

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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J.T., minor, deceased, and  
SHIRLEY THOMPSON, individually and as  
the surviving mother of J.T.,  
minor, deceased,

Plaintiffs,

v.

NO. \_\_\_\_\_  
DEMAND FOR JURY

CITY OF MEMPHIS d/b/a MEMPHIS POLICE  
DEPARTMENT, and OFFICER TERRANCE SHAW,  
in his personal and official capacity as a police officer  
of the Memphis Police Department, and ANY  
OTHER UNNAMED OFFICERS of the CITY OF  
MEMPHIS POLICE DEPARTMENT in their personal  
and official capacities.

Defendants.

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**COMPLAINT UNDER 42 U.S.C. § 1983**

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The Plaintiffs, SHIRLEY THOMPSON (hereinafter "Shirley Thompson" or "Plaintiff"), the Mother of Plaintiff J.T. (hereinafter "J.T." or "Plaintiff"), minor, deceased, by and through their undersigned attorney, sue CITY OF MEMPHIS d/b/a MEMPHIS POLICE DEPARTMENT, OFFICER TERRANCE SHAW, in his personal and official capacity and ANY OTHER UNNAMED OFFICERS of the CITY OF MEMPHIS POLICE DEPARTMENT in their personal and official capacities for damages resulting from the civil rights violations and the wrongful death of J.T. and in support thereof state as follows:

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## INTRODUCTION

1. This is an action for Constitutional violations and state law personal injuries suffered by plaintiffs as a result of the personal injury and wrongful death of Plaintiff J.T. Plaintiffs bring this action for compensatory damages under 42 U.S.C. §1983 because Defendants jointly and severally deprived J.T. of his federally-protected rights to be free from unreasonable seizure and unreasonable force, and pursuant to the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution. Plaintiffs bring this action against Defendants pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiffs' rights, privileges, and immunities secured by the Constitution of the United States. Plaintiffs seek a declaratory judgment and money damages to redress and remedy the deprivations of their constitutional rights. In addition, Plaintiffs invokes the pendent jurisdiction of this Court over related, ancillary, and pendent state law claims. Finally, Plaintiffs seek an award of attorney's fees and costs pursuant to 42 U.S.C. § 1988.
2. Plaintiff, Shirley Thompson, is the surviving Mother and Next Friend of J.T., minor, deceased, and brings this action on behalf of the estate as applied through 42 U.S.C. §§ 1983 and 1988. At the time of his death, J.T. was fifteen (15) years old. He died intestate. Plaintiff brings this action as the surviving heir at law of her son.
3. As a direct result of the policies, practices, customs and procedures of the Memphis Police Department, Decedent J.T. was intentionally deprived of his constitutional right to be free from unreasonable searches and seizures guaranteed to him by the Fourth Amendment to the United States Constitution. Defendant Terrance Shaw, a

police officer, acting in the course and scope of his employment with the City of Memphis, and acting under color of state law, unjustifiably shot and killed minor child J.T. under circumstances where no reasonable police officer would have done so. Under long-established law on excessive deadly force, Terrance Shaw is not entitled to qualified or other immunity for these actions.

#### PARTIES

4. Plaintiff, SHIRLEY THOMPSON, (hereinafter "Plaintiff" or "Shirley Thompson") is a citizen of the United States currently residing in Shelby County, State of Tennessee, and was a resident of Shelby County, State of Tennessee, when the events herein described occurred. Shirley Thompson is the surviving mother of J.T., minor, deceased.
5. Plaintiff, J.T., (hereinafter "Plaintiff" or "J.T.") was a minor citizen of the United States and is now deceased. During the acts described in this complaint Plaintiff was a resident of Shelby County, State of Tennessee, when the events herein described occurred.
6. Defendant OFFICER TERRANCE SHAW (hereinafter "Defendant" or "Shaw") who was directly responsible for the arrest of civilians, including Plaintiff, and at all times herein directly and personally responsible for acts involving Plaintiff, and was employed by City of Memphis. Upon information and belief, defendant Terrance Shaw can be served at 4754 Wooddale, Memphis, Tennessee 38118 and is sued in his individual capacity and official capacity. The acts and omissions complained of herein arise from the conduct of Defendant Terrance Shaw while he was acting under

color of state law, and each act and omission was committed pursuant to his employment and authority as Memphis Police Officer.

7. Defendant CITY OF MEMPHIS (hereinafter “Defendant” or “City of Memphis”) is a body politic and corporate, duly organized and existing under the laws of the State of Tennessee, and pursuant to law is capable of being sued in this Court. Defendant City of Memphis is responsible for the policies, practices, and customs of its Police Department, as well as the hiring, training, supervision, control, and discipline of its Deputy Police Officers. City of Memphis is and was the employer of the personnel named herein as individual defendants. Defendant City of Memphis is also responsible for the operation, practices, and totality of conditions of its arrestees. City of Memphis acts or fails to act through its policy-making officials, including but not limited to its Supervisors and Officers, the Police Chief of City of Memphis, and their assigns; the acts and edicts of these policy-making officials represent the policies, practices, and customs of City of Memphis and its police force.
8. Other unnamed Officers and Supervisors of City of Memphis and its Police Department, and who were directly responsible for the arrest and oversight of civilians, including Plaintiff, and at all times herein directly and personally responsible for acts involving Plaintiff, including investigation. They were also responsible for the oversight, training, investigation, supervision and control of defendant Shaw.

#### **JURISDICTION AND VENUE**

9. This is an action for damages for civil rights violations pursuant to 42 U.S.C. §§ 1983, 1988, and the First, Fourth, Sixth and Fourteenth Amendments of the United States Constitution that resulted in the wrongful death of J.T. which is being brought pursuant to Tenn. Code. Ann. 20-5-101 et seq.
10. This Court has jurisdiction of the Plaintiffs' claims under 28 U.S.C. § 1331 (3) & (4) (federal question) and 28 U.S.C. § 1343(a)(3) (civil rights). This court further has jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367 (supplemental or pendent jurisdiction) as those claims form part of the same controversy under Article III of the United States Constitution.
11. Venue is properly situated in the Western District of Tennessee pursuant to 28 U.S.C. § 1391(b).
12. All actions, omissions and events complained of occurred in Shelby County, Tennessee.
13. The amount in controversy exclusive of interest and costs exceeds the sum of \$10,000.

#### FACTS

14. The Plaintiffs re-allege and incorporated by reference the allegations in paragraphs 1-13 as if fully set forth herein.
15. On or about the evening of September 24, 2012, fifteen (15) year old minor child J.T. left his home, telling his mother he was going to the store. He then sent a text message to Officer Terrance Shaw.
16. J.T. and Officer Terrance Shaw continued their text conversation, eventually meeting in person.

17. Officer Terrance Shaw shot J.T. with his duty-issued Sig Sauer P229 handgun.
18. J.T. was unarmed at the time of the incident.
19. Officer Terrance Shaw then called 911 and told dispatch he was the victim of an attempted robbery and that he had shot the person he claimed to be the perpetrator.
20. In making the 911 call, Officer Terrance Shaw did not identify himself as a police officer in a further attempt to “cover up” the facts at bar. However, the City of Memphis knew or should have known he was a police officer attempting a “cover-up”, yet failed to investigate nor discipline him for this.
21. J.T. was found in a yard on the northeast corner of Wooddale and Jenkins. Paramedics were then contacted. J.T. was transported to the hospital, where he died of his injuries inflicted by Shaw.
22. Officer Shaw claims he was arresting a robber pursuant to his authority as a Memphis police officer and fired the deadly shot with his duty weapon provided by Defendant City of Memphis.
23. The City of Memphis failed to properly train or investigate its employee Shaw or charge him with the shooting.
24. The City of Memphis is charged with responsibility for both investigation and discipline of its officers and with bringing criminal charges through its Police Department.
25. Officer Shaw had previously shot and killed another individual earlier in his duties as a Memphis Police Officer.
26. Officer Shaw, upon information and belief, had unreasonably shot and killed animals in the course of his duties as Memphis Police Officer.

**CAUSES OF ACTION**

27. The Plaintiffs re-allege and incorporate by reference the allegations in paragraphs 1-26 as if fully set forth herein.
28. Plaintiff brings a claim against Officer Terrance Shaw, individually as well as in his official capacity, pursuant to 42 U.S.C. § 1983 and for punitive damages.
29. At all material times, Officer Terrance Shaw was acting under color of state law as an agent and employee of Defendant, City of Memphis. Defendant was armed with his service revolver and was acting in the course and scope of his duties as a Memphis Police Officer at the time he shot and killed J.T.
30. Force is excessive, and therefore violates the Fourth Amendment, if it is not reasonable in light of the circumstances facing the officer. The facts and circumstances of this case show that Officer Terrance Shaw's act of shooting and killing J.T. was clearly unreasonable.
31. At the time of the incident, Officer Terrance Shaw had no reason to believe that J.T. was a threat to himself or others.
32. Upon information and belief, J.T. made no violent movements towards Officer Terrance Shaw or any other person that could be interpreted as threatening.
33. Upon information and belief, J.T. made no verbal threats to Officer Shaw.
34. Upon information and belief, Officer Shaw did not have a reasonable fear of imminent bodily harm when he shot and killed J.T. nor did Officer Terrance Shaw have a reasonable belief that any other person was in danger of imminent bodily harm from the decedent. Consequently, shooting and killing J.T. was unwarranted under



these circumstances, and was objectively unreasonable when comparing or balancing the amount of force used against the need for force.

35. Therefore, by using subjectively and unreasonable deadly force while acting under color of state law, Officer Terrance Shaw violated Decedent's rights under the Fourth and Fourteenth Amendments to the United States Constitution and caused his wrongful death. At all times material herein, Defendant Officer Terrance Shaw was a state actor for purposes of 42 U.S.C. § 1983.
36. Plaintiffs assert a 42 U.S.C. §1983 cause of action against the defendant City of Memphis and any unknown policymakers employed by the City of Memphis.
37. Defendant City of Memphis, Tennessee is a governmental entity as defined in Tenn. Code Ann. 29-20-101 et seq.
38. Pursuant to Tenn. Code Ann. 29-20-205, "Immunity from suit of all governmental entities is removed for injury proximately cause by a negligent act or omission of any employee within the scope of his employment. . ."
39. At all times relevant to the events complained of Memphis Police Officer Terrance Shaw was an employee of City of Memphis.
40. Defendant City of Memphis, through the actions or inactions of its employees, was guilty of negligent retention of Officer Shaw as a Memphis Police Officer, a direct and proximate cause of the injuries complained of herein.
41. The City of Memphis and the Memphis Police Department, should therefore have known that Officer Shaw was 'trigger-happy', and that keeping him on the streets as a Memphis Police Officer with a City issued service revolver posed a serious danger to the community resulting in the death of an unarmed minor, J.T.

42. The City's negligent retention of an officer unfit for duty constitutes gross negligence and deliberate and conscious indifference to the constitutional rights to be free from unreasonable force and the rights conveyed to J.T. under the Tennessee Constitution, Federal Constitution as applied through 42 U.S.C. § 1983 and the Tennessee Wrongful Death Statute.
43. The City may be held liable for its failure to train or discipline an officer when the officer's acts were so egregious that the City should have had clear warning that the particular officer posed a danger to citizens.
44. With respect to Officer Shaw, the need for additional or different training and discipline was obvious.
45. Upon information and belief, Officer Shaw had a history of using excessive force.
46. The City knew that Officer Shaw was likely to engage in other acts of excessive force, yet the City did nothing. By failing to oversee, discipline, supervise, or train Officer Shaw, the City authorized or ratified Officer Shaw's wrongful acts both by acceptance of acts prior to and including those that caused J.T.'s death.
47. The City's acts and omissions, when viewed objectively, involved an extreme degree of risk, considering the probability and magnitude of harm to others. The City had actual, subjective awareness of the risks involved, but nevertheless proceeded with conscious indifference to the rights, safety and welfare of others including J.T.
48. Thus, in light of the particular risk posed by Officer Shaw, the City's failure to train or discipline Defendant Shaw constitutes gross negligence and/or deliberate and conscious indifference to the rights, safety and welfare of others, including J.T.

49. The actions of Defendants jointly and separately deprived Plaintiff of federally protected civil rights, including the Fourth and Fourteenth Amendment constitutional rights to be free from excessive force and for safe treatment. Furthermore, the violation and disregard by Defendants jointly and separately deprived Plaintiff of due process of law under the First, Sixth and Fourteenth Amendment.
50. 14<sup>th</sup> Amendment prohibits cruel and unusual punishment and deliberate indifference to serious medical, psychological and safety needs and any practices or policies or ratification, which to allow such is in derogation of constitutional standards.
51. The acts and omissions of defendants, City of Memphis and Officer Terrance Shaw, and any other unnamed officers or employees for the Memphis Police Department, individually and collectively, in being deliberately indifferent to plaintiff's safety needs were also the proximate cause of the plaintiff's injuries, pain, and suffering and death; said acts and omissions were undertaken in disregard of clearly established constitutional standards, principles, and laws.
52. Shaw was acting as permitted only by virtue of his position with City of Memphis and supervisors. He was taught in techniques and practices by City of Memphis and its Police Department.
53. Plaintiff was deprived of said rights by Defendants' acting under color of law, statutes, ordinances, customs, and practices and because of the policies and practices of City of Memphis, its Police Department, its officers and employees.
54. The City of Memphis, by and through Defendants, has a policy or practice of inaction regarding excessive force with arrestees.

55. Defendants have a policy or practice of inaction concerning oversight of apprehension of suspects during arrest procedures.
56. Defendants have a policy or practice of inaction regarding oversight and discipline of officers who may pose a danger to the community.
57. Plaintiff also claims for damages to his First, Fourth, Sixth, and Fourteenth Amendment Due Process Rights in that the defendants have delayed investigation efforts, obstructing legitimate efforts to resolve this matter, interfering with the right of access to courts and obstruction of justice; including tampering with or failure to procure evidence.
58. Defendants were deliberately indifferent in the recruitment, hiring, training, supervision and discipline of this City of Memphis Police Officer, and as a result manifested a callous and reckless disregard for the rights and safety of Plaintiff.
59. Plaintiff had a clearly established right to be safe and arresting officer's and defendants' actions were deliberately indifferent to those rights.
60. The conditions during the arrest by the Memphis Police Department were such as to threaten the health and physical wellbeing of Plaintiff.
61. Conditions for arrestees and pretrial detainees must be no more onerous than necessary to ensure presence at trial, and an arrestee or pretrial detainee may not be punished. Any conditions likely to impair an arrestee or pretrial detainee's physical or mental health should be subjected to the strictest scrutiny and are not justified in this cause.
62. Defendants had a constitutional duty to protect Plaintiff from physical harm and death.

63. The defendants failed to monitor arrestees in a way to insure Plaintiff's rights, including but not limited to his Fourth Amendments rights.
64. Plaintiff also claims for damages under the laws of Tennessee, including wrongful death, intentional infliction of emotional distress and official misconduct as well as corresponding violations of the Constitution of the State of Tennessee and its laws.
65. All defendants knew of or should have known of the above illegal and unconstitutional acts, yet failed to stop said activity and even allowed it to occur and further caused more violations and undue harm to Plaintiff.
66. Plaintiff sues for economic, loss of consortium and physical damages to them as well as damages for the emotional and psychological distress endured in addition to damages for violations of J.T.'s constitutional, state law, and civil rights.
67. The actions of the defendants also were willful, callous and malicious and are grounds for punitive damages.
68. That the defendants maintain unwritten policy or practice wherein law enforcement officers in this community cover up the unlawful and unconstitutional acts of other officers.
69. The municipality and supervisors at bar have failed to adequately investigate or discipline the officers involved.
70. Plaintiff reserves the right to amend and supplement this pleading as no Rule 26 disclosures nor discovery have been provided and this pleading is made upon plaintiff's best knowledge and belief.

WHEREFORE, PREMISES CONSIDERED, the plaintiffs pray for the following relief from this Honorable Court, jointly and severally, against all of the defendants herein.

1. That this Honorable Court cause process to issue to the defendants in this cause;
2. That a declaratory judgment be issued that the policies, practices and actions complained of herein are illegal and unconstitutional;
3. That a judgment be issued for Plaintiffs for actual damages to be proven at trial, and allowed under 42 U.S.C 1983, the Tennessee Wrongful Death Statutes, Tennessee Governmental Tort Liability Act and Tenn. Code Ann 8-8-301 et seq., and any other causes herein, and post-judgment interest in an amount not less than ten million dollars (\$10,000,000.00) jointly and severally against the defendants;
4. That Plaintiff Shirley Thompson be awarded her attorney's fees as allowed by 28 U.S.C. § 1988;
5. That the plaintiff be awarded the costs of this action;
6. That Plaintiff Shirley Thompson be awarded punitive damages against Officer Shaw in his individual capacity in an amount not less than one million dollars (\$1,000,000.00) and any and all other relief that the Court deems appropriate; and
7. That a jury be empanelled to try the issues when joined.
8. That the plaintiff be allowed to make any further amendments to claims or add other defendants as discovery may warrant.
9. That the City Attorney for Memphis immediately notify all persons involved of the pendency of this lawsuit.
10. Such other and further relief as this Honorable Court deems proper.

This 23rd day of September, 2013.

Respectfully submitted,

/s/Mark Renken

Mark Renken (TN BPR #22986)

Attorney for Plaintiffs

44 North Second Street, Suite 300

Memphis, Tennessee 38103

(901) 521-4302

**CERTIFICATE OF SERVICE**

This document will be sent to the City Attorney for the City of Memphis, City Hall, 125 N. Main Street, Room 336, Memphis, Tennessee 38103; and Defendant Terrance Shaw at 4754 Wooddale, Memphis, Tennessee 38118 via hand-delivery or U.S. pre-paid postal mail on the 23rd day of September, 2013.

/s/Mark Renken

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 DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
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)
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PIF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
110 Insurance
120 Marine
130 Miller Act
140 Negotiable Instrument
150 Recovery of Overpayment & Enforcement of Judgment
151 Medicare Act
152 Recovery of Defaulted Student Loans (Excludes Veterans)
153 Recovery of Overpayment of Veteran's Benefits
160 Stockholders' Suits
190 Other Contract
195 Contract Product Liability
196 Franchise
REAL PROPERTY
210 Land Condemnation
220 Foreclosure
230 Rent Lease & Ejectment
240 Torts to Land
245 Tort Product Liability
290 All Other Real Property
TORTS
PERSONAL INJURY
310 Airplane
315 Airplane Product Liability
320 Assault, Libel & Slander
330 Federal Employers' Liability
340 Marine
345 Marine Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury
362 Personal Injury - Medical Malpractice
PERSONAL INJURY
365 Personal Injury - Product Liability
367 Health Care/Pharmaceutical Personal Injury Product Liability
368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
370 Other Fraud
371 Truth in Lending
380 Other Personal Property Damage
385 Property Damage Product Liability
FORFEITURE/PENALTY
625 Drug Related Seizure of Property 21 USC 881
690 Other
LABOR
710 Fair Labor Standards Act
720 Labor/Management Relations
740 Railway Labor Act
751 Family and Medical Leave Act
790 Other Labor Litigation
791 Employee Retirement Income Security Act
IMMIGRATION
462 Naturalization Application
465 Other Immigration Actions
BANKRUPTCY
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
PROPERTY RIGHTS
820 Copyrights
830 Patent
840 Trademark
SOCIAL SECURITY
861 HIA (1395ff)
862 Black Lung (923)
863 DIWC/DIWW (405(g))
864 SSID Title XVI
865 RSI (405(g))
FEDERAL TAX SUITS
870 Taxes (U.S. Plaintiff or Defendant)
871 IRS—Third Party 26 USC 7609
OTHER STATUTES
375 False Claims Act
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit
490 Cable/Sat TV
850 Securities/Commodities/Exchange
890 Other Statutory Actions
891 Agricultural Acts
893 Environmental Matters
895 Freedom of Information Act
896 Arbitration
899 Administrative Procedure Act/Review or Appeal of Agency Decision
950 Constitutionality of State Statutes

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

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.

AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
	)	
	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
	)	
	)	
	)	
	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
	)	
	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
	)	
	)	
<i>Defendant(s)</i>	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: