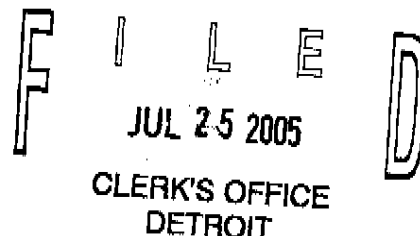


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION



In Re:

DOW CORNING LITIGATION

Civil Action No. 00-CV-00001

MASTER DOCKET

HONORABLE DENISE PAGE HOOD

CASE MANAGEMENT ORDER NO. 5
(Class 12 and 13 Claims)

This Case Management Order ("CMO") No. 5 is entered pursuant to the Amended Joint Plan of Reorganization, as effective June 1, 2004 (the "Plan"), the Litigation Facility Agreement ("LFA"), and this Court's continuing jurisdiction over claims asserted against the DCC Litigation Facility, Inc. (the "Facility"), which is predicated, *inter alia*, on Article III of the United States Constitution, the Bankruptcy Code, Proofs of Claim that were previously filed, and various provisions of the Plan and LFA including, but not limited to, Sections 5.13.2, 8.5, 8.7.1, 8.7.3, 8.7.7, 8.7.8, and 8.7.11 of the Plan and Sections 5.02(d), 6.01, and 6.05 of the LFA.

Section 5.13.2 of the Plan states that Class 12 Physician Claimants and Class 13 Health Care Provider Claimants have the option to settle or litigate their Claims and that the Claim of any Class 12 or 13 Claimant who elects to litigate shall be channeled to the Facility for purposes of Claim liquidation.

Pursuant to Sections 6.02(b)(i) and 6.02(c)(i) of the Settlement Facility and Fund Distribution Agreement ("SFA"), the Claims Administrator of the Settlement Facility-Dow Corning Trust has provided Class 12 and 13 Claimants a list of Non-Settling Personal Injury Claimants and an election form for Class 12 and 13 Claimants to elect to

settle conditionally or to litigate their Claims. The deadline for Class 12 and 13 Claimants to make their elections was March 24, 2005.

Section 5.02(d) of the LFA states that the Facility shall file a motion (or motions) to transfer ("Transfer Motions") to this Court the claims (other than Malpractice Claims) asserted by Non-Settling Personal Injury Claimants against Claimants in Classes 12 and 13 who conditionally elect to settle their Claims against Dow Corning. If the Transfer Motions are granted, the conditional elections by the corresponding Class 12 and 13 Claimants to settle their Claims against Dow Corning will immediately become final and irrevocable, and the claims (other than Malpractice Claims) asserted by Non-Settling Personal Injury Claimants against such settling Class 12 and 13 Claimants will become Assumed Third-Party Claims as provided in section 8.5 of the Plan. However, pursuant to sections 6.02(b)(ii) and 6.02(c)(ii) of the SFA, if a Transfer Motion is denied with respect to a Class 12 or 13 Claimant that conditionally elected to settle its Claim, then within thirty (30) days after service of notice of the order denying such Transfer Motion, the Class 12 or 13 Claimant may revoke its conditional election to settle its claim against Dow Corning. (In the absence of a timely revocation, the conditional election by Class 12 and 13 Claimants to settle their Claims against Dow Corning will be deemed final and irrevocable.) Upon such revocation, such Class 12 or 13 Claim will be channeled to the Facility for resolution, and the claims (including Malpractice Claims) asserted by Non-Settling Personal Injury Claimants against Non-Settling Class 12 and 13 Claimants will not become Assumed Third-Party Claims and shall be resolved by the procedures applicable in the courts where actions based on such claims have been (or may be) asserted.

Section 6.05 of the LFA states that claims in Classes 12 and 13 and any related Assumed Third Party Claims that have been channeled or transferred to the Facility for resolution shall be dealt with in accordance with the terms of the Case Management Orders.

This CMO No. 5 supplements prior CMOs issued by the Court. CMO. No. 5 governs all Class 12 and 13 Claims channeled to the Facility pursuant to the Plan and the LFA. This Order may be supplemented to provide more specific procedures (consistent with the terms of this Order and the Plan) as the contours of the litigation involving Class 12 and 13 Claims become better known and more fully developed.

The Court orders as follows:

1. Required Procedure for Commencing Litigation Against the Facility Based on a Class 12 or 13 Claim

(a) The Claims Administrator shall send a document titled "Notice Letter to Non-Settling Class 12 and 13 Claimants" to all Class 12 and 13 Claimants who elected to litigate their Claims. The Notice Letter shall inform all such claimants that their Class 12 and 13 Claims have been channeled to the Facility. The Notice Letter will include a copy of this CMO No. 5 and a copy of the civil cover sheet attached hereto as Exhibit A.

(b) Any Class 12 or 13 Claimant who elected to litigate its Class 12 or 13 Claim and wishes to pursue litigation of such Claim against the Facility shall commence an action against the Facility by filing with the Clerk of this Court a complaint and a civil cover sheet within 90 days after the date of the Notice Letter identified in Section 1(a) above and by paying the applicable filing fee. The caption of the complaint and page 2 of the civil cover sheet will identify that the complaint relates to a Class 12 and 13 Claim.

(c) Within twenty (20) days after the entry of this Court's order denying a Transfer Motion (a "Transfer Denial Order"), the Claims Administrator shall send a document titled "Notice Letter to Conditionally Settling Class 12 and 13 Claimants—Transfer Motion Denied" to all Class 12 and 13 Claimants who conditionally elected to settle their Claims against Dow Corning and as to whom the Court has denied, pursuant to a Transfer Denial Order, the transfer of a claim asserted by a Non-Settling

Personal Injury Claimant against such Class 12 or 13 Claimant. The Notice Letter shall inform all such claimants that (a) if they wish to revoke their conditional election to settle their Class 12 or 13 Claim, the Claim Administrator must receive their notice of revocation no later than thirty (30) days after the date of such Notice Letter, whereupon their Class 12 or 13 Claim will be channeled to the Facility; and (b) if they do not timely revoke their conditional election to settle their Class 12 or 13 Claim, such election to settle shall become final and irrevocable and their Class 12 or 13 Claim will not be channeled to the Facility. The Notice Letter will include a copy of each Transfer Denial Order relevant to the Class 12 or 13 Claimant, a form to revoke a conditional election to settle a Class 12 or 13 Claim, a copy of this CMO No. 5 and a copy of the civil cover sheet attached hereto as Exhibit A.

(d) Any Class 12 or 13 Claimant who timely revokes its conditional election to settle its Class 12 or 13 Claim and wishes to pursue litigation of such Claim against the Facility shall commence an action against the Facility by filing with the Clerk of this Court a complaint and a civil cover sheet within 90 days after the date of the Notice Letter identified in Section 1(c) above and by paying the applicable filing fee. The caption of the complaint and page 2 of the civil cover sheet will identify that the complaint relates to a Class 12 and 13 Claim.

(e) Upon receipt of the complaint, civil cover sheet, and filing fee, the Clerk of this Court shall assign each Class 12 and 13 Case a docket number. Each case shall identify the action as a Class 12 or 13, respectively, in order to distinguish the Class 12 and 13 Cases from the Cases of other parties whose Claims have been channeled to and asserted against the Facility.

(f) Within 30 days of the date of the filing of the complaint, the Class 12 or 13 Claimant shall serve a copy of the complaint on the Facility at: DCC Litigation Facility, Inc., P.O. Box 2089, Midland, MI, 48641-2089, by regular U.S. mail. The Class 12 or 13 Claimant shall include, along with a copy of the complaint, a request to waive

service of the summons. The Facility will waive service of the summons and will return the waiver to the Claimant or the Claimant's counsel within 30 days.

(g) The Facility shall file and serve an answer or other responsive pleading to each complaint filed by a Class 12 or 13 Claimant within 60 days after service of the complaint.

(h) Absent proof that a Class 12 or 13 Claim had not accrued as of the 90-day deadline for filing a complaint as provided in Section 1(b) or 1(d) above, as applicable, the failure by a Class 12 or 13 Claimant to timely file and serve a complaint in accord with the requirements set forth in Section 1(b) or 1(d) above, as applicable, may, absent good cause shown, forever bar any and all claims and causes of actions by Class 12 and 13 Claimants.

2. General Sequence of Cases

Pending subsequent orders by the Court concerning the scheduling and management of Class 12 and 13 Cases, the Class 12 and 13 Cases shall proceed toward certification for trial according to the following sequence: (1) notice and filing period; (2) claim description, analysis, and review; (3) consolidated motion practice, if applicable and necessary; (4) pre-trial settlement procedures, including ADR; (5) case-specific discovery; and (6) trial.

3. Initial Claim Description and Review

(a) Due to the unique and individualized nature of each Class 12 and 13 Claim, the standardized Claimant Questionnaire discussed in CMO Nos. 1-2 for the Opt-Out or Non-Settling Tort Claimants will not be used for the Class 12 and 13 Cases. However, each Class 12 and 13 Claimant who timely files a complaint against the Facility shall complete and serve upon the Facility, within 120 days of the date of the filing the complaint, a "Claim Summary and Description" concerning their Class 12 or 13

Claim. This Claim Summary and Description shall include a written description of the Claim, the legal and/or statutory bases supporting the Claim, the relevant facts, including relevant dates, giving rise to the Claim, the individuals and/or witnesses with knowledge or information concerning the Claim (including name, address and contact information and a synopsis of such knowledge or information), and a statement of the claimed damages. If the Class 12 or 13 Claim is based on contribution or indemnity, or is otherwise related to any other underlying claim, cause of action, judgment, or settlement, the Claim Summary and Description shall also include similar information concerning the underlying claim, cause of action, judgment, or settlement. The Claim Summary and Description shall also include copies of all potentially relevant documents and records including, but not limited to, bills, invoices, checks, memoranda, correspondence, pleadings, orders, judgments, or settlements.

(b) Failure to serve on the Facility a complete and accurate Claim Summary and Description within 120 days of the date of the applicable Notice Letter may, absent good cause shown, and upon motion by the Facility, constitute grounds for dismissal of a Class 12 or 13 Case.

(c) The purpose of the Claim Summary and Description is to enable the Facility to understand, analyze, and evaluate the Class 12 and 13 Claims. If the information provided by a Class 12 or 13 Claimant in the Claim Summary and Description is incomplete or otherwise insufficient for this purpose, the Facility will send a letter to the Class 12 or 13 Claimant identifying the deficiencies in the Claim Summary and Description. If the Class 12 or 13 Claimant then fails to remedy the deficiencies in the Claim Summary and Description within 30 days from the date of the deficiency letter, the Class 12 or 13 Cases may, upon motion by the Facility, be subject to sanctions and/or dismissal.

(d) Upon receipt of the Claim Summary and Descriptions from the Class 12 and 13 Claimants who have timely commenced an action against the Facility in accord with the procedures outlined in Section 1 above, the Facility shall conduct a

preliminary analysis of the Class 12 and 13 Cases. This analysis shall be completed within 270 days from the date of the Notice Letters described in Sections 1(a) and 1(c) above and the Facility shall provide a summary report regarding the Class 12 and 13 Cases to the Special Master and others as designated by the Court by the same date. Class 12 or 13 Claimants may, but are not required to, file their own summary report at the same time. The Special Master will then make a recommendation to the Court concerning future scheduling and sequencing of the Class 12 and 13 Cases.

(e) Notwithstanding the above, those Class 12 Claimants identified on Appendix A hereto are excused from the requirements of Sections 3(a) through 3(d) above, due to their participation in discovery in prior proceedings.

4. Completed Discovery

Hundreds of depositions of plaintiffs, corporate representatives and experts have been taken in MDL-926 and related state court proceedings. In addition, millions of documents are available for inspection through the MDL Depository in Birmingham, Alabama. The documents are also available on CD-ROM Disks.

These documents and depositions are available to the parties for use in individual trials in accordance with the Rules of Evidence and various orders of the MDL Court. Additional non-case specific discovery will only be conducted if it is recommended by the Special Master and authorized by the Court.

The report of the 706 Panel appointed in the MDL proceeding, together with the record associated with the 706 Panel process (including any depositions), similarly will be available to the parties for use in individual trials in accordance with the Rules of Evidence and various orders of the MDL Court.

5. Case Specific Discovery

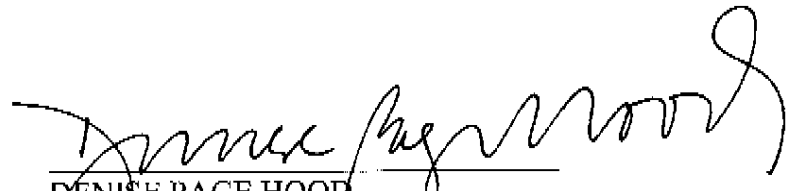
Besides the Claim Summary and Description discussed in Section 3 above, and until the Facility completes its preliminary analysis and report concerning the Class 12 and 13 Cases, and this Court issues a further order regarding the scheduling and sequencing of the Class 12 and 13 Cases, no other case-specific discovery shall be conducted by the Facility or the Claimants in the Class 12 and 13 Cases unless leave is obtained from the Special Master to conduct case-specific discovery out of the sequence described in Section 2 above.

6. Miscellaneous

The provision contained in Sections 13-16 of CMO No. 1 shall apply to the Class 12 and 13 Cases as if fully re-written and re-stated here.

JUL 25 2005

ORDERED this the _____ day of _____ 2005



DENISE PAGE HOOD
United States District Judge

APPENDIX A TO CMO NO. 5

Arfai, Parvia
Bailey, Charles
Baker, James
Baldwin, Curtis
Barnes, William
Beckham, Patrick
Biggs, Thomas
Brauer, Raymond
Clement, Robert
Cohen, Benjamin
Cronin, Ernest
Cullington, James
Davis, William
Dora, Johnathan
Eisemann, Michael
Fredricks, Simon
Gard, Don
Grant, David
Hamas, Robert
Hollingsworth, Charles
Huang, Ted
Kellcher, John Jr.
Klein, Donald
Larson, Duane
Lee, David
Lerman, Melvyn
Levine, Richard
Mancusi-Ungaro, Harold Jr.
Moore, James
Moore, Jeff
Parker, E. Richard
Peterson, Robert
Powell, N. Berkeley
Rappaport, Norman
Rothenberg, Philip
Sattler, Jon
Schusterman, Mark
Simmons, Wilton Jr.
Toronto, I. Richard
Smith, Sydnic
Swartz, Barry
Villarréal-Rios, Alfredo
Walker, Louis

Withers, Edward
Wolf, Laurence
Wood, Robert Jr.
Yakcr, Natan

JS 44 (Rev 11/04)

CIVIL COVER SHEET County in which this action arose _____

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 THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Dow Corning Class: _____</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (if known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	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
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														

IV. NATURE OF SUIT (Place an "X" in One Box Only)	
<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 150 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. 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>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & 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>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</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>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motion to Vacate Sentence</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p>
<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DLWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</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>OTHER STATUTES</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 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"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customs Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</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 7 Appeal to District Judge from Magistrate Judgment

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 F.R.C.P. 23 **DEMANDS** _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes
- No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes
- No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

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.C.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; 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 clerks 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 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. 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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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.