

MOENCH LAW, LLC

By: Matthew C. Moench, Esq., 031462007

1303 Roger Avenue,

Bridgewater, New Jersey 08807

T: (908) 208-1910

F: (908) 393-7103

moenchlawllc@gmail.com

Attorney for Plaintiff,

Jody Lutter

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JODY LUTTER, an individual,

Plaintiff,

vs.

JNESO, an incorporated employees' labor organization,

INTERNATIONAL UNION OF OPERATING ENGINEERS, an incorporated employees' labor organization,

COUNTY OF ESSEX,

PHIL MURPHY, in his official capacity as Governor of New Jersey,

GURBIR GREWAL, in his official capacity as Attorney General of New Jersey,

JOEL M. WEISBLATT, PAUL BOUDREAU, PAULA B. VOOS, JOHN BONANNI, DAVID JONES, AND PASQUALE V. PAPERO, in their official capacities as members of the New Jersey Public Employment Relations Commission

Defendants

Case No.:

COMPLAINT

Plaintiff, Jody Lutter, residing at 39 Sweetwood Drive, Cedar Grove, NJ 07009, by and through undersigned counsel, by way of Complaint against Defendants JNESO, International

Union of Operating Engineers (“IUOE”), Essex County, Phil Murphy, in his capacity as Governor of New Jersey, Gurbir Grewal, in his official capacity as Attorney General for New Jersey, and Joel M. Weisblatt, Paul Boudreau, Paula B. Voos, John Bonanni, David Jones, and Pasquale V. Papero in their official capacities as members of the New Jersey Public Employment Relations Commission, alleges as follows:

BACKGROUND AND NATURE OF THE ACTION

1. Plaintiff is a public employee for Defendant, County of Essex (the “County”), as an employee in the Essex County Hospital Center located in Cedar Grove, New Jersey.

2. Defendant JNESO is a labor union and the authorized employee representative of Plaintiff under the auspices of New Jersey’s Employer-Employee Relations Act, N.J.S.A. §§ 34:13A-1 to 34:13A-43.

3. In Janus v. AFSCME Council 31, 585 U.S. ____ (2018), the Supreme Court held:

States and public-sector unions may no longer extract agency fees from nonconsenting employees. Under Illinois law, if a public-sector collective-bargaining agreement includes an agency-fee provision and the union certifies to the employer the amount of the fee, that amount is automatically deducted from the nonmember’s wages. §315/6(e). No form of employee consent is required. This procedure violates the First Amendment and cannot continue. Neither an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay. By agreeing to pay, nonmembers are waiving their First Amendment rights, and such a waiver cannot be presumed.

Janus, slip opinion at 48.

4. On May 18, 2018, likely in anticipation of Janus, New Jersey passed the “Workplace Democracy Enhancement Act,” which amended N.J.S.A. § 52:14-15.9e to state:

Whenever any person holding employment, whose compensation is paid by this State or by any county, municipality, board of education or authority in this State, or by any board, body, agency or commission thereof shall indicate in writing, . . . to the proper disbursing officer his desire to have any deductions made

from his compensation, for the purpose of paying the employee's dues to a bona fide employee organization, designated by the employee in such request, and of which said employee is a member, such disbursing officer shall make such deduction from the compensation of such person and such disbursing officer shall transmit the sum so deducted to the employee organization designated by the employee in such request.

Employees who have authorized the payroll deduction of fees to employee organizations **may revoke such authorization** by providing written notice to their public employer **during the 10 days following each anniversary date** of their employment. Within five days of receipt of notice from an employee of revocation of authorization for the payroll deduction of fees, the public employer shall provide notice to the employee organization of an employee's revocation of such authorization. An employee's notice of revocation of authorization for the payroll deduction of employee organization fees shall be effective on the 30th day after the anniversary date of employment.

Id. (emphasis added).

5. Plaintiff resigned from JNESO and requested that her employer cease to withhold dues or fees payable to JNESO. She was told that, due to the law, she could not resign until ten days following the anniversary of her hiring in.

6. The Workplace Democracy Enhancement Act unconstitutionally interferes with public employees' First Amendment right to resign from and end financial support to a union at any time.

JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction under 28 U.S.C. § 1331, and 28 U.S.C. § 1343.

8. Venue is appropriate in this jurisdiction because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district. 28 U.S.C. § 1391(b)(2).

9. There are three possible appropriate Vicinages. Under Local Civil Rule 40.1(c)(2), the first is Camden Vicinage since there is a potentially related case, Smith v. New Jersey Education Association, Case No. 1:18-cv-10381-RMB-AMD. Smith is a putative class action

wherein the proposed class representatives are all schoolteachers and the union defendants are the New Jersey Education Association and three of its subunits. But, various state officials charged with the enforcement of the Workplace Democracy Enhancement Act are named as defendants, and the fourth proposed class is:

all public employees in New Jersey who have resigned or who might resign their union membership, or who have revoked or might revoke their consent to the payroll deduction of union fees, yet remain subject to payroll deductions even after they have resigned their membership or revoked their affirmative consent to payroll deductions.

Id. at Docket Entry 43, p. 3.

10. The second potential Vicinage is Newark, as Plaintiff resides in Essex County.

11. The third potential Vicinage is Trenton. Both JNESO and the state official defendants are in counties within the Vicinage. See Local Civil Rule 40.1.

PARTIES

12. Plaintiff Jody Lutter resides in Essex County and is a graduate nurse at Essex County Hospital Center. She is in a bargaining unit represented by JNESO.

13. Defendant JNESO is located in Middlesex County, 1225 Livingston Avenue, North Brunswick, NJ 08902.

14. Upon information and belief JNESO is affiliated with the International Union of Operating Engineers, located in Springfield, New Jersey.

15. Defendant County of Essex is the entity operating the Essex County Hospital Center where Plaintiff is employed.

16. Defendant Phil Murphy, acting in his official capacity as Governor of New Jersey, has his office in Trenton.

17. Defendant Gurbir Grewal, acting in his official capacity as Attorney General of

New Jersey, has his office in Trenton.

18. Defendants Joel M. Weisblatt, Paul Boudreau, Paula Voos, John Bonanni, David Jones, and Pasquale V. Papero, acting in their official capacities as members of the New Jersey Public Employment Relations Commission, have their main office in Trenton.

FACTS

19. The Plaintiff is a member of the JNESO.

20. Plaintiff began her employment on or around May 31, 2011.

21. Upon information and belief, prior to Janus, Plaintiff signed a dues authorization card, but have not signed a waiver post-Janus.

22. On or about July 12, 2018, Plaintiff provided written notification to her employer that she wanted her employer to cease deducting money for JNESO from her paycheck. At the same time, the letter also notified JNESO that she was withdrawing her membership. A copy of this letter is attached as Exhibit A to this Complaint.

23. After her attempted resignation and revocation, Plaintiff was told by her employer that, pursuant to the law, she could not resign nor revoke until ten days following her hiring anniversary, which would be May 31, 2019. A copy of this email is attached as Exhibit B to this Complaint.

24. On June 1, 2019, Plaintiff once again provided written notification to her employer that she wanted her employer to cease deducting any money for JNESO from her paycheck. A copy of this letter is attached as Exhibit C to this Complaint.

CAUSES OF ACTION

COUNT I - Plaintiff Has a Constitutional Right to Resign at Any Time

25. Plaintiff incorporates paragraph 1 through 24 as though fully set forth herein.

26. Plaintiff is suing the JNESO, IUOE, Essex County, and Defendant state officials under 42 U.S.C. § 1983, Civil action for deprivation of rights, and under 28 U.S.C. § 2201, the Declaratory Judgment Act. More specifically, Plaintiff seeks a declaration that, under Janus and/or any other relevant case law, they are entitled to the right to resign from the Defendant Unions at any time and cease any accrual of financial support to the Defendant Unions immediately upon resigning.

COUNT II - Plaintiff Does Not Forgo Her Constitutional Rights Unless She Waives These

27. Plaintiff incorporates paragraphs 1 through 26 as though fully set forth herein.

28. Plaintiff is suing the JNESO, IUOE, Essex County, and Defendant State Officials under 42 U.S.C. § 1983, Civil action for deprivation of rights, and under 28 U.S.C. § 2201, the Declaratory Judgment Act. More specifically, Plaintiff seeks a declaration that, pursuant to Janus, union dues or agency fees cannot be collected without a clear and knowing waiver from an employee wherein they acknowledge that they are giving up First Amendment rights, and do so freely. This waiver must post-date Janus.

29. Further, to the extent that it has not been clearly established by case law, Plaintiff cannot have waived her constitutional right to resign from a union at any time and thereby cease accrual of financial support to Defendant Unions immediately upon her resignation.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff hereby requests that this court:

- a. Enjoin Defendant Unions from collecting any dues or fees from Plaintiff if she has not consented to such collection through a clear and informed waiver of her First Amendment rights under Janus;
- b. A refund of any dues or fees paid to Defendant Unions since she resigned on July

12, 2018;

- c. Declare that there is a constitutional right of employees to resign from a union at any time;
- d. Declare that the WDEA provision, N.J.S.A. § 52:14-15.9e(1), restricting the revocation of any waiver that fulfills the requirements of Janus, is void and unenforceable and that the right to resign and thereby immediately cease accrual of any financial support to the Defendant Unions can be exercised at any time;
- e. Enjoin the Defendant state officials from enforcing N.J.S.A. § 52:14-15.9e(1);
- f. Award Plaintiff her attorney fees pursuant to 42 U.S.C. § 1988, along with costs; and
- g. Grant all other relief that the Court deems just, proper, and equitable.

Patrick J. Wright, Esq.*
Mackinac Center Legal Foundation
140 W. Main Street
Midland, MI 48642
(989) 631-0900
wright@mackinac.org

* *pro hac vice* application pending

June 6, 2019

By: /s/ Matthew C. Moench
Matthew C. Moench, Esq.
Moench Law, LLC
1303 Roger Avenue
Bridgewater, NJ 08807
(908) 208-1910
moenchlawllc@gmail.com

Counsel for Plaintiff
Jody Lutter

EXHIBIT A

July 12, 2018

Via regular, certified, and electronic mail

Robert D Jackson
Director of Human Resources, County of Essex
Hall of Records, Room 340
465 Dr Martin Luther King Jr Blvd
Newark, New Jersey 07102
rjackson@admin.essexcountynj.org

Mr Jackson,

Please accept this letter as my notice to immediately stop the deduction from my paycheck of any money for JNESO, the labor union for nurses at Essex County Hospital Center.

By copy of this letter I am simultaneously notifying JNESO that I withdraw my membership.

Thank you for your attention to this matter.



-Jody Lutter
JodyLutter@aol.com

Copy: Doug Placa
Executive Director, JNESO
1225 Livingston Avenue
North Brunswick, New Jersey 08902
jnesonj@aol.com

EXHIBIT A

EXHIBIT B

From: Gina Corcoran <Gcorcoran@admin.essexcountynj.org>
Date: July 30, 2018 at 11:04:03 AM EDT
To: "jodylutter@aol.com" <jodylutter@aol.com>
Cc: Hossam Mohamed <HMohamed@admin.essexcountynj.org>, Robert Jackson <rjackson@admin.essexcountynj.org>, Martha Slack <Mslack@admin.essexcountynj.org>
Subject: Union dues

FYI - Please see attached law regarding the union dues. According to the law, you cannot revoke your union dues until 2019 (10 days following your anniversary of May 31st).

Please send us a notice to cancel your union dues at that time.

Sincerely,
Gina Corcoran

This E-mail, including any attachments, may be intended solely for the personal and confidential use of the sender and recipient(s) named above. This message may include advisory, consultative and/or deliberative material and, as such, would be privileged and confidential and not a public document. Any Information in this e-mail identifying a client of the Department of Human Services or the Department of Children and Families is confidential. If you have received this e-mail in error, you must not review, transmit, convert to hard copy, copy, use or disseminate this e-mail or any attachments to it and you must delete this message. You are requested to notify the sender by return e-mail.

EXHIBIT B

June 1, 2019

Via regular, certified, and electronic mail

Robert D Jackson
Director of Human Resources, County of Essex
Hall of Records, Room 340
465 Dr Martin Luther King Jr Blvd
Newark, New Jersey 07102
rjackson@admin.essexcountynj.org

Mr Jackson,

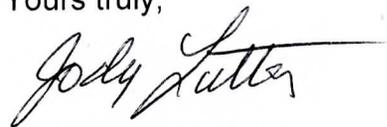
Please accept this letter as my second notice to stop the deduction from my paycheck of any money for JNESO, the labor union for nurses at Essex County Hospital Center.

This is my second letter withdrawing my consent for monies to be withheld from my paycheck and is to satisfy an email from Gina Corcoran (gcorcoran@admin.essexcountynj.org) dated July 30, 2018, advising me that the County would not process my withdraw of consent unless made during the ten days following my anniversary hire date of May 31st.

This letter in no way alters my position that I exercised my rights under the *Janus* decision and withdrew from the JNESO union on July 12, 2018 and that the County and JNESO erred and continue to err by withholding my money.

Thank you for your attention to this matter.

Yours truly,



Jody Lutter
JodyLutter@aol.com

Copy: Doug Placa
Executive Director, JNESO
1225 Livingston Avenue
North Brunswick, New Jersey 08902
jnesonj@aol.com

JS 44 (Rev. 06/17)

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

Jody Lutter

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Moench Law, LLC, 1303 Roger Avenue, Bridgewater, NJ 08807

DEFENDANTS

JNESO, et al.

County of Residence of First Listed Defendant Middlesex
(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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

Click here for: [Nature of Suit Code Descriptions.](#)

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 (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <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 - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983, 42 U.S.C. 2201

Brief description of cause:

Plaintiff's First Amendment rights are violated by N.J.S.A. 52:14-15.9e as established in Janus v. AFSCME

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Hon. Renee Bumb, U.S.D.J.

DOCKET NUMBER 18-cv-10381

DATE

6/6/2019

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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.