names and amounts were on that spreadsheet. The investors subsequently visited AllianceBernstein's Dallas office, where they learned that AllianceBernstein could not locate any accounts in their names, Randall's or in the name of 2Randall.

## CLAIMS

### FIRST CLAIM

#### Violations of Section 17(a) of the Securities Act

15. Plaintiff Commission repeats and incorporates paragraphs 1 through 14 of this Complaint by reference as if set forth *verbatim*.

16. Defendants, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

17. As part of and in furtherance of this scheme, defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which

contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth in paragraph 1 through 14 above.

18. Defendants made the above-referenced misrepresentations and omissions knowingly or with severe recklessness with regard for the truth. Defendants were also negligent in their actions regarding the representations and omissions alleged herein.

19. By reason of the foregoing, defendants violated, and unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**SECOND CLAIM**  
**Violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder**

20. Plaintiff Commission repeats and incorporates paragraphs 1 through 14 of this Complaint by reference as if set forth *verbatim*.

21. Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes and 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 light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

22. As a part of and in furtherance of their scheme, defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which

contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth in Paragraphs 1 through 14 above.

23. Defendants made the above-referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

24. By reason of the foregoing, defendants violated and, unless enjoined, will continue to violate the provisions of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

**THIRD CLAIM**  
**Violations of Sections 206(1) and 206(2) of the Advisers Act**

25. Plaintiff Commission repeats and incorporates paragraphs 1 through 14 of this Complaint by reference as if set forth *verbatim*.

26. Defendants, as investment advisers, used the mails and means or instrumentalities of interstate commerce, directly and indirectly: 1) to employ devices, schemes or artifices to defraud clients or prospective clients; or 2) to engage in transactions, practices and courses of business which operated as a fraud or deceit upon clients and prospective clients.

27. By reason of the foregoing, defendants violated and, unless enjoined, will continue to violate the provisions of Sections 206(1) and 206(2) of the Investment Advisers Act [15 U.S.C. § 80b – 6(1), (2)].

**RELIEF REQUESTED**

The Commission seeks the following relief:

28. Orders of the Court temporarily, preliminarily and permanently enjoining the defendants, their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act, [15 U.S.C. § 77q(a)], Section 10(b) the Exchange Act, [15 U.S.C. § 78j(b)], and of Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder and Sections 206(1) and (2) of the Advisers Act.

29. An order of the Court directing defendants to disgorge an amount equal to the funds and benefits obtained illegally as a result of the violations alleged, plus prejudgment interest on that amount.

30. An order of the Court directing defendants, as appropriate, to pay civil monetary penalties in an amount determined as appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209(e)(2) of the Investment Advisers Act [15 U.S.C. § 80b-9] for their violations of the federal securities laws as alleged herein.

31. All further relief as the Court may deem just and proper.

DATED: August 6, 2009

Respectfully submitted,



HAROLD R. LOFTIN, JR.  
Texas Bar No. 12487090  
U.S. Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit #18  
Fort Worth, TX 76102-6882  
(817) 978-6450  
(817) 978-4927 (fax)  
loftinh@sec.gov

# ORIGINAL 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) PLAINTIFF

**SECURITIES AND EXCHANGE COMMISSION**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES ONLY)

(c) ATTORNEY (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Harold R. Loftin, Jr.  
U.S. Securities & Exchange Commission, Burnett Plaza, Suite 1900,  
801 Cherry Street, Unit #18, Fort Worth, TX 76102-6882  
(817) 978-6450

### DEFENDANTS

**BRION G. RANDALL and 2RANDALL CONSULTING  
GROUP, LLC, Defendants.**

County of Residence of First Listed Defendant: Collin  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

ATTORNEYS (If known):

3-890-1463-8

### 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 (For Diversity Cases Only)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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	<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	<b>PERSONAL INJURY</b> <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 <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	<input type="checkbox"/> 422 Appeal 28 USC 156 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copy rights <input type="checkbox"/> 830 Patient <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</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)) <b>FEDERAL TAX SUITS</b> <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/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <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"/> 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 <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<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			

### 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

### VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Section 17(a) of the Securities Act [15 U.S.C. §77q(a)], Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. §78j(b)] and Rule 10b-5, thereunder [17 C.F.R. §§ 240.10b-5], Sections 206(1) and 206(2) of the Investment Advisors Act of 1940 [15 U.S.C. §80b-6(1) and §80b-6(2)]

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION

DEMAND \$

CHECK YES only if demanded in complaint:

26 USC 7609

UNDER F.R.C.P. 23

JURY DEMAND

YES  NO

### VIII. RELATED CASE(S) (See Instructions):

IF ANY

JUDGE

DOCKET NUMBER

DATE 8/6/09 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

Receipt # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44**  
**Authority For Civil Cover Sheet**

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

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

(b) **County of Residence.** For each 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 IV above, 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.

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.