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8  
9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11

12  
13 **SECURITIES AND EXCHANGE**  
14 **COMMISSION,**

15 Plaintiff,

16 vs.

17 **CHARLES SCHWAB & CO., INC.,**

18 Defendant.  
19

Case No. 18-cv-3942

**COMPLAINT**

20 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

21 **JURISDICTION AND VENUE**

22 1. The Court has jurisdiction over this action pursuant to Sections 21(d)(1),  
23 21(d)(3)(A), 21(e) and 27(a) of the Securities Exchange Act of 1934 (“Exchange Act”),  
24 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa(a).

25 2. Venue is proper in this district pursuant to Section 27(a) of the Exchange  
26 Act, 15 U.S.C. § 78aa(a) because certain of the transactions, acts, practices and courses  
27 of conduct constituting violations of the federal securities laws occurred within this  
28 district. In addition, venue is proper in this district because defendant Charles Schwab

1 & Co., Inc. (“Schwab”) is domiciled in this district.

2 **SUMMARY**

3 3. In 2012 and 2013, Schwab violated Exchange Act Section 17(a) and Rule  
4 17a-8 by failing to file Suspicious Activity Reports (“SARs”) on suspicious  
5 transactions by independent investment advisers (“Advisers”) that Schwab terminated  
6 from its custodial platform. Schwab terminated the Advisers for engaging in activity  
7 Schwab determined violated its internal policies and presented risk to Schwab or its  
8 customers.

9 4. Schwab’s failure to file the SARs at issue resulted from its inconsistent  
10 implementation of policies and procedures for identifying and reporting suspicious  
11 transactions under the SAR Rule (31 C.F.R. § 1023.320(a)). Although Schwab  
12 investigated and terminated the Advisers, it did not have clear or consistent policies  
13 and procedures regarding the types of transactions on which SARs needed to be filed.  
14 For example, Schwab did not file SARs in certain instances where it investigated and  
15 terminated Advisers for conduct that led, or reasonably should have led, Schwab to  
16 suspect that the Advisers had charged certain customers excessive advisory fees, had  
17 allowed their state registrations to lapse, or were engaged in schemes involving  
18 “cherry-picking” (a fraudulent trade allocation scheme where the Adviser allocates  
19 profitable trades to the Adviser’s personal account and unprofitable trades to client  
20 accounts). In addition, in a number of instances where Schwab investigated and  
21 terminated Advisers for conduct that led, or reasonably should have led, it to suspect  
22 that the Advisers misappropriated or misused client funds, Schwab applied an  
23 unreasonably high standard for determining whether to file a SAR on the suspicious  
24 transactions.

25 **THE DEFENDANT**

26 5. Charles Schwab & Co., Inc. (“Schwab”), headquartered in San Francisco,  
27 California, is registered with the SEC as a broker-dealer, investment adviser, and  
28 transfer agent. It is a subsidiary of The Charles Schwab Corporation, a publicly traded

1 company whose stock is registered under Section 12(b) of the Exchange Act and is  
2 listed on the New York Stock Exchange.

3 **THE ALLEGATIONS**

4 **A. Schwab's Investment Adviser Business and Terminations of Advisers**

5 6. Schwab, through its Advisor Services division, offers a broad range of  
6 products and services to Advisers and their clients. These Advisers are not employees  
7 of Schwab nor are they affiliated with the firm. They are independent third-party  
8 advisers who have a separate fiduciary relationship with their clients, and contract with  
9 Schwab for custodial and execution services. Investment advisers are persons or firms  
10 that are engaged in the business of providing investment advice to others for  
11 compensation. Investment advisers have to register with either the SEC or the state  
12 securities agency where they have their principal place of business, depending on the  
13 amount of client assets they manage.

14 7. Under the Investment Advisers Act of 1940, investment advisers have a  
15 broad fiduciary duty to act in the best interests of their clients. As fiduciaries,  
16 investment advisers must avoid conflicts of interest with their clients and are prohibited  
17 from overreaching or taking unfair advantage of their clients' trust. Among the  
18 obligations that flow from the investment advisers' fiduciary duty include: full and fair  
19 disclosure of all facts material to the clients' engagement of the investment adviser and  
20 a duty to avoid misleading clients; the disclosure of all material facts regarding any  
21 actual or potential conflict of interest between the investment adviser and the client;  
22 and an obligation to provide only investment advice that is suitable for the client in  
23 light of the client's financial situation, investment experience, and investment  
24 objectives.

25 8. In 2012 and 2013, Schwab terminated its business relationship with 83  
26 Advisers that Schwab determined had violated its internal policies and presented risk to  
27 Schwab or its customers. The terminated Advisers had a combined total of \$1.62  
28 billion in assets under management ("AUM") and almost 18,000 subaccounts at

1 Schwab.

2 **B. Schwab’s Failure to File SARs on the Suspicious Transactions of**  
3 **Terminated Advisers**

4 9. Under the Bank Secrecy Act (the “BSA”) (31 U.S.C. §§ 5311-5330) and  
5 the SAR Rule (31 C.F.R. § 1023.320(a)), Schwab is required to file SARs with the  
6 Financial Crimes Enforcement Network (“FinCEN”) to report any transaction  
7 conducted or attempted by, at, or through Schwab that involved or aggregated funds of  
8 at least \$5,000 and that Schwab knew, suspected, or had reason to suspect that the  
9 transaction (or a pattern of transactions of which the transaction is a part):

- 10 a. involved funds derived from illegal activity;
- 11 b. was designed to evade any requirements of the BSA or any  
12 regulations under the BSA;
- 13 c. had no business or apparent lawful purpose or was not the sort in  
14 which the particular customer would have normally been expected  
15 to engage, and Schwab knew of no reasonable explanation for the  
16 transaction after examining the available facts, including the  
17 background and possible purpose of the transaction; or
- 18 d. involved the use of Schwab to facilitate criminal activity.

19 10. Under Exchange Act Section 17(a) and Rule 17a-8, Schwab is required to  
20 comply with the recordkeeping, retention, and reporting obligations of the BSA and its  
21 implementing regulations, including the SAR Rule. Schwab’s failure to file a SAR is a  
22 violation of Exchange Act Section 17(a) and Rule 17a-8.

23 11. At least 47 of the 83 terminated Advisers engaged in transactions of at least  
24 \$5,000 that were conducted at, by, or through Schwab and that Schwab, knew, suspected,  
25 or had reason to suspect were suspicious under the SAR Rule. Schwab, however, filed  
26 SARs relating to the suspicious transactions of only 10 of the terminated Advisers, and  
27 three of those SARs were filed after the SEC had brought an enforcement action against  
28 the Adviser.

1           12. Schwab failed to file SARs relating to the suspicious transactions of the  
2 remaining 37 terminated Advisers. These 37 terminated Advisers were registered, or  
3 should have been registered, as investment advisers with either the SEC or a state  
4 securities agencies and combined had a total of over \$840 million in AUM and at least  
5 6,500 subaccounts at Schwab.

6           13. Schwab's failure to file the SARs at issue resulted from its inconsistent  
7 implementation of policies and procedures for identifying and reporting transactions  
8 under the SAR Rule. Schwab had a SAR policy that stated that it should file a SAR on  
9 any transaction of \$5,000 or more that "involves potential fraud." The policy further  
10 defined "Securities Fraud" as a "wide range of crimes whereby securities [were] used  
11 as an instrumentality in a scheme to defraud," including "market manipulation, making  
12 untrue statements in regard to specific securities, attempting to deceive another in  
13 connection with the purchase or sale of a security, and attempting to illicitly transact in  
14 unregistered or restricted securities."

15           14. Although Schwab did file SARs relating to the apparent theft of client  
16 funds by Advisers, Schwab failed to file SARs relating to other types of potentially  
17 illegal or fraudulent transactions by Advisers it terminated. For example, in various  
18 instances, Schwab failed to file SARs relating to transactions by Advisers that it  
19 suspected, or reasonably should have suspected, involved: (1) an Adviser's possible  
20 self-dealing or conflict of interest through the suspicious transfer of funds from client  
21 accounts custodied at Schwab to accounts or investments affiliated with the Adviser;  
22 (2) the Adviser's use of Schwab's management fee system to charge client accounts  
23 excessive advisory fees; (3) patterns of potentially fraudulent transactions in client  
24 accounts such as "cherry-picking"; (4) Advisers who Schwab suspected were  
25 logging-in or signing in the name of clients to effect or confirm transactions in client  
26 accounts; and (5) Advisers who had allowed their registrations to lapse but continued  
27 to execute client trades and/or collect advisory fees through Schwab.

28           15. In addition, Schwab applied an unreasonably high standard for

1 determining whether to file a SAR on transactions it suspected or should have  
2 suspected involved possible misappropriation or other misuse of client funds. As  
3 alleged in paragraphs 18 and 19 below, for example, Schwab did not file SARs where it  
4 suspected or had reason to suspect that the Adviser had misused client funds but the  
5 clients had not complained to Schwab about the transactions.

6 16. As a result of Schwab's failure to file the required SARs at issue, the SEC  
7 and other regulatory or law enforcement agencies were not alerted to the Advisers'  
8 suspicious transactions as required.

9 **C. Examples of Schwab's Failure to File SARs on the Suspicious Transactions**  
10 **of Terminated Advisers**

11 17. The suspicious transactions by some of the 37 terminated Advisers involved  
12 the suspicious transfer of funds from client accounts custodied at Schwab to accounts or  
13 investments affiliated with the Adviser.

14 18. For example, "Adviser A" was a State-registered Adviser with \$14 million  
15 in AUM and 244 subaccounts at Schwab. In late 2013, Schwab learned that Adviser A  
16 had caused two clients to wire transfer a total of \$295,000 from their Schwab accounts  
17 to an account controlled by Adviser A. Schwab also learned that shortly after the client  
18 funds were wired to Adviser A, Adviser A purchased a personal residence for himself.  
19 The clients confirmed to Schwab that they were aware of the wire transfers but could  
20 not say what the wire transfers were for. Adviser A told Schwab that he invested the  
21 clients in a private residential real estate investment trust but did not provide to Schwab  
22 the documents for the purported investment. Schwab then terminated Adviser A.

23 19. Based on that information, Schwab knew, suspected, or had reason to  
24 suspect that the \$295,000 in wire transfers were suspicious under the SAR Rule and  
25 should have filed a SAR on them. Schwab, however, did not file the required SAR. The  
26 memorandum closing Schwab's investigation regarding Adviser A stated, in part, that  
27 "[i]t is possible that [Adviser A] used the client's funds for the purchase of his property  
28 but this fact can not be confirmed. The wire transfers by the two clients were

1 researched. Both clients were found to have verified and authorized the wire transfers  
2 on recorded lines. This matter is being closed as nothing [was] found since neither  
3 client has complained or disputed the wire transfers [Adviser A].” Given the  
4 information known to Schwab and Schwab’s termination of Adviser A based on that  
5 information, the standards requiring a SAR filing were met, and Schwab applied too  
6 high a standard by requiring that the misuse be “confirmed” or that the clients  
7 complain.

8       20. As another example, “Adviser B” was an SEC-registered Adviser with  
9 \$92 million in AUM and 543 subaccounts at Schwab. In 2013, Schwab terminated  
10 Adviser B after learning that three of its clients had each invested \$100,000 in a private  
11 placement of securities by Adviser B’s disclosed parent company. Schwab found that  
12 the principal of both Adviser B and its parent company was apparently in poor  
13 financial condition because he had an outstanding federal tax lien and a recent \$2  
14 million civil judgment against him relating to selling investment contracts in life  
15 insurance policies.

16       21. Based on that information, Schwab knew, suspected, or had reason to  
17 suspect that the \$300,000 in investments were suspicious under the SAR Rule. Schwab  
18 therefore should have filed a SAR on the transactions. Schwab, however, did not file  
19 the required SAR on the suspicious transactions.

20       22. The suspicious transactions by some of the 37 terminated Advisers involved  
21 Advisers using Schwab’s management fee system to charge client Schwab accounts  
22 suspicious advisory fees. Schwab, however, failed to file a SAR relating to the  
23 terminated Advisers’ suspicious fees because Schwab unreasonably believed that such  
24 transactions did not warrant SARs.

25       23. For example, “Adviser C” was a State-registered Adviser with \$6.7  
26 million in AUM and 150 subaccounts at Schwab. Schwab terminated Adviser C for  
27 using Schwab’s management fee system to charge a client a suspicious \$28,000 fee,  
28 which was up “dramatically” from previous quarterly fees of about \$2,000. Schwab

1 could not verify the fee based on the documentation provided by Adviser C.

2 24. Based on that information, Schwab knew, suspected, or had reason to  
3 suspect that Adviser C had misappropriated funds from the client through charging her  
4 an improper fee and that the fee was suspicious under the SAR Rule. Schwab therefore  
5 should have filed a SAR on the transaction. Schwab, however, did not file the required  
6 SAR on the suspicious fee because it unreasonably believed that such fees did not  
7 warrant SAR filings.

8 25. The suspicious transactions by some of the 37 terminated Advisers involved  
9 transactions in client accounts that were part of suspected “cherry-picking” schemes to  
10 defraud their clients. Schwab did not file SARs on the suspicious transactions of these  
11 Advisers because it unreasonably believed that such conduct did not require a SAR  
12 filing.

13 26. For example, “Adviser D” was an SEC-registered Adviser with \$50  
14 million in AUM and 476 subaccounts at Schwab. Schwab found that in 2009 and 2010,  
15 Adviser D appeared to allocate 17 profitable day trades for itself for profits totaling  
16 about \$75,000. Schwab twice counseled Adviser D about the suspicious trading,  
17 including telling Adviser D that such apparent preferential trade allocation “should be  
18 of concern to [Adviser D] in the case of any audit conducted by the SEC or other  
19 regulatory agencies.” Schwab terminated Adviser D in 2012.

20 27. Based on that information, from as early as 2009, Schwab knew,  
21 suspected, or had reason to suspect that Adviser D was engaging in a fraudulent  
22 cherry-picking scheme and that the trading was suspicious under the SAR Rule.  
23 Schwab therefore should have filed a SAR on the trading. Schwab, however, did not  
24 file the required SAR on the trading because it unreasonably believed that such  
25 apparent preferential trade allocations did not warrant a SAR filing.

26 28. The suspicious transactions by some of the 37 terminated Advisers involved  
27 Advisers whom Schwab suspected of posing as clients to effect or confirm transactions at  
28 Schwab.

1           29. For example, “Adviser E” was a State-registered Adviser with \$17 million  
2 in AUM and 132 subaccounts at Schwab who did not have discretionary trading  
3 authority over its clients’ accounts. Schwab terminated Adviser E after he admitted to  
4 Schwab that he used the username and password of 20 clients to log on to Schwab’s  
5 client web portal (rather than following Schwab’s rule that Advisers log onto the  
6 Adviser’s web portal using the Adviser’s username and password). Schwab trading  
7 records show that trades were made in certain of these client accounts.

8           30. Based on that information, Schwab knew, suspected, or had reason to  
9 suspect that Adviser E was posing as its clients to place trades. Schwab therefore  
10 knew, suspected, or had reason to suspect that the transactions were suspicious under  
11 the SAR Rule and should have filed a SAR on the transactions. Schwab, however, did  
12 not file the required SAR on Adviser E.

13           31. Finally, the suspicious transactions by some of the 37 terminated Advisers  
14 involved Advisers who were not properly registered as an Adviser but executed client  
15 trades and/or collected advisory fees through Schwab’s management fee system.

16           32. For example, “Adviser F” was an unregistered Adviser with \$3 million in  
17 AUM and 78 subaccounts at Schwab. Schwab terminated Adviser F after finding that  
18 Adviser F had not been registered as an Adviser for almost two years but had collected  
19 over \$100,000 in fees through Schwab’s management fee system. Similarly, “Adviser  
20 G” had \$14 million in AUM and 11 subaccounts at Schwab. When Adviser G’s  
21 registration as an Adviser lapsed with the Commission in mid-December 2012,  
22 Schwab restricted Adviser G’s ability to charge client fees through Schwab’s  
23 management fee system. Shortly thereafter, Adviser G requested Schwab to send it  
24 \$40,375 in management fees from a client’s IRA account. Schwab told Adviser G that  
25 it could not use Schwab’s management fee system because it was not registered and  
26 that it would have to collect the fees outside of Schwab.

27           33. Based on that information, Schwab knew, suspected, or had reason to  
28 suspect that Adviser F and Adviser G were engaging or attempting to engage in

1 transactions as unregistered investment advisers and that the transactions or attempted  
2 transactions were suspicious under the SAR Rule. Schwab therefore should have filed  
3 a SAR on the transactions. Schwab, however, did not file the required SARs on the  
4 suspicious transactions or attempted transactions of unregistered Adviser because it  
5 unreasonably believed that such suspicious transactions did not warrant a SAR filing.

6 34. As a result of this conduct, Schwab violated, and unless restrained and  
7 enjoined will continue to violate, Section 17(a) of the Exchange Act and Rule 17a-8.

8 **CLAIM FOR RELIEF**

9 **Violations of Exchange Act Section 17(a) of the Exchange Act and Rule**  
10 **17a-8 [15 U.S.C. § 78q(a) and 17 C.F.R. § 240.17a-8]**

11 35. The SEC realleges and incorporates by reference paragraphs 1 through 34,  
12 as though fully set forth herein.

13 36. In violation of Exchange Act 17(a) and Rule 17a-8 promulgated  
14 thereunder, Schwab failed to comply with the reporting, recordkeeping, and record  
15 retention requirements of FinCEN's regulations implementing the BSA, Chapter X of  
16 Title 31 of the Code of Federal Regulations, which, among other things, require  
17 broker-dealers, such as Schwab, to file SARs with FinCEN [17 C.F.R. § 1023.320(a)].

18 37. By virtue of the foregoing, Schwab violated, and unless restrained and  
19 enjoined, will again violate, Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)]  
20 and Rule 17a-8 thereunder [17 C.F.R. § 240.17a-8] by failing to file SARs as required  
21 by the BSA and its implementing regulations.

22 ///

**PRAYER FOR RELIEF**

WHEREFORE, the SEC respectfully requests that the Court:

**I.**

Issue findings of fact and conclusions of law that Defendant committed the alleged violations.

**II.**

Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently enjoining Defendant, and its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Section 17(a) of the Exchange Act [15 U.S.C. §78q(a)], and Rule 17a-8 thereunder [17 C.F.R. § 240.17a-8].

**III.**

Order Defendant to pay civil penalties under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

**IV.**

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: July 2, 2018

/s/ Lynn M. Dean

Lynn M. Dean

Kelly Bowers

Attorneys for Plaintiff

Securities and Exchange Commission

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
U.S. SECURITIES AND EXCHANGE COMMISSION

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Securities and Exchange Commission
Los Angeles Regional Office
444 South Flower Street, Suite 900
Lynn M. Dean, 323.965.3245

DEFENDANTS
CHARLES SCHWAB & CO., INC.

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

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

Attorneys (If Known)

Orrick Herrington & Sutcliffe LLP
405 Howard Street, San Francisco, CA 94105
Walter F. Brown Jr. 415.773.5995

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

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER 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-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):
15 U.S.C. § 78q(a)] and 17 C.F.R. § 240.17a-8
Brief description of cause:
Violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 17a-8 thereunder [17 C.F.R. § 240.17a-8] by failing to file SARs as required by the BSA & its implementing regulations

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) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

## 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.