

**LITE DEPALMA GREENBERG, LLC**

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*Attorneys for Plaintiff*

[Additional counsel listed on signature page]

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

	:	Civil Action No.
LAWRENCE E. CASPER, Individually	:	
and on Behalf of all Others Similarly	:	CLASS ACTION COMPLAINT FOR:
Situated,	:	
	:	VIOLETIONS OF THE NEW JERSEY
Plaintiff,	:	CONSUMER FRAUD ACT;
	:	
v.	:	BREACH OF CONTRACT;
	:	
BMW OF NORTH AMERICA, LLC.	:	VIOLATION OF THE MAGNUSON-MOSS
	:	WARRANTY ACT (15 U.S.C. §§ 2301, <i>et seq.</i> )
Defendant.	:	
	:	<b><u>JURY TRIAL DEMANDED</u></b>
	:	

Plaintiff Lawrence E. Casper (“Plaintiff”) alleges as to himself based on his own experience, and as to all other allegations, based upon the investigation of counsel, which included, among other things, a review of complaints, reports, advisories, press releases, media reports and various discussions with prospective experts about defendant BMW of North America, LLC (“BMW” or “Defendant”).

**INTRODUCTION**

1. Plaintiff brings this class action to remedy BMW’s systematic breach of its warranty obligations to replace recalled defective airbags within a “reasonable period of time.”

In March 2016, BMW sent a recall notice to Plaintiff and the Class stating that 2006-2015 BMW 1 Series, 3 Series, and X1, X3, X5 and X6 vehicles contained a defect that “could cause rupturing of the air bag inflator, resulting in metal fragments striking the driver or other passengers potentially resulting in serious injury or death” (the “Recall Notice” or “Notice”). The Notice informed Plaintiff that “[t]he driver’s front air bag module will be replaced free of charge when parts become available.” However “at the present time [BMW] do[es] not have parts available.” Plaintiff is informed and believes that replacement parts will not be available for at least six months and possibly much longer. This is an unreasonable period of time to remedy the defect and provide required compensation or a suitable alternative for Plaintiff and the putative Class.

2. BMW’s failure to replace the admittedly deadly air bag module within a reasonable time causes Plaintiff and the putative Class herein direct and concrete loss and cost. Plaintiff and the other members of the Class cannot safely drive their expensive BMW vehicles, depreciation causes declining value in those vehicles, the BMW vehicles are essentially unsaleable and BMW’s warranty, for which Plaintiff and the other members of the Class paid as part of their purchase price, is at least partially exhausted even as they are unable to drive their vehicles.

3. BMW’s systematic failure to replace the deadly air bag module, and the consequential exhaustion of valuable warranty coverage even as Plaintiff and members of the Class are unable to use their vehicles, is an “unconscionable commercial practice” in violation of the New Jersey Consumer Fraud Act (N.J.S.A. 56:8-2), breaches BMW’s contractual covenant to replace defective parts within a “reasonable time”, violates BMW’s contractual covenant to provide four years of warranty coverage, and transgresses the Magnuson-Moss Warranty Act (15

U.S.C. §§ 2301, *et seq.*) along with the National Traffic and Motor Vehicle Safety Act of 1966.

4. Plaintiff, on behalf of a nationwide Class, accordingly seeks monetary relief for damages from the depreciation and reputation impairment of their vehicles, restitution relative to the value of warranty coverage to which Class members are entitled, a refund of the price paid for their vehicles, treble damages, and injunctive or other equitable relief prohibiting BMW from perpetuating the improper business practices described herein.

#### **JURISDICTION AND VENUE**

5. The United States District Court for the District of New Jersey has jurisdiction over the subject matter of this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), diversity jurisdiction pursuant to 28 U.S.C. § 1332(a), and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

6. Plaintiff and many other members of the Class are citizens of states different than that of Defendant and the matter in controversy exceeds the sum of \$5,000,000.00, exclusive of interest and costs.

7. In addition, venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant's principal place of business is in Woodcliff Lake, New Jersey, Defendant transacts business in this District, Defendant is subject to personal jurisdiction in this District, and many of the transactions alleged herein occurred in this District.

#### **THE PARTIES**

8. Plaintiff Lawrence E. Casper is a citizen of the State of Arizona, residing in Oro Valley, Arizona. Plaintiff bought a 2011 model year BMW X5 from Defendant's dealership, BMW of Tucson, in Tucson, Arizona.

9. Defendant BMW of North America, LLC is a limited liability company organized under the laws of the State of Delaware, with its principal place of business in Woodcliff Lake, New Jersey. BMW designs, manufactures, distributes, markets, services, repairs, sells, and leases BMW vehicles in all 50 states in the United States.

### **SUBSTANTIVE ALLEGATIONS**

10. In or about March 2016, BMW sent a Notice of “Recall Campaign No. 16V-071: Driver’s Front Air Bag Module” to owners of BMW model year 2006-2015 1 Series, 3 Series and X1, X3, X5 and X6 sport activity vehicles (the “Class Vehicles”).

11. The Recall Notice described the potential harm from the defective front air bag module as follows:

In the event of a crash necessitating deployment of the driver’s front air bag, excessive internal pressure could cause rupturing of the air bag inflator, resulting in metal fragments striking the driver or other passengers potentially resulting in serious injury or death. **If you are not the only driver of this vehicle, please advise all other drivers and passengers of this important information.**

12. The Recall Notice stated that “[t]he driver’s front air bag module will be replaced free of charge when parts become available.” The Notice further stated, however, that “at the present time, we do not have parts available.”

13. BMW offered to provide (or reimburse Plaintiff and Class members for) a rental vehicle in exchange for their agreement to store the Class Vehicles until the replacement air bag inflator could be installed. The rental vehicle allowed Plaintiff and the Class members pursuant to this plan are not comparable regarding safety and engineering to the BMW vehicles owned by Plaintiff and the members of the Class.

14. BMW requires Plaintiff and Class members proceeding with this selection to agree, among other things, to (1) drive the Vehicle directly home and not drive it again, other

than to return it to the BMW center once replacement parts are available, and (2) not sell the Vehicle.

15. The dangerous nature of the defect prevents Plaintiff and members of the Class from reasonably using their vehicles and effectively coerces Plaintiff and the Class to accept BMW's terms prohibiting the use or sale of Class Vehicles.

16. Further, every new vehicle sold by BMW is sold with BMW's Limited Warranty. Defendant BMW is the warrantor. BMW actively publicizes its Limited Warranty from its corporate headquarters in New Jersey, which covers "maintenance costs ... for 4 years or 50,000 miles, whichever comes first."

17. BMW's Limited Warranty for all BMW vehicles sold during the Class Period contains identical language providing: "a reasonable time must be allowed for warranty repairs to be completed after the vehicle is received by the BMW center." BMW's Recall Notice admits that Defendant does not have parts to replace the defective air bag inflator. BMW representatives believe it will take at least six months for parts to be available, not including the time necessary to conduct the repairs. Plaintiff is informed and believes that BMW has determined to not replace the defective air bag inflator with parts made from the same third-party manufacturer – Takata – but instead to redesign the part internally at BMW.

18. This results in an unreasonable amount of time for repair under BMW's Limited Warranty, thus violating its contractual warranty obligations.

19. As a direct and proximate result of Defendant's delay in repairing or replacing the defective air bag inflator, Plaintiff and the Class will incur unnecessary depreciation of their vehicles, which sit idle and unsaleable. Plaintiff and the Class also lose valuable Limited Warranty coverage duration, as the 4-year/50,000 mile warranty oozes away day by day, denying

Plaintiff and the Class of material benefits of the bargain by the abbreviated term of BMW's valuable Limited Warranty.

### **CLASS ALLEGATIONS**

20. Plaintiff brings this action as a class action in accordance with Federal Rules of Civil Procedure §§ 23(a), (b)(2) and (b)(3) for the following Class of person and/or business entities:

All consumers within the United States, who purchased a 2006-2015 model year BMW 1 Series, 3 Series, X1, X3, X5 and/or X6 vehicles, and were sent, or should have been sent, BMW's Recall Notice concerning Driver's Front Air Bag Module. (The "Class")

Excluded from the Class are all governmental entities, Defendant herein and any person, firm, trust, corporation, or other entity related to or affiliated with Defendant, as well as any judicial officer presiding over this matter and members of such judicial officers' immediate families and judicial staff.

21. The members of the Class are so numerous that joinder of all Class members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and will be ascertained through appropriate discovery, Plaintiff is informed and believes that there are tens of thousands of members in the proposed Class. Members of the putative Class can be identified from records maintained by Defendant or its agents.

22. Each Class member paid valuable consideration for a new BMW vehicle and loses a portion of that consideration each day via depreciation. In addition, each Class member's purchase price for their BMW included a cost attributable to BMW's valuable Limited Warranty. These damages to Plaintiff and the Class would be prorated as to each Class member entitled to restitution and/or damages.

23. Plaintiff's claims are typical of the claims of the other members of the putative Class. All members of the Class have been and/or continue to be similarly affected by Defendant's wrongful conduct as complained of herein. Plaintiff has no interests adverse to the Class.

24. Plaintiff will fairly and adequately protect the Class members' interests and has retained counsel competent and experienced in consumer class action lawsuits and complex litigation.

25. Defendant has acted with respect to the Class in a manner generally applicable to each Class member. Common questions of law and fact exist as to all Class members and predominate over any questions wholly affecting individual Class members. There is a well-defined community of interest in the questions of law and fact involved in the action, which affect all Class members. Among the questions of law and fact common to the Class are, among others:

(a) Whether all BMW Class vehicle models sold during the Class Period included Defendant's Limited Warranty;

(b) Whether repair of the defective automobile by including a dangerous and defective air bag inflator is a covered item of the Limited Warranty and/or by virtue of federal law;

(c) Whether BMW violates its legal obligation and/or its Limited Warranty by not replacing defective air bag inflators of its automobiles sold consumers within a "reasonable time";

(d) Whether Defendant's delayed process for "repairing" defective air bag inflators of its automobiles (that is, the Class vehicles) is an "unconscionable commercial practice" in violation of the New Jersey Consumer Fraud Act;

(e) Whether the National Traffic and Motor Vehicle Safety Act or the Magnuson-Moss Consumer Warranty Act obligates BMW to provide replacement of Class vehicles with an automobile of similar quality and/or capability during extended periods of delay or, alternatively, offer a refund of the purchase price in lieu of repair of the defective air bag inflators; and

(f) The nature and extent of damages, equitable remedies, and injunctive relief that Plaintiff and members of the putative Class are entitled to.

26. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be comparatively small, the expense and burden of individual litigation make it virtually impossible for Class members to individually redress the wrongs done. There will be no difficulty in managing this action as a class action.

27. Defendant has acted on grounds generally applicable to the entire Class with respect to the matters and defective product complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

### **FIRST COUNT**

#### **Violation of the New Jersey Consumer Fraud Act**

28. Plaintiff repeats and realleges each of the foregoing allegations as if expressly set forth herein.



29. The process, including advertisement, promotion, distribution, supply, sale, and lease of BMW vehicles, is a “sale or advertisement” of “merchandise” under the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1.

30. Defendant’s failure to repair within a reasonable time defective BMW vehicles having faulty and dangerous air bags is an “unconscionable commercial practice” under the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2, as such conduct is unfair and unjust and materially departs from standards of good faith, honesty in fact, and fair dealing in the public marketplace. Defendant’s conduct lacks at least fair dealing and good faith.

31. Plaintiff and the Class have suffered ascertainable loss as a result of diminished value of a BMW vehicle resulting from depreciation and a reduced Limited Warranty period. Plaintiff and Class members did not receive the benefit of their bargain and were each sold a defective BMW vehicle.

32. The ascertainable losses of Plaintiff and the Class were caused by Defendant’s failure to act properly to discharge its obligation to repair or replace defective air bag inflators in the Class vehicles within a reasonable time.

## **SECOND COUNT**

### **Breach of Contract**

33. Plaintiff repeats and realleges each of the foregoing allegations as if expressly set forth herein.

34. Defendant BMW and each member of the Class have a legally enforceable, valid written contract for BMW’s performance relative to the Limited Warranty. The contract promises, by verbatim language or equivalently by unambiguous implication (capable of common proof), that “a reasonable time must be allowed for warranty repairs to be completed

after the vehicle is received by the BMW center.”

35. The contract provision extended to Plaintiff and the Class by Defendant requires that Defendant repair or replace defective parts within a reasonable time.

36. The requirements of the National Traffic and Motor Vehicle Safety Act forms a part of the parties’ contract.

37. The term and coverage of BMW’s Limited Warranty is a contractual benefit to Plaintiff and the Class members who purchased a BMW vehicle.

38. Plaintiff and each member of the putative Class performed all covenants and satisfied each condition precedent to Defendant being required to honor the terms of the Limited Warranty.

39. Plaintiff and each member of the Class are in contractual privity with Defendant, as Defendant is the promisor providing the Limited Warranty.

40. The BMW Class vehicles do not conform to Defendant’s contractual promises and representations that its Vehicles will be repaired within a “reasonable time” and, additionally, that Plaintiff and Class Members are entitled to four years of coverage under the Limited Warranty.

41. Defendant BMW breached its contract with Plaintiff and each member of the Class by self-exhausting the clock on the four-year term of the Limited Warranty coverage of the vehicles of Plaintiff and members of the Class even as those vehicles are undriveable and unsaleable due to the defective and deadly air bag inflators.

42. Defendant’s breach of its contractual obligation to make warranty repairs within a “reasonable time” and to provide four years of Limited Warranty coverage is an appropriate source of Defendant’s liability.

43. As a direct and proximate result of Defendant's breach of contract, Plaintiff and each member of the Class have experienced loss, cost, damage and expense, in an amount to be proven at trial.

### **THIRD COUNT**

#### **Violation of the Magnuson-Moss Consumer Warranty Act**

44. Plaintiff repeats and realleges each of the foregoing allegations as if expressly set forth herein.

45. Plaintiff and members of the Class are "consumers" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

46. Defendant is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)-(5).

47. The Class vehicles are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

48. 15 U.S.C. § 2310(d)(1) provides that any consumer damaged by the failure of a warrantor to comply with a written or implied warranty can go to court and seek legal redress.

49. Defendant's Limited Warranty is a written warranty within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6).

50. Defendant may not disclaim or disregard the implied warranties of fitness and merchantability under 15 U.S.C. § 2308.

51. Defendant breached its warranty by failing to replace defective automobile components within a reasonable time.

52. By breaching the warranties above, Defendant deprived Plaintiff and the members of the Class the benefit of their agreement(s).

53. The amount in controversy of Plaintiff's individual claims far exceed the amount of \$25. The amount in controversy by this action exceeds the sum of \$50,000, exclusive of interest and costs, computed on the basis of all claims to be determined in this lawsuit. Additionally, the Court can hear and resolve Plaintiff's Magnuson-Moss Warranty Act claims pursuant to 28 U.S.C. § 1367.

54. Defendant has been notified of their breach of written warranties and have failed to adequately cure or otherwise address the breaches.

55. As a direct and proximate result of Defendant's violation of their written warranties, Plaintiff and members of the Class seek damages as permitted by law, in an amount to be proven at trial, including among other things, a refund of the price paid for the Class Vehicles.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all of the claims asserted in this Complaint so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and the Class pray for relief and judgment as follows:

A. For an order declaring that this action is properly maintained as a class action and certifying Plaintiff as a class representative and his counsel as Class Counsel in accordance with Rule 23 of the Federal Rules of Civil Procedure;

B. For an order awarding Plaintiff and the members of the Class damages, restitution and/or disgorgement and/or trebling of damages, other equitable relief as the Court deems proper, including but not limited to a refund of the price paid to purchase their vehicles;

C. For an order awarding Plaintiff and the members of the Class pre-judgment and post-judgment interest;

D. For an order awarding attorneys' fees and costs of suit, including experts' witness fees as permitted by law; and

E. Such other and further relief as this Court may deem equitable and just.

Dated: May 24, 2016

**LITE DEPALMA GREENBERG, LLC**

/s/ Bruce D. Greenberg

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*Attorneys for Plaintiff*

**LOCAL CIVIL RULE 11.2 CERTIFICATION**

Pursuant to Local Civil Rule 11.2, I hereby certify that the matter in controversy is not related to any other action, pending arbitration or administrative proceeding currently pending in any court.

I hereby certify that the following statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 24, 2016

**LITE DEPALMA GREENBERG, LLC**

/s/ Bruce D. Greenberg  
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**IN THE UNITED STATES DISTRICT COURT  
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		: Civil Action No.
LAWRENCE E. CASPER, Individually	:	
and on Behalf of all Others Similarly	:	
Situated,	:	
	:	
Plaintiff,	:	<b>CERTIFICATE OF</b>
	:	<b>NON-ARBITRABILITY</b>
v.	:	
	:	
BMW OF NORTH AMERICA, LLC.	:	
	:	
Defendant.	:	
	:	

**Bruce D. Greenberg**, of full age, certifies that pursuant to L. Civ. R. 201.1 the within matter is not arbitrable, being that the Complaint seeks injunctive relief and damages that are in an excess of \$150,000.

**LITE DEPALMA GREENBERG, LLC**

Dated: May 24, 2016

*/s/ Bruce D. Greenberg*  
Bruce D. Greenberg

JS 44 (Rev. 1/16)

### 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.)

<p><b>I. (a) PLAINTIFFS</b> Lawrence E. Casper, Individually and on Behalf of all Others Similarly Situated</p> <p>(b) County of Residence of First Listed Plaintiff <u>Pima County, Arizona</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, Email and Telephone Number) Lite DePalma Greenberg, LLC, 570 Broad Street, Suite 1201, Newark NJ 07102 973-623-3000 Bruce D. Greenberg, bgreenberg@litedepalma.com</p>	<p><b>DEFENDANTS</b> BMW of North America, LLC</p> <p>County of Residence of First Listed Defendant <u>Bergen County</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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
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<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)				
<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HLA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input checked="" type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable Sat TV</p> <p><input type="checkbox"/> 850 Securities Commodities Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>

**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):  
15 U.S.C. §§ 2301

Brief description of cause:  
Consumer Class Action

**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 NONE    DOCKET NUMBER \_\_\_\_\_

DATE 05/24/2016    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.