

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY**

BILLI JO WOODS, on behalf of herself and
all others similarly situated,

Plaintiff,

-against-

MORRIS MOHAWK GAMING GROUP,
ALWYN MORRIS, CALVIN AYRE, and
HARP MEDIA BV,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT
AND DEMAND FOR JURY
TRIAL**

Plaintiff Billi Jo Woods (“Plaintiff”) brings this action on behalf of herself and all others similarly situated against Defendants Morris Mohawk Gaming Group, Alwyn Morris, Calvin Ayre, and Harp Media BV, (collectively, “Bovada” or “Defendants”). Plaintiff makes the following allegations pursuant to the investigation of her counsel and based upon information and belief, except as to the allegations specifically pertaining to herself, which are based on personal knowledge.

INTRODUCTION

1. Defendants own and operate the popular online casino websites, www.bovada.com and www.bovada.lv. Bovada was launched in 2011. Defendants tout their websites as a “trusted source for gaming and betting,” and state that those “looking to blow off some steam with a little slot or table game session will find what they’re looking for in our massive Bovada betting casino that offers a Live Dealer experience plus hundreds of standard web-based games.”¹

¹ <https://www.bovada.com/more/about-us>

2. Defendants offer hundreds of gambling options on www.bovada.com and www.bovada.lv, including sports betting, slots, poker, table, and numerous other games.

3. However, by operating their online casinos, Defendants have violated Kentucky law, which governs Plaintiff's and the Class's claims, and Defendants have illegally profited from tens of thousands of consumers. Accordingly, Plaintiff, on behalf of herself and a Class of similarly situated individuals, brings this lawsuit to recover their losses, as well as costs and attorneys' fees.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d)(2), because the matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and is a class action in which at least one member of the Class is a citizen of a State different from the Defendants.

5. This Court has personal jurisdiction over Defendants because Defendants conduct substantial business within this District and a substantial portion of the events that gave rise to Plaintiff's claims occurred in this District.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District, and because Defendants transact business and/or have agents within this District.

PARTIES

7. Plaintiff Billi Jo Woods is a natural person and a citizen of the Commonwealth of Kentucky, residing in Lawrenceburg, Anderson County, Kentucky. Plaintiff Woods has gambled and lost thousands of dollars gambling on Bovada's websites. Plaintiff Woods began gambling on the Bovada websites in 2023 and continued to gamble on www.bovada.lv and

www.bovada.com at least until July 2023.

8. Defendant Morris Mohawk Gaming Group is a private company organized and existing under the laws of Canada, with a place of business in the Kahnawake Mohawk Territory, at the Kahnawake Office Complex, Kahnawake, Quebec, J0L 1B0, Canada, and can be served through its agent, Alwyn Morris at the Kahnawake Office Complex, 1470-138 Rte, Kahnawake, Québec J0L 1B0 Canada. Upon information and belief, Morris Mohawk Gaming Group distributes, makes, uses, makes available, promotes, sells, offers to sell, and generates substantial revenues from products and services throughout the United States, including but not limited to the Internet domains registered and existing at www.bovada.lv and www.bovada.com.

9. Defendant Alwyn Morris is a citizen and resident of Quebec, Canada. On information and belief, Mr. Morris is the founder, CEO, and owner of Morris Mohawk Gaming Group.

10. Defendant Calvin Ayre is a citizen of Canada and Antigua and Barbuda, and a resident of Antigua. Mr. Ayre is the owner and chief operator of the Bodog, a company of unknown organization type that is based in Antigua and Barbados. Bodog lists Bovada as one of the sites that operate within the “Bodog Network.” Bodog’s websites redirect users in Kentucky to “try visiting our partners at bovada.lv.”

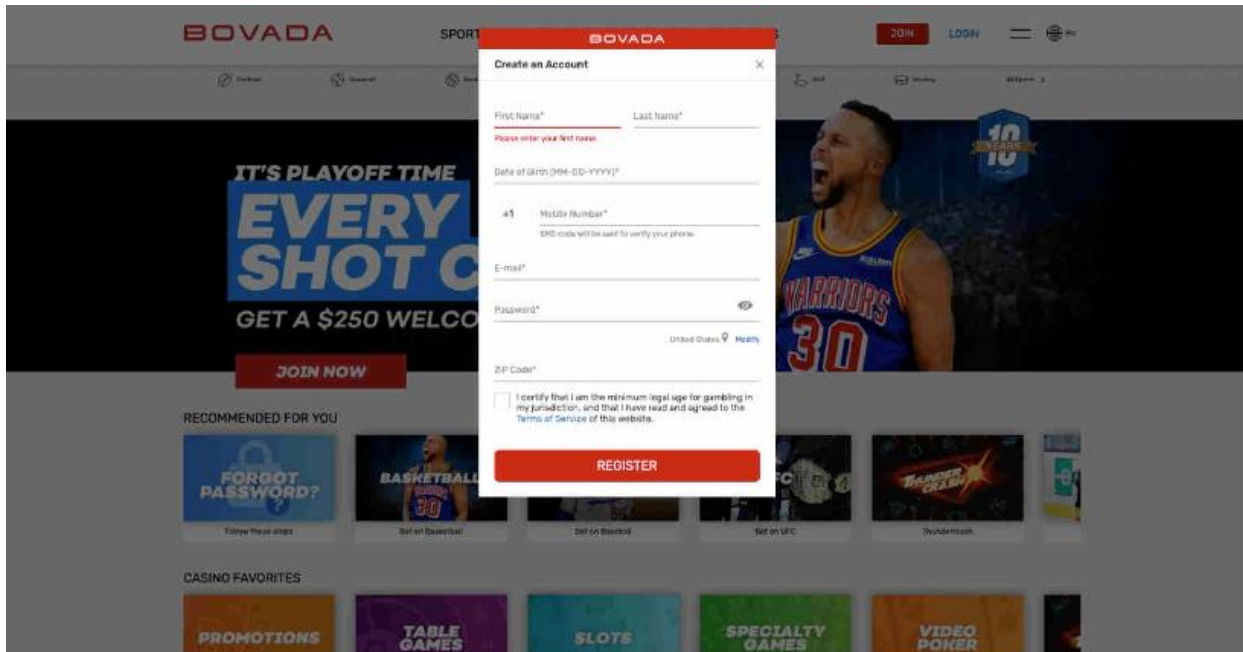
11. Defendant Harp Media BV is a company based in Curaçao incorporated under the company number 144943. Defendant Harp Media BV has an ownership interest in the Bovada websites. On information and belief, Defendant Harp Media BV collects a portion of the gambling profits from bets that are made on www.bovada.lv and www.bovada.com.

12. Each of the Defendants acted jointly to perpetrate the acts described herein. At all times relevant to the allegations in this matter, each of these Defendants acted in concert with,

with the knowledge and approval of, and/or as the agent of the other Defendant within the course and scope of the agency, regarding the acts and omissions alleged.

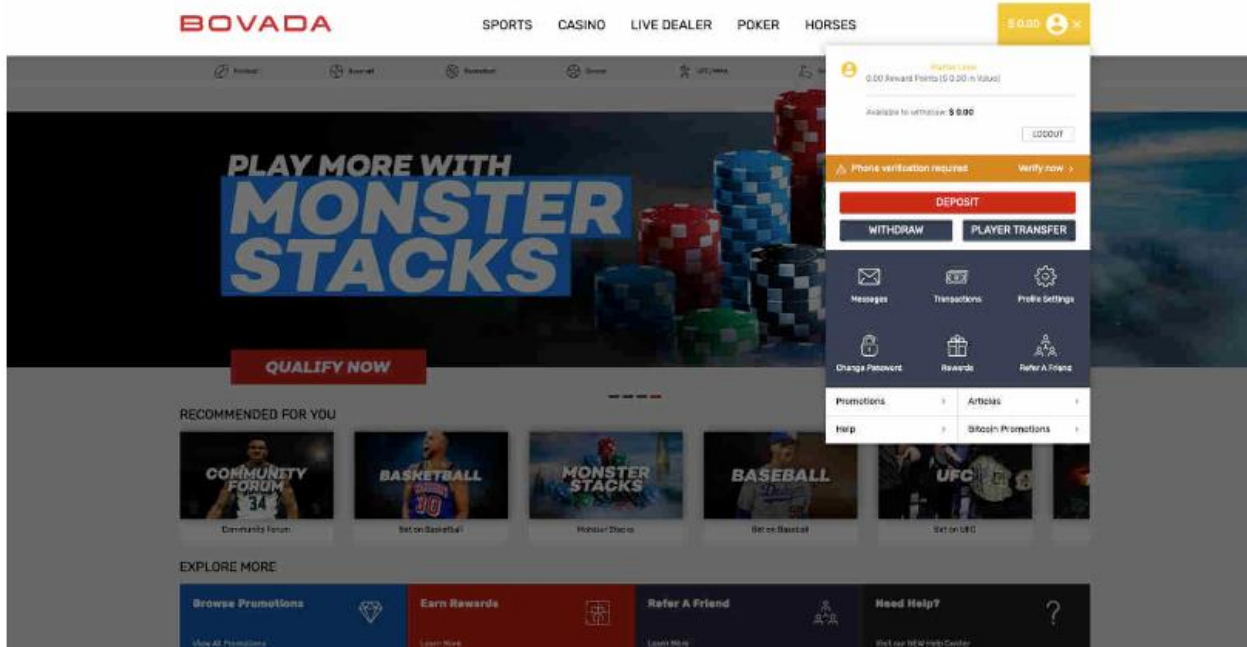
FACTUAL ALLEGATIONS








13. Defendants own and operate www.bovada.com and www.bovada.lv, where visitors can gamble real money online. The process for getting set up on Bovada.com is incredibly simple. First, a user simply inputs their information on the “Create an Account” page.



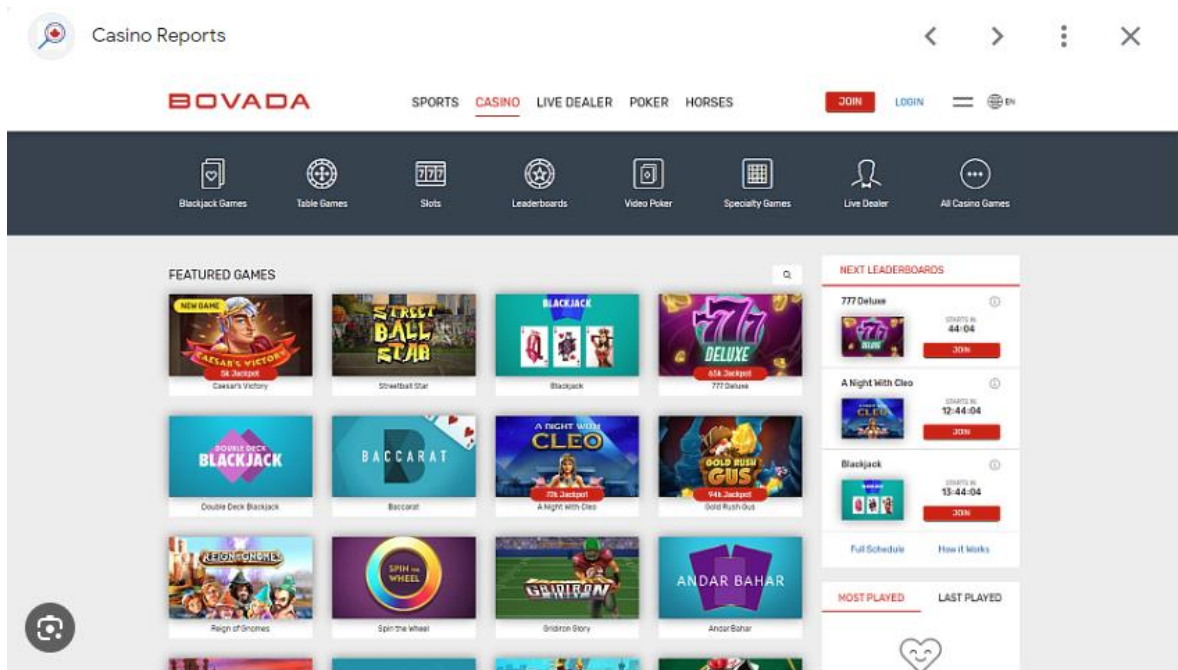
14. Once a user creates their account, they go through a quick account verification process.

15. Once a user verifies their account, they can immediately deposit money. Deposits can be made with cryptocurrency, Bitcoin Cash, or by credit card. Regardless of deposit method, deposits are instantly available for gambling.



Bitcoin	 bitcoin >
Bitcoin Cash	 BitcoinCash >
Card	 >
Zelle	   >
Voucher	 >

16. Users can then gamble their deposited money on one of Defendants' hundreds of games.



17. Players are able to cash out their winnings, if any, through Defendants' payment platform.

18. Notably, all outcomes in Defendants' games are based entirely on chance.

19. Defendants maintain win and loss records and account balances for each consumer. Indeed, once Defendants' algorithms determine the outcome of a game and Defendants display the outcome to the consumer, Defendants adjust the consumer's account balance. Defendants keep records of each wager, outcome, win, and loss for every player of the games.

20. Bovada has evaded the laws of Kentucky and other states. Bovada has advertised and presented itself to consumers in Kentucky as a legitimate online business. But this is false. In fact, Bovada is an illegal enterprise. Bovada's online presence and advertising provided an aura of legitimacy and legality to Plaintiff and class members.

21. In fact, on June 29, 2022, more than two dozen members of Congress sent a formal letter to the U.S. Department of Justice, urging the Attorney General to make a "concerted effort to fight" Defendant's illegal offshore betting operations. *See* Exhibit 1. The Letter specifically noted that Bovada constitutes "half of all sportsbook brand searches." *Id.*

22. In fact, the American Gaming Organization ("the AGA") has noted the "brazen and coordinated matter" in which Bovada operates. The AGA has specifically demanded that the operators of Bovada be investigated and indicted for operating a criminal enterprise.

CLASS ALLEGATIONS

23. Plaintiff seeks to represent a class defined as all individuals who, in the Commonwealth of Kentucky, gambled and lost \$5.00 or more within a 24-hour period on Bovada.com during the applicable limitations period. (the "Class").

24. Specifically excluded from the Class are Defendants, Defendants' officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees,

principals, servants, partners, joint ventures, or entities controlled by Defendants, and their heirs, successors, assigns, or other persons or entities related to or affiliated with Defendants and/or Defendants' officers and/or directors, the judge assigned to this action, and any member of the judge's immediate family.

25. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or amended complaint.

26. **Numerosity**. On information and belief, tens of thousands of consumers fall into the definition of the Class. Members of the Class can be identified through Defendants' records, discovery, and other third-party sources.

27. **Commonality and Predominance**. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual Class members. These common legal and factual questions include, but are not limited to, the following:

- (a) Whether Plaintiff's and Class members' play on Defendants' casino games constitutes gambling under Kentucky law;
- (b) Whether Plaintiff and the Class lost money gambling to Defendants as defined by KRS § 372.010 *et. seq.*; and
- (c) Whether Plaintiff and the Class are entitled to recover their monies spent on Defendants' casino games pursuant to KRS § 372.020 and/or KRS § 372.040.

28. **Typicality**. Plaintiff's claims are typical of the claims of the other members of the Class in that, among other things, all Class members were similarly situated and were comparably injured through Defendants' wrongful conduct as set forth herein. Further, there are

no defenses available to Defendants that are unique to Plaintiff.

29. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel that is highly experienced in complex consumer class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf of the Class. Furthermore, Plaintiff has no interests that are antagonistic to those of the Class.

30. **Superiority.** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual Class members are relatively small compared to the burden and expense of individual litigation of their claims against Defendants. It would thus be virtually impossible for the Class to obtain effective redress for the wrongs committed against the members on an individual basis. Furthermore, even if Class members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances.

CAUSES OF ACTION

COUNT I

Violation of KRS § 372.010, *et. seq.* (On Behalf Of The Class)

31. Plaintiff incorporates the foregoing allegations as if fully set forth herein.
32. The Commonwealth of Kentucky's "Recovery of money lost at gambling" statute,

KRS § 372.020, provides a losing gambler with a first-party cause of action to recover any losses suffered. It reads:

If any person loses to another at one (1) time, or within twenty-four (24) hours, five dollars (\$5) or more, or anything of that value, and pays, transfers or delivers it, the loser or any of his creditors may recover it, or its value, from the winner, or any transferee of the winner, having notice of the consideration, by action brought within five (5) years after the payment, transfer or delivery. Recovery may be had against the winner, although the payment, transfer or delivery was made to the endorsee, assignee, or transferee of the winner. If the conveyance or transfer was of real estate, or the right thereto, in violation of KRS 372.010, the heirs of the loser may recover it back by action brought within two (2) years after his death, unless it has passed to a purchaser in good faith for valuable consideration without notice.

KRS § 372.020.

33. Defendants' casino games constitute gambling because the players provide consideration (e.g., money) and by an element of chance (e.g., by spinning a virtual slot machine, playing a turn in a poker game, etc.) create a right to some things of value (e.g., money).

34. As such, Plaintiff and the Class gambled when they deposited money on bovada.com, bovada.lv, and Bodog.com and played Defendants' games.

35. As a direct and proximate result of Defendants' operation of its games, Plaintiff and each member of the Class have lost money wagering on Defendants' games of chance. Plaintiff, on behalf of herself and the Class, seeks an order (1) requiring Defendants to cease operation of its gambling devices; and/or (2) awarding the recovery of all lost monies, interest, and reasonable attorneys' fees, expenses, and costs to the extent allowable.

36. Plaintiff additionally seeks treble damages pursuant to KRS § 372.040.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendants, as follows:

- (a) For an order certifying this action as a class action, appointing Plaintiff as Class Representative, and appointing Plaintiff's counsel as Class Counsel;
- (b) For compensatory damages on all applicable claims and in an amount to be proven at trial;
- (c) For restitution on all applicable claims and in an amount to be proven at trial;
- (d) For an order requiring Defendants to disgorge, restore, and return all monies wrongfully obtained together with interest calculated at the maximum legal rate;
- (e) For treble damages pursuant to KRS § 372.040;
- (f) For an order enjoining the wrongful conduct alleged herein;
- (g) For other appropriate injunctive and other equitable relief;
- (h) For costs;
- (i) For pre-judgment and post-judgment interest as provided by law;
- (j) For attorneys' fees under the account contracts, the common fund doctrine, and all other applicable rules and law; and
- (k) For such other relief as the court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

Dated: August 8, 2023

Respectfully submitted,

/s/ Philip G. Fairbanks

PHILIP G. FAIRBANKS

BARTLEY K. HAGERMAN

Mehr Fairbanks Trial Lawyers, PLLC

201 West Short Street, Suite 800

Lexington, Kentucky 40507

Telephone: 859-225-3731

Facsimile: 859-225-3830

pgf@austinmehr.com

bkh@austinmehr.com

and

BURSOR & FISHER, P.A.

Philip L. Fraietta*

Alec M. Leslie*

Matthew A. Girardi*

Julian C. Diamond*

1330 Avenue of the Americas, 32nd Floor

New York, NY 10019

Telephone: (646) 837-7150

Facsimile: (212) 989-9163

E-Mail: pfraietta@bursor.com

aleslie@bursor.com

Attorneys for Plaintiff and the Putative Class

* *Pro hac vice* application forthcoming

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Billy Jo Woods, on behalf of herself and all others similarly situated

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

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

See attachment.

DEFENDANTS

Morris Mohawk Gaming Group, Alwyn Morris, Calvin Ayre, and Harp Media BV

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)

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

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

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 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): 28 U.S.C. 1332(d)(2)
Brief description of cause: Violations of KRS 372.010 et seq.

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE August 8, 2023 SIGNATURE OF ATTORNEY OF RECORD /s/ Philip G. Fairbanks

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

PHILIP G. FAIRBANKS
BARTLEY K. HAGERMAN
Mehr Fairbanks Trial Lawyers, PLLC
201 West Short Street, Suite 800
Lexington, Kentucky 40507
Telephone: 859-225-3731
Facsimile: 859-225-3830
pgf@austinmehr.com
bkh@austinmehr.com

and

BURSOR & FISHER, P.A.
Philip L. Fraietta*
Alec M. Leslie*
Matthew A. Girardi*
Julian C. Diamond*
888 Seventh Avenue
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
E-Mail: pfraietta@bursor.com
aleslie@bursor.com

Attorneys for Plaintiff and the Putative Class

* *Pro hac vice* application forthcoming