

THE HONORABLE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EILEEN DEUTSCH

Plaintiff-in-Interpleader,

v.

ANDREW L. SCHOELKOPF, MICHELLE  
STORRS BOOZ, JOHN STORRS BOOZ,  
VALERIE CARBERRY and the RICHARD  
GRAY GALLERY

Defendants-in-Interpleader.

No.

**COMPLAINT-IN-INTERPLEADER**

Comes now Plaintiff-in-Interpleader, Eileen Deutsch (“Deutsch” or “Eileen”),<sup>1</sup> who seeks equitable relief declaring ownership of an artwork, and alleges as follows:

**I. INTRODUCTION**

This action is to determine who owns a valuable sculpture. There appear to be three competing claims derived from alleged rights of deceased predecessors. They are: (1) Plaintiff, who possesses a valuable sculpture acquired by her father, (2) the heirs of a gallery owner to whom the sculpture had been consigned for sale in the 1970s and (3) the heirs of the sculptor’s daughter, who reportedly had consigned the sculpture to the gallery.

<sup>1</sup> The parties may be identified at times by first names, because family members with the same last name appear throughout the Complaint.

1  
2 **II. PARTIES**

3 1. Plaintiff-in-interpleader Deutsch is an adult residing in Port Townsend,  
4 Washington. Deutsch possesses and believes she owns a sculpture by the artist John Henry  
5 Bradley Storrs, known as “Industrial Forms” or “Auto Tower” (the “sculpture”). Deutsch is  
6 storing the sculpture, valued at \$600,000, in a bank safe deposit box in Sequim, Washington.

7 2. Defendant-in-interpleader Andrew L. Schoelkopf is an adult residing in  
8 Greenwich, Connecticut. He owns and operates an art gallery in New York City, New York  
9 under the name, Menconi + Schoelkopf. Upon information and belief, Andrew Schoelkopf is  
10 acting on behalf of his mother and other family members in all material respects pertaining to  
11 their claims of ownership of the sculpture. Andrew Schoelkopf is the son of Robert Schoelkopf.  
12 Prior to his death in 1991, Robert Schoelkopf owned and operated the Robert Schoelkopf  
13 Gallery in New York City. The gallery closed in 1991.

14 3. Defendant-in-interpleader Michelle Storrs Booz is, upon information and belief,  
15 an adult citizen of the State of Illinois, and is a granddaughter of John Henry Bradley Storrs,  
16 the artist, and a daughter of Monique Storrs Booz, the artist’s daughter, both deceased.

17 4. Defendant-in-interpleader John Storrs Booz is, upon information and belief, an  
18 adult citizen of the State of Illinois, and is a grandson of John Henry Bradley Storrs, a son of  
19 Monique Storrs Booz and brother to Michelle Storrs Booz.

20 5. Defendant-in-interpleader Valerie Carberry is, upon information and belief, an  
21 adult citizen of the State of Illinois and an agent, part owner and operator of Defendant-in-  
22 interpleader Richard Gray Gallery, an art gallery located in Chicago, Illinois. Carberry holds  
23 herself out as the representative of the John Storrs estate and presumably acts on behalf of the  
24 estate or its successors.

25 **III. JURISDICTION AND VENUE**

26 6. This Court has jurisdiction over this statutory “action in the nature of  
27 interpleader” pursuant to 28 U.S.C. § 1335(a), because there is diversity of citizenship between

1 at least two adverse claimants, including the defendants-in-interpleader, as defined by 28  
 2 U.S.C. § 1332 and because, as more fully explained below, the defendants-in-interpleader are  
 3 asserting or might assert adverse claims to the sculpture.

4 7. This Court has jurisdiction over this statutory interpleader action pursuant to 28  
 5 U.S.C. § 1335(a) because upon entry of an authorizing order, which Plaintiff is submitting upon  
 6 filing this Complaint, Plaintiff Deutsch is depositing the sculpture with the Court. Under the  
 7 proposed order, Deutsch is transferring control over the sculpture to the Court while storing the  
 8 sculpture in a secure location, which the Court cannot itself provide, pending further order of  
 9 this Court.

10 8. Venue is proper in this district pursuant to 28 U.S.C. § 1397 because Plaintiff-  
 11 in-interpleader Eileen Deutsch, who is also a claimant, resides in this judicial district.

12 9. This Court also has jurisdiction over this Federal Rule of Civil Procedure 22  
 13 “action in the nature of interpleader” pursuant to 28 U.S.C. § 1332, because the matter in  
 14 controversy exceeds a value of \$75,000 and is between citizens of different states, one of whom  
 15 resides in Washington, and the property in controversy is in this judicial district. As explained  
 16 below, at least one defendant-in-interpleader has committed a tortious act within this state and  
 17 at least one has claimed ownership of and the right to possess property within this state -- the  
 18 sculpture that is the subject of this controversy.<sup>2</sup> Venue is also proper under 28 U.S.C. § 1391  
 19 because the property that is the subject of this action is situated in this judicial district.

#### 20 **IV. CLAIMS FOR RELIEF**

##### 21 **Background**

22 10. The artist John Henry Bradley Storrs (the “artist”), 1885-1956, was known for  
 23 his Art Deco sculptures, such as the statue of *Ceres* atop the Chicago Board of Trade building.  
 24 <http://johnstorrs.org/biographical-information.html>. One of his sculptures was Industrial Forms,  
 25 aka Auto Tower, created around 1922 to 1924.

26 <sup>2</sup> Besides nationwide service of process authorized under 28 U.S.C. § 2361 for a § 1335 action, RCW 4.28.185  
 27 authorizes personal service out of state based on the “commission of a tortious act within this state” or the  
 “ownership ... of property whether real or personal situated in this state.”

1           11. Eileen Deutsch's father owned and operated the Sid Deutsch Gallery, an art  
2 gallery in New York City, not far from the Schoelkopf Gallery, which was owned and operated  
3 by Robert Schoelkopf, Andrew Schoelkopf's father. Sid Deutsch closed his gallery in 1992,  
4 retired and moved to Florida in 1995. At some point after he left New York but before he died  
5 in October 2006, Sid Deutsch obtained the Industrial Forms sculpture, probably around 1997.  
6 After his death, his personal property in Florida was distributed among Sid Deutsch's adult  
7 children. Eileen selected Industrial Forms and took it back to Washington in 2006.

8           12. Eileen Deutsch taught art in multiple venues for over twenty years, mostly in  
9 elementary school. She also taught in a community college and freelanced as an artist-in-  
10 residence and arts educator. But Eileen has never been in the art business, nor has she been a  
11 knowledgeable art collector. She is retired and lives in Port Townsend. During the ten years of  
12 her possession, Eileen has displayed the sculpture at home on the desk of her partner, Patrick.  
13 Eileen began inquiries about the sculpture's value late in 2014. She received an email from an  
14 art professional informing her that among papers deposited by the Schoelkopf Gallery in the  
15 Archives of American Art, Smithsonian Institution (the "Archives") was a photo of the  
16 sculpture with a handwritten note, "Stolen" on the back. But in the same papers, a 1986  
17 museum exhibition publication listed the sculpture simply as "whereabouts unknown,"  
18 suggesting that no theft had been reported to the authorities up to that point.

19           13. Later in 2015, Eileen was referred to defendant Valerie Carberry ("Carberry").  
20 According to the JohnStorrs.Org website, <http://johnstorrs.org/index.html>, "the estate of John  
21 Storrs is represented by the Valerie Carberry Gallery in Chicago." When Eileen contacted her,  
22 Carberry proposed a Consignment Sale Agreement by defendant Richard Gray Gallery dated  
23 September 2, 2015, with an "agreed Consignment Price" – set by Carberry -- of \$600,000 for  
24 the Industrial Forms sculpture. Exhibit A.<sup>3</sup> Eileen never signed the Richard Gray Consignment  
25 Sale Agreement. Instead, shortly after receiving it, in September 2015 Eileen sent Carberry a  
26

27 <sup>3</sup> On May 1, 2015, Carberry, who had apparently owned and operated the Valerie Carberry Gallery in Chicago,  
announced that she had joined the Richard Gray Gallery in Chicago as a partner.

1 copy of the art professional's remarks.

2 14. Eileen sent the report to Carberry to disclose potentially adverse information  
3 about the sculpture pursuant to Carberry's proposed consignment agreement. Included in the  
4 email was news of the handwritten note on the back of a photo in Schoelkopf Gallery records  
5 deposited in the Archives. After a phone call, Carberry wrote Deutsch in late October 2015,  
6 telling Eileen that the sculpture had been stolen from the Schoelkopf Gallery many years ago.  
7 Carberry did not provide Eileen with (or even refer to) any theft report made by the Storrs  
8 Estate, the Schoelkopf Gallery or any successor to either, to law enforcement, museums, art  
9 dealers or stolen property databases. Instead, Carberry told Eileen that even a good faith  
10 purchaser for value could not acquire title from a thief, so Eileen's father could not have  
11 obtained good title. Carberry wrote, "[t]he work remains stolen. The Estate still retains the title  
12 to it, and your title is not proper ... The representatives of the Storrs Estate ... wish to restore  
13 the statue to their rightful ownership." Exhibit B.

14 15. Upon information and belief, after 1956, the estate of the artist was represented  
15 by his daughter Monique Storrs Booz ("Monique") until her death in 1985. Monique's Estate  
16 was represented by The Northern Trust Company (not by Carberry or any Schoelkopf) until  
17 Monique's estate closed on June 1, 1990 and its representative was discharged. Exhibit C.<sup>4</sup>

18 16. Upon information and belief, Monique's 1982 will left the residue of her estate  
19 in equal shares to two of her children, Michelle Storrs Booz and John Storrs Booz. Exhibit D.  
20 Another sibling of these defendants, Edwin George Booz, made claims against the estate, and  
21 another relative, Mary Adams Young, might have had claims. On information and belief,  
22 however, if any residual claims to artworks previously owned by the estate of the artist or  
23 Monique exist after 1990, defendants Michelle and John Storrs Booz would have them.<sup>5</sup>

24 **Unclean hands of defendants-in-interpleader**

25 17. Because Carberry was an art dealer, she knew or should have known that if the

26 <sup>4</sup> Eileen found Exhibits C, D, H and I in the Archives.

27 <sup>5</sup> If further investigation or discovery indicated that Edwin George Booz and Mary Adams Young might have a  
claim against the sculpture, they would be added as defendants-in-interpleader.

1 sculpture had been stolen from the Schoelkopf Gallery many years ago, that gallery almost  
2 surely had been a consignee, so that the consignor would have been the true owner, according  
3 to Carberry's representations to Eileen Deutsch. But Carberry made no reference to Monique,  
4 The Northern Trust Company, Michelle or John Storrs Booz with respect to "the Estate." Nor  
5 have any of the foregoing putative heirs ever notified Eileen Deutsch that Carberry or the  
6 Richard Gray Gallery represent the Estate of Monique or any successor or that Carberry was  
7 authorized to communicate on behalf of any of them.

8 18. On November 10, 2015, Eileen responded to Carberry's October 29, 2015 letter  
9 with a list of questions seeking support for Carberry's contentions regarding ownership. Exhibit  
10 E.<sup>6</sup> Carberry replied that she was working on a response. Eileen again requested support for  
11 ownership claims by Carberry's clients in February 2016, and again with a letter dated April  
12 14, 2016, expressing her suspicions and frustration with the lack of a response from Carberry.  
13 Carberry still has provided no response to those letters, nor has Eileen been contacted by  
14 anyone providing written authority for Carberry to act on behalf of the "Storrs Estate  
15 representatives."

16 19. Eileen then received a May 16, 2016 demand letter from defendant Andrew  
17 Schoelkopf. Exhibit F. Andrew stated that "the Schoelkopf family holds proper title to the  
18 work." He contended that the sculpture was stolen from his father's gallery "sometime prior to  
19 August 25, 1977," that his father paid "Monique Storrs Booz the net due to her for the work,"  
20 that "this payment gave [his] father title to the work," and that he and Carberry were "in  
21 agreement" as to this result. *Id.* Andrew stated that Carberry "represents the Storrs' Estate," but  
22 he did not provide any document reflecting that Carberry was a consignee or had any other  
23 agency relationship with Monique's estate, which appears to have been closed in 1990, long  
24 before Andrew Schoelkopf's letter. Since Andrew's May 16, 2016 letter, Eileen has heard

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25 <sup>6</sup> Eileen's letter of inquiry asked for, among other things, details about and proof of the alleged theft, the names  
26 and contact information of the "Storrs Estate representatives," evidence of Carberry's authority to act for them,  
27 efforts by the representatives, their predecessors in interest, and others to publicize the alleged earlier theft and  
other recovery efforts.

1 nothing from Carberry, nor did Carberry ever refer Eileen to any Storrs family member.

2 20. It appeared that Carberry had passed Eileen's detailed inquiry letters along to  
3 Andrew Schoelkopf.<sup>7</sup> In two or three phone calls prior to and after Andrew's May 16, 2016  
4 letter, Eileen had asked Andrew to document the alleged theft and that the Schoelkopf heirs  
5 were the rightful owners, and to describe and produce evidence of all efforts taken by him and  
6 his predecessors in interest to publicize the theft and search for the "stolen piece." Andrew's  
7 complete response was to provide just two items relevant to his claim: (1) the photo with the  
8 word "Stolen" written on the back (the one Eileen had already reported to Valerie in September  
9 2015); and (2) a Schoelkopf Gallery letter dated August 25, 1977. Exhibit G. Although it  
10 undermined his theft claim, Andrew also produced an excerpt from a Whitney gallery mid  
11 1980's exhibition with a photo of the piece, denominated "Whereabouts unknown."

12 21. Rather than confirming that the Robert Schoelkopf Gallery purchased the  
13 sculpture, however, the August 25, 1977 letter establishes that the gallery breached its  
14 consignment agreement with the Storrs Estate, breached its fiduciary duties as an agent and did  
15 not purchase title to the sculpture. In the 1977 letter to Monique, Robert Schoelkopf provided  
16 an accounting of sales of various Storrs estate art pieces. His typed letter listed a sales price of  
17 \$3,750 for Industrial Forms (the sculpture at issue in this action), with a "net due" the Storrs  
18 estate of \$2,250 (consistent with a consignment agreement giving the Schoelkopf Gallery a  
19 40% commission, as with the other listed art pieces). But next to the "net due" amount, the  
20 word "stolen" was written in longhand. This was accompanied by a foot note below the list  
21 elaborating on Industrial Forms. Robert Schoelkopf wrote:

22 Industrial Forms was stolen some time ago, but the price by that time was \$3,750. I'd  
23 ask more today. I was unable to collect any insurance. In fact that was one reason we  
24 switched companies. I'm afraid that I am out of pocket for the net due you.

25 22. The 1977 letter shows that the Schoelkopf Gallery was not the owner at the time  
26 of the theft, Monique was. This is confirmed by an unsigned copy of a 1969 "Contract"

27 <sup>7</sup> By contacting Andrew, Carberry knew or should have known that the Schoelkopfs would claim ownership.  
Carberry's ongoing silence after Andrew's contact with Eileen suggests complicity with Andrew's false claim.  
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1 between Schoelkopf Galleries and Monique Storrs Booz. Exhibit H.<sup>8</sup> In order to “purchase” a  
2 consigned artwork, Schoelkopf was obligated to comply with the “Self-dealing” provision in  
3 section 6 of the Contract:

4 It is expressly understood that in no event shall Schoelkopf be permitted to purchase  
5 any of said works of art for his own account except on the specific written  
6 permission of Mrs. Booz ...

7 *Id.* Andrew Schoelkopf did not supply a copy of any “permission” document from Monique.  
8 Further negating any sale by Monique to Schoelkopf was Robert’s withholding of a  
9 commission, yet the Contract provided in section 5:

10 No commissions, however, shall be payable to Schoelkopf in the event that one of  
11 said works of art is sold to Schoelkopf or an agent of Schoelkopf.

12 *Id.* Schoelkopf paid Monique only \$2,250 – 60% of the purported full value of the piece --  
13 \$3,750, keeping 40%, which was clearly a “commission.”

14 23. The 1969 Contract specified a one-third commission, but Monique apparently  
15 acquiesced to Robert Schoelkopf’s increase to 40% for “consignments” after February 8, 1975.  
16 Exhibit I.<sup>9</sup> The insurance claim rejection acknowledged in Robert Schoelkopf’s August 1977  
17 letter (Exhibit G) suggests that Industrial Forms was not stolen. Rather, it implies that the  
18 rejection resulted from Schoelkopf’s neglect, such as improperly or inadequately recording, or  
19 simply overlooking, a sale of the sculpture.

20 24. In his 1977 letter, Robert Schoelkopf did not tell Monique when the sculpture  
21 was stolen, just that it was “some time ago” and worth “more today,” on the date of the letter,  
22 than the \$3,750 Schoelkopf unilaterally chose, without referring to a pending offer (as in  
23 Exhibit I), an appraisal or other independent source. Schoelkopf pled for sympathy that he was  
24 “out of pocket” for the \$2,250, but at the time he paid, the piece could been worth \$10,000,

25 <sup>8</sup> There has been no indication that assets of the “Estate of John Storrs,” which Carberry has claimed publicly to  
26 represent, passed to anyone other than Monique. The Schoelkopf Galleries’ contract with Monique acknowledges  
27 in Section 2(a), “Recitals,” that “Mrs. [Monique Storrs] Booz is the owner of works of art produced by her late  
28 father John H. Storrs.” Exhibit H.

<sup>9</sup> According to Schoelkopf’s February 8, 1975 letter, Exhibit I, his gallery had insurance, and the policy paid a  
claim on a piece consigned by Monique. Schoelkopf apparently did not purchase that allegedly stolen piece either.  
He withheld one-third of the “asking price,” which was his commission split at the time.



1 \$50,000 or perhaps even more. The Schoelkopf Gallery was the bailee on a consignment  
2 agreement. It had fiduciary duties as an agent to deal fairly with its principal, Monique, over  
3 whose property it had complete control in addition to obligations not to breach terms in its  
4 Contract regarding "Self-dealing" and maintaining effective insurance coverage. The \$2,250  
5 payment Schoelkopf made to Monique was for tort and breach of contract damages. The  
6 August 1977 letter demonstrates that any claimant who is a successor to the Schoelkopf  
7 Gallery or Robert Schoelkopf would come to this proceeding in equity without clean hands.

8 25. Further, defendants-in-interpleader Carberry, Richard Gray Gallery and Andrew  
9 Schoelkopf had a duty to exercise due care to disclose all facts material to ownership of the  
10 Industrial Forms sculpture and to avoid making false representations to Eileen Deutsch.  
11 Defendants-in-interpleader Carberry, Richard Gray Gallery and Andrew Schoelkopf omitted  
12 material facts and made material false representations of fact and opinion to Eileen Deutsch, as  
13 described above. The false representations and material omissions of Carberry and the Richard  
14 Gray Gallery were adopted by Andrew Schoelkopf and were intended to induce Eileen Deutsch  
15 to relinquish ownership of a sculpture they valued at \$600,000. Based on their manifest art  
16 industry knowledge and documents contradicting their representations to Plaintiff Deutsch,  
17 Defendants-in-interpleader Carberry, Richard Gray Gallery and Andrew Schoelkopf  
18 knowingly, recklessly or negligently ignored the falsity of their representations, and Plaintiff  
19 Deutsch was justifiably unaware of the falsehoods and true facts and opinions. Plaintiff  
20 Deutsch had a right to rely and justifiably did rely on the representations, and therefore believes  
21 she has been misled. Plaintiff brings this action in the nature of interpleader to assess the  
22 truthfulness of these defendants' claims and determine ownership of the sculpture.

23 **Lack of due diligence and laches**

24 26. Although Eileen requested from both Andrew and Carberry documentation of all  
25 efforts made by them or their predecessors to notify the public of the alleged theft, neither  
26 produced any such notice. There is no record of efforts by Carberry, Schoelkopf, Michelle  
27 Storrs Booz or John Storrs Booz to publicize a theft or locate the sculpture. Customarily, such

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1 efforts would have included a timely registration with an art loss database and contact with  
2 galleries, museums and law enforcement agencies. At Eileen’s request, the Art Loss Register  
3 (“ALR”)<sup>10</sup> has just told Eileen that the only report about the sculpture in ALR’s records was  
4 made in 2016.

5 27. Any successor to Monique’s claim of ownership would also bear the burden in  
6 equity of Monique having accepted a payment of damages for the Robert Schoelkopf Gallery’s  
7 breach of the consignment contract terms and fiduciary duties as Monique’s agent and bailee of  
8 the sculpture.

9 28. Plaintiff claims that she is the rightful owner of the Industrial Forms sculpture  
10 because there is no conclusive or competent proof that the sculpture was stolen. To the  
11 contrary, rejection by the Schoelkopf Gallery’s insurance carrier of the theft claim implies that  
12 the piece was not stolen. Alternatively, if the sculpture was stolen, Plaintiff and her father have  
13 clean hands; and the claims of defendants-in-interpleader are barred by their own and their  
14 predecessors’ lack of due diligence under the doctrine of laches. Because defendants-in-  
15 interpleader never reported a theft of the sculpture, Eileen’s father could not have discovered  
16 any problem with provenance through due diligence upon his acquisition of the sculpture, nor  
17 could Eileen when she selected it from his personalty. At this point, key witnesses have long  
18 ago died and records remaining from the 1970s are sparse and self-contradictory. Eileen has  
19 been prejudiced by the actions – or failures to act – of the defendants-in-interpleader and their  
20 predecessors. Without resolution of ownership in this action in the nature of interpleader,  
21 Plaintiff cannot assure a prospective purchaser of the sculpture that she can pass clear title. Nor  
22 could the defendants-in-interpleader do so without resolution of ownership herein.

23 29. Unless the conflicting and adverse claims to the sculpture are disposed of in a  
24 single proceeding, Plaintiff Deutsch may be subject to multiple litigation and be at substantial

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25 <sup>10</sup> ALR claims to be the world’s largest database of stolen art. <http://www.artloss.com/en>. ALR has not disclosed  
26 who made it, but the 2016 report came after Eileen alerted Carberry to a potential issue of provenance in  
27 September 2015. The report to ALR seems to have been made about the time Andrew Schoelkopf told Eileen that  
his father’s gallery had “purchased” the piece – nearly forty years after the August 1977 letter from Robert  
Schoelkopf to Monique Storrs Booz.

1 risk of suffering duplicate or inconsistent rulings on ownership rights to the sculpture.

2 30. Plaintiff Deutsch is ready, willing and able to deposit the sculpture into the  
3 registry of the Court by virtue of an order that Plaintiff is submitting upon filing this  
4 Complaint. Under the proposed order, Plaintiff Deutsch is transferring control over the  
5 sculpture to the Court while storing the sculpture in a secure location, a bank safe deposit box,  
6 pending further order of this Court.

7 31. Plaintiff Deutsch is entitled to an order pursuant to 28 U.S.C. § 2361 enjoining  
8 the defendants, and anyone directly or indirectly acting on their behalf, from prosecuting any  
9 action for possession and ownership of the sculpture.

10 32. Plaintiff Deutsch should be awarded possession and ownership of the sculpture.  
11 Alternatively, if another party is awarded ownership, Plaintiff should be discharged as a  
12 stakeholder, should recover her attorney fees and costs, and should be awarded a finder's fee or  
13 commission in *quantum meruit* for bringing the sculpture forward to resolve title.

14 **WHEREFORE**, Plaintiff Deutsch prays for judgment as follows:

15 1. That the aforesaid sculpture be accepted into the Registry of this Court by virtue  
16 of an order authorizing Plaintiff to store the sculpture in a bank safe deposit box, pending future  
17 disposition according to the judgment of this Court;

18 2. That the Court adjudicate the correct owner of the sculpture;

19 3. That the defendants-in-interpleader be required to interplead and resolve among  
20 themselves and Plaintiff the rights to the sculpture;

21 4. That the Court enter an injunction enjoining and restraining each of the  
22 defendants-in-interpleader, their agents, attorneys or assigns from instituting or prosecuting any  
23 action or proceeding in any state or United States Court against Plaintiff relative to the  
24 possession, control or ownership of the sculpture;

25 5. That an award be made to Plaintiff to pay for the costs, attorney fees, and other  
26 expenses Plaintiff is compelled to expend in the prosecution of this suit;

27 6. That Plaintiff be awarded a fee in *quantum meruit* if ownership is awarded to

1 another party; and

2 7. That Plaintiff be awarded such other and further relief as the Court determines to  
3 be proper in the premises.

4 DATED: June 24, 2016.

LANE POWELL PC

5  
6 By: /s/ Christopher Wells  
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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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 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 civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If 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 clerk(s) 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 six 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.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.