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9
10 *Attorney for Plaintiffs Center for Biological Diversity and*
11 *Center for Environmental Health*

12
13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 _____)
16)
17 CENTER FOR BIOLOGICAL DIVERSITY)
18 and)
19 CENTER FOR ENVIRONMENTAL HEALTH)
20 Plaintiffs,)
21 v.)
22 ANDREW WHEELER, in his)
23 official capacity as Administrator of the)
24 United States Environmental Protection Agency,)
25 Defendant.)
26 _____)

) Civ. No.

) **COMPLAINT FOR INJUNCTIVE**
) **AND DECLARATORY RELIEF**

) (*Clean Air Act, 42 U.S.C. §§ 7401 et seq*)

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INTRODUCTION

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2 1. Plaintiffs Center for Biological Diversity and the Center for Environmental Health,
3 [collectively “Environmental Groups”] bring this Clean Air Act citizen suit to compel the
4 United States Environmental Protection Agency to undertake overdue mandatory duties.
5 Specifically, Andrew Wheeler, in his official capacity as Administrator of the United States
6 Environmental Protection Agency (“EPA”), has failed to determine whether the West
7 Central Pinal nonattainment area for the 2006 National Ambient Air Quality Standard
8 (“NAAQS”) for particulate matter less than 2.5 microns in diameter (“PM2.5”) attained by
9 its attainment date. In addition, EPA has failed to promulgate a Federal Implementation
10 Plan (“FIP”) for Arizona’s New Source Review (“NSR”) program to correct the deficiencies
11 it found when it partially disapproved Arizona’s State Implementation Program (“SIP”).
12 2. Accordingly, Plaintiffs THE CENTER FOR BIOLOGICAL DIVERSITY and CENTER
13 FOR ENVIRONMENTAL HEALTH bring this action against Defendant ANDREW
14 WHEELER, in his official capacity as EPA Administrator, to compel him to perform his
15 mandatory duties with respect to West Central Pinal PM2.5 NAAQS nonattainment area and
16 Arizona’s NSR program.

JURISDICTION

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18 3. This case is a Clean Air Act citizen suit. Therefore, the Court has jurisdiction over this
19 action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 42 U.S.C. § 7604(a)
20 (Clean Air Act citizen suits).
21 4. An actual controversy exists between the parties. This case does not concern federal
22 taxes, is not a proceeding under 11 U.S.C. §§ 505 of 1146, and does not involve the Tariff
23 Act of 1930. Thus, this Court has jurisdiction to order declaratory relief under 28 U.S.C. §
24 2201. If the Court orders declaratory relief, 28 U.S.C. § 2202 authorizes this Court to issue
25 injunctive relief.

NOTICE

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27 5. On January 3, 2019, Plaintiffs mailed to EPA by certified mail, receipt requested,
28 written notice of intent to sue regarding the violations alleged in this Complaint. EPA

1 received this notice of intent to sue letter no later than February 4, 2019. More than sixty
2 days have passed since Plaintiffs mailed their “notice of intent to sue” letter. EPA has not
3 remedied the violations alleged in this Complaint. Therefore, a present and actual
4 controversy exists.

5 **VENUE**

6 6. Defendant EPA resides in this judicial district. This civil action is brought against an
7 officer of the United States acting in his official capacity and a substantial part of the events
8 or omissions giving rise to the claims in this case occurred in the Northern District of
9 California. The claims in this Complaint concern EPA’s failure to perform mandatory
10 duties with regard to Arizona’s implementation of the Clean Air Act. EPA Region 9, which
11 is responsible for Arizona, is headquartered in San Francisco. Thus several of the events
12 and omissions at issue in this action occurred at EPA’s Region 9 headquarters in San
13 Francisco. In addition, Plaintiff Center for Environmental Health is headquartered in
14 Oakland and Plaintiff Center for Biological Diversity is incorporated in California with its
15 main California office in Oakland. Accordingly, venue is proper in this Court pursuant to
16 28 U.S.C. § 1391(e).

17 **INTRADISTRICT ASSIGNMENT**

18 7. A substantial part of the events and omissions giving rise to the claims in this case
19 occurred in the County of San Francisco. Accordingly, assignment to the San Francisco
20 Division or the Oakland Division is proper pursuant to Civil L.R. 3-2(c) and (d).

21 **PARTIES**

22 8. Plaintiff the CENTER FOR BIOLOGICAL DIVERSITY is a non-profit 501(c)(3)
23 corporation incorporated in California. The Center for Biological Diversity has more than
24 69,000 members throughout the United States and the world. The Center for Biological
25 Diversity’s mission is to ensure the preservation, protection, and restoration of
26 biodiversity, native species, ecosystems, public lands and waters, and public health
27 through science, policy, and environmental law. Based on the understanding that the
28 health and vigor of human societies and the integrity and wildness of the natural

1 environment are closely linked, the Center for Biological Diversity is working to secure a
2 future for animals and plants hovering on the brink of extinction, for the ecosystems they
3 need to survive, and for a healthy, livable future for all of us.

4 9. The Center for Biological Diversity and its members include individuals with
5 varying interests in wildlife species, native plants, and their habitat ranging from
6 scientific, professional, and educational to recreational, aesthetic, moral, and spiritual.
7 Further, the Center for Biological Diversity's members enjoy, on an ongoing basis, the
8 biological, scientific, research, educational, conservation, recreational, and aesthetic
9 values of the regions inhabited by these species, including the regions at issue in this
10 action. The Center for Biological Diversity's members observe and study native species
11 and their habitat, and derive professional, scientific, educational, recreational, aesthetic,
12 inspirational, and other benefits from these activities and have an interest in preserving the
13 possibility of such activities in the future. The Center for Biological Diversity and its
14 members have participated in efforts to protect and preserve natural areas, including the
15 habitat essential to the continued survival of native species, and to address threats to the
16 continued existence of these species, including the threats posed by air pollution and other
17 contaminants.

18 10. Plaintiff the CENTER FOR ENVIRONMENTAL HEALTH is an Oakland,
19 California based non-profit organization that helps protect the public from toxic chemicals
20 and promotes business products and practices that are safe for public health and the
21 environment. The Center for Environmental Health works in pursuit of a world in which
22 all people live, work, learn, and play in healthy environments.

23 11. Plaintiffs' members live, work, recreate, travel, and engage in other activities
24 throughout the areas at issue in this complaint and will continue to do so on a regular
25 basis. Pollution in the affected areas threatens and damages, and will continue to threaten
26 and damage, the health and welfare of Plaintiffs' members as well as their ability to
27 engage in and enjoy their other activities. Pollution diminishes Plaintiffs' members'
28 ability to enjoy the aesthetic qualities and recreational opportunities of the affected area.

1 18. After EPA promulgates a National Ambient Air Quality Standard, the Clean Air
2 Act requires that EPA designate each area of the country as either a clean air area for that
3 standard, which is known as “attainment” in Clean Air Act jargon, or a dirty air area,
4 which is known as “nonattainment” in Clean Air Act jargon. See 42 U.S.C. § 7407(d).

5 19. On March 7, 2011 EPA designated West Central Pinal, Arizona as a moderate
6 nonattainment area. 40 C.F.R. § 81.303. Therefore, the area has an attainment date of no
7 later than December 31, 2017. 81 Fed.Reg. 91,088. 91,091, fn. 7 (Dec. 16, 2016); 42
8 U.S.C. § 7513(c)(1). Therefore, EPA has a mandatory duty to determine if the West
9 Central Pinal nonattainment area attained by its attainment date and publish notice of
10 such a finding by no later than June 30, 2018. 42 U.S.C. §§ 7509(c)(1) & (2), 7513(b)(2).
11 EPA has failed to perform this mandatory duty.

12 20. Under the Clean Air Act, each state is required to submit state implementation
13 plans to ensure that each National Ambient Air Quality Standard will be achieved,
14 maintained, and enforced. Without such plans, the public is not afforded full protection
15 against the harmful impacts of air pollution.

16 21. If a state implementation plan submittal is inadequate or inconsistent with the
17 Clean Air Act, EPA must disapprove it. 42 U.S.C. § 7410(k)(3). If, after two years, the
18 state has failed to correct the deficiencies in a disapproved state implementation plan
19 submittal, EPA must promulgate a federal implementation plan. 42 U.S.C. § 7410(c)(1).

20 22. On November 2, 2015, EPA found that Arizona’s state implementation plan
21 submittal did not comply in part with the Clean Air Act. 80 Fed. Reg. 67,319 (Nov. 2,
22 2015). EPA issued a limited approval and limited disapproval, which was effective
23 December 2, 2015. *Id.* Therefore, EPA has a mandatory duty to promulgate a federal
24 implementation plan by December 2, 2017 for the parts of the Arizona submittal subject
25 to EPA’s limited disapproval. 42 U.S.C. § 7410(c)(1).

26 23. Arizona has failed to correct every deficiency in its state implementation plan.
27 EPA did approve certain provisions into Arizona’s state implementation plan to address
28 some of the deficiencies which were the basis of the November 2, 2015 limited

1 disapproval. 83 Fed. Reg. 19,631 (May 4, 2018). However, EPA's May 4, 2018 action
 2 did not address "all of the outstanding limited disapproval issues" related to Arizona's
 3 state implementation plan. 82 Fed. Reg. 25,213 (June 1, 2017). As a result, many
 4 deficiencies persist.

5 24. EPA's Technical Support Document to the May 4, 2018 action "provides a summary
 6 of the remaining limited disapproval issues." *Id.* The Technical Support Document, EPA's
 7 Notice of Proposed Rulemaking: Air Plan Approval; Arizona; Stationary Source; New
 8 Source Review, May 2017, EPA-R09-OAR-2017-0255-0005, Document C-1 at 22-23,
 9 provides the list of items that Arizona Department of Environmental Quality ("ADEQ")
 10 failed to correct from the November 2, 2015 limited disapproval. EPA must promulgate a
 11 federal implementation plan that addresses each of these disapprovals. This list includes:

TABLE 1

Federal Regulation	Arizona's Rule
40 CFR 51.160(a) and (b)	ADEQ rules do not ensure review of NAAQS in neighboring areas outside ADEQ permitting jurisdiction
40 CFR 51.160(a) and (b)	Add reference to "or maintenance" of a standard
40 CFR 51.160(b)(1)	Rule missing requirement to ensure sources must comply with all applicable portions of control strategy, similar to language in other portion of rules, e.g. R18-2-306(A)(2).
40 CFR 51.160(c)	R18-2-302.01 does not fully meet requirement to submit necessary information for ADEQ to review source. In requiring sources to provide potential emissions the rules reference procedures for determining "actual" emissions and the referenced rule is not in the SIP and has not been submitted for SIP-approval.
40 CFR 51.160(c)(1)	Rules allow some emissions units to be exempt from being included in applications for NSR purposes
40 CFR 51.160(d)	Registration rule missing provision that approval does not affect responsibility of owner/operator to comply with other requirements
40 CFR 51.160(f)(1)	Sources subject to registration program missing requirement to use Appendix W, when applicable
40 CFR 51.160(e)	Submittal did not include a sufficient basis for the program's minor NSR thresholds in nonattainment areas, must provide additional analysis or revise thresholds, as needed.

1 2 3	40 CFR 51.160(e)	Submittal did not include basis for exemptions of certain agricultural sources and fuel burning equipment. See our TSD for the 2015 NSR action on page 27 for four specific issues to be addressed.
4	40 CFR 51.160(e)	Submittal did not include basis for PM2.5 permitting exemption threshold
5 6 7 8	40 CFR 51.161(a)	Submittal did not require public notice in all instances for permitting program. Federal rules do not allow for exemptions - including for disapprovals. Public notice is required for all sources defined under 40 CFR 51.160(e); clarification of the public notice procedures in R18-2-330 that apply to registrations is necessary; and program must require public notice for permit disapproval actions
9 10 11 12	40 CFR 51.161(a)	Elective limits for registrations need additional requirements to ensure enforceability, including technically accurate limit and the portion of the source subject to the limit, the time period over which the limit applies, and compilation of daily records if limit is not on a daily basis
13	40 CFR 51.161(d)	The registration portion of ADEQ's program needs to require notices to specific parties
14 15	40 CFR 51.163	Submittal contained references to administrative procedures not included in SIP submittal (or existing SIP)
16 17	References to increment, as related to the PSD program. ADEQ corrected this issue in the rules associated with the April 2017 NSR submittal. However, there remain [] references that need to be submitted for rules R18-2-319 and 320.	

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19
20 25. Accordingly, EPA has a mandatory duty to promulgate a federal implementation
21 plan for Arizona. 42 U.S.C. §§ 7410(c)(1).

22 CLAIMS FOR RELIEF

23 CLAIM ONE

24 (Failure to bump up the West Central Pinal 2006 PM2.5 NAAQS nonattainment area)

25 26. Plaintiffs incorporates by reference all paragraphs listed above.

26 27. Moderate 2006 PM2.5 nonattainment areas have an attainment date of December
27 31, 2017. Therefore, EPA has a mandatory duty to by no later than June 30, 2018. 42
28 U.S.C. §§ 7509(c)(2), 7513(b)(2).

1 28. West Central Pinal is a moderate nonattainment area for the 2006 PM2.5
2 NAAQS.

3 29. It is after June 30, 2018.

4 30. EPA has not determined if the West Central Pinal moderate 2006 PM2.5 NAAQS
5 nonattainment area has attained by its attainment date and EPA has not published notice of
6 such a determination.

7 31. Therefore, EPA is in violation of its mandatory duty 42 U.S.C. §§ 7509(c)(2) and
8 7513(b)(2) with regard to the West Central Pinal moderate 2006 PM2.5 NAAQS
9 nonattainment area.

10 CLAIM TWO

11 (Failure to promulgate a FIP for Arizona's New Source Review program)

12 32. Plaintiffs incorporate by reference all paragraphs listed above.

13 33. EPA has a mandatory duty to promulgate a Federal Implementation Plan (FIP) no
14 later than two years after disapproving a SIP submittal. 42 U.S.C. § 7410(c)(1).

15 34. EPA issued a limited approval and limited disapproval of rules for the issuance of
16 New Source Review permits for stationary sources of air pollution in Arizona. 80 Fed. Reg.
17 67,319 (Nov. 2, 2015). This rule was effective December 2, 2015. *Id.*

18 35. Therefore, EPA's FIP was due no later than December 2, 2017.

19 36. EPA has not promulgated a FIP for the items listed in Table 1. Nor has EPA
20 approved a SIP addressing the items listed in Table 1. Thus is in violation of its mandatory
21 duty.

22 REQUEST FOR RELIEF

23 WHEREFORE, Plaintiffs respectfully request that the Court:

- 24
- 25 A. Declare that the Administrator is in violation of the Clean Air Act with regard to his
26 failure to perform each mandatory duty listed above;
- 27 B. Issue a mandatory injunction requiring the Administrator to perform his mandatory duties
28 by certain dates;

- 1 C. Retain jurisdiction of this matter for purposes of enforcing and effectuating the Court's
2 order;
- 3 D. Grant Plaintiffs their reasonable costs of litigation, including attorneys' and expert fees;
4 and
- 5 E. Grant such further relief as the Court deems just and proper.

6
7 Respectfully submitted,

8
9 Dated: March 26, 2019

/s/Lauren Packard _____

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*Attorney for Plaintiffs Center for Biological
Diversity and Center for Environmental Health*

CERTIFICATE OF SERVICE

I hereby certify that I served copies of the foregoing Complaint and Summons on the following parties by certified mail pursuant to Federal Rules of Civil Procedure Rule 4

(i)(1)(A)(ii) and (i)(2):

Andrew Wheeler, Administrator
U.S. Environmental Protection Agency HQ
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, DC 20460

U.S. Environmental Protection Agency HQ
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

William Barr
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Civil Process Clerk
United States Attorney
Northern District of California
Federal Courthouse
450 Golden Gate
San Francisco, CA 94102

Dated: March 26, 2019

/s/ Andrea Weber

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 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)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	625 Drug Related Seizure of Property 21 USC § 881	422 Appeal 28 USC § 158	375 False Claims Act
120 Marine	310 Airplane	690 Other	423 Withdrawal 28 USC § 157	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability			400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	LABOR	PROPERTY RIGHTS	410 Antitrust
150 Recovery of Overpayment of Veteran's Benefits	330 Federal Employers' Liability	710 Fair Labor Standards Act	820 Copyrights	430 Banks and Banking
151 Medicare Act	340 Marine	720 Labor/Management Relations	830 Patent	450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	740 Railway Labor Act	835 Patent—Abbreviated New Drug Application	460 Deportation
153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	751 Family and Medical Leave Act	840 Trademark	470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits	355 Motor Vehicle Product Liability	790 Other Labor Litigation	SOCIAL SECURITY	480 Consumer Credit
190 Other Contract	360 Other Personal Injury	791 Employee Retirement Income Security Act	861 HIA (1395ff)	490 Cable/Sat TV
195 Contract Product Liability	362 Personal Injury -Medical Malpractice	IMMIGRATION	862 Black Lung (923)	850 Securities/Commodities/Exchange
196 Franchise	CIVIL RIGHTS	462 Naturalization Application	863 DIWC/DIWW (405(g))	890 Other Statutory Actions
REAL PROPERTY	PRISONER PETITIONS	465 Other Immigration Actions	864 SSID Title XVI	891 Agricultural Acts
210 Land Condemnation	HABEAS CORPUS		865 RSI (405(g))	893 Environmental Matters
220 Foreclosure	440 Other Civil Rights		FEDERAL TAX SUITS	895 Freedom of Information Act
230 Rent Lease & Ejectment	441 Voting		870 Taxes (U.S. Plaintiff or Defendant)	896 Arbitration
240 Torts to Land	442 Employment		871 IRS—Third Party 26 USC § 7609	899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	443 Housing/Accommodations			950 Constitutionality of State Statutes
290 All Other Real Property	445 Amer. w/Disabilities—Employment			
	446 Amer. w/Disabilities—Other			
	448 Education			
	OTHER			
	540 Mandamus & Other			
	550 Civil Rights			
	555 Prison Condition			
	560 Civil Detainee—Conditions of Confinement			

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):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.