

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WILDEARTH GUARDIANS,)	
)	
Plaintiff,)	No. _____
)	
v.)	
)	
KEN SALAZAR, U.S. Secretary of Interior,)	COMPLAINT
sued in his official capacity)	FOR DECLARATORY AND
)	INJUNCTIVE RELIEF
Defendant.)	
_____)	

INTRODUCTION

1. Plaintiff, WildEarth Guardians (“Guardians”), brings this action against Defendant, Ken Salazar, U.S. Secretary of the Interior (“the Secretary”), in his official capacity, to force him to carry out his duties under the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531 et seq. The Secretary has failed to comply with his mandatory duty under the ESA to make the required finding on Guardians’ petition to list the Wright’s Marsh Thistle (*Cirsium wrightii*) (“Thistle”) as an endangered or threatened species and to designate its critical habitat. This lawsuit seeks to force the Secretary to make the overdue finding on Guardians’ petition.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) and 16 U.S.C. §§ 1540(c) and (g) (action arising under the ESA and citizen suit provision).

3. This Court has authority to grant Guardians’ requested relief pursuant to 28 U.S.C. §§ 2201-02 (declaratory and injunctive relief).

4. More than 60 days ago, Guardians furnished the Secretary with written notice of

his violations of the ESA and of Guardians' intent to sue. See 16 U.S.C. § 1540(g)(2).

5. Because the Secretary has not remedied his violations of the ESA by making the overdue finding on Guardians' petition, an actual controversy exists between the parties within the meaning of the Declaratory Judgment Act. See 28 U.S.C. § 2201.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) and 16 U.S.C. § 1540(g)(3)(A). The Thistle is found in this judicial district. Both Guardians and the Secretary maintain major offices in this district.

PARTIES

7. Plaintiff WILDEARTH GUARDIANS sues on behalf of itself and its adversely affected members. WildEarth Guardians is a non-profit environmental organization based in Santa Fe, New Mexico. Guardians' mission is to protect and restore wildlife, wild places, and wild rivers in the American Southwest. It has over 4,500 members, most of whom reside in New Mexico. WildEarth Guardians has an active endangered species protection campaign. As part of this campaign, Guardians has repeatedly urged the Secretary to list imperiled species, including the Thistle, as threatened or endangered species pursuant to the ESA. Guardians filed its petition to list the Thistle in October 2008. Guardians invested substantial organizational resources in preparing the petition and in pursuing prior litigation to force the Secretary to respond to the petition. Guardians' members and staff frequently use and enjoy, and will continue to use and enjoy, the Thistle and its habitat for plant and wildlife viewing and for recreational, aesthetic, and scientific activities. Guardians and its members are particularly concerned with the conservation of the Thistle and the ecosystem on which it depends for its survival. Guardians and its members have a substantial interest in this matter and are adversely affected by the Secretary's failure to

comply with the ESA. The requested relief will redress the injuries of Guardians and its members.

8. Defendant, KEN SALAZAR, is the Secretary of the United States Department of the Interior. As such, he has ultimate responsibility for implementation of the ESA. He is sued in his official capacity. In this case, the Secretary has delegated his responsibilities under the ESA to the United States Fish and Wildlife Service (“FWS”), an agency within the United States Department of the Interior.

LEGAL BACKGROUND

9. Congress passed the ESA to “provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species....” 16 U.S.C. 1531(b).

10. To this end, the ESA requires the Secretary to list species of plants and animals that are facing extinction as “threatened” or “endangered” and to designate protected “critical habitat” for each listed threatened or endangered species. 16 U.S.C. § 1533(a). An “endangered species” is “any species which is in danger of extinction throughout all or a significant portion of its range....” 16 U.S.C. § 1532(6). A “threatened species” is a species “which is likely to become an endangered species within the foreseeable future....” 16 U.S.C. § 1532(20).

11. In order for the ESA to protect a species, the Secretary must first officially list the species as either threatened or endangered. The listing process is the critical first step in the ESA’s system of species protection and recovery. The Secretary must also designate the species’ habitat as “critical habitat” in order for the habitat to receive ESA protections.

12. Any interested person can initiate the listing process by filing a petition to list a species with the Secretary. See 16 U.S.C. § 1533(b)(3)(A); 50 C.F.R. § 424.14(a).

13. Upon receipt of a petition to list a species, the Secretary is required to make an initial finding known as a “90-day finding.” Specifically, “to the maximum extent practicable,” within 90 days, the Secretary must determine whether the petition presents “substantial scientific or commercial information indicating that the petitioned action may be warranted.” 16 U.S.C. § 1533(b)(3)(A). The ESA’s implementing regulations define “substantial information” as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.” 50 C.F.R. § 424.14(b).

14. If the Secretary finds that the petition presents substantial information, he “shall promptly commence a review of the status of the species concerned,” and must publish the finding in the Federal Register. 16 U.S.C. § 1533(b)(3)(A).

15. If the Secretary makes a positive 90-day finding, he has 12 months from the date that the petition was received to make one of three findings: (1) the petitioned action is not warranted; (2) the petitioned action is warranted; or (3) the petitioned action is warranted but presently precluded by other pending proposals to list species of higher priority, provided that the Secretary is making expeditious progress on listing actions. See 16 U.S.C. § 1533(b)(3)(B); 50 C.F.R. § 424.14(b)(3). This is known as the 12-month finding.

16. If the Secretary makes a 12-month finding that the petitioned action is warranted, he must then publish in the Federal Register a proposed rule to list the species as endangered or threatened. See 16 U.S.C. § 1533(b)(5). Within one year of this publication, the Secretary is required to render a determination on the proposal. See 16 U.S.C. § 1533(b)(6)(A). At such time, the Secretary must either list the species, withdraw the proposal, or if there is substantial

disagreement about scientific data, delay a final determination for up to six months to solicit more scientific information. See 16 U.S.C. §§ 1533(b)(6)(A)(i)(III) and (b)(6)(B)(i).

17. “Concurrently” with listing a species as threatened or endangered, the Secretary must designate critical habitat for the species “to the maximum extent prudent and determinable.” 16 U.S.C. §§ 1533(a)(3)(A) and (b)(6)(C).

FACTUAL BACKGROUND

18. The Wright’s Marsh Thistle (*Cirsium wrightii*) (“Thistle”) has a single central stalk covered with succulent leaves. Numerous flowering branches extend from the stalk, with the longest branches at the top of the plant. The Thistle flowers during the late summer and early autumn, and the flowers range from white to pale pink in the Sacramento Mountains to vivid pink in the Santa Rosa area. The Thistle is pictured here.¹



19. The Thistle is imperiled by multiple threats, including habitat loss and destruction, herbicide spraying, mechanical vegetation removal, and exotic insect predators. The greatest threat to the Thistle is habitat loss due to loss of water in the wetlands it occupies. Both ground and surface water in the Thistle’s range have been diverted for municipal consumption through pipelines and well-drilling. Drought exacerbates the dry conditions of wetlands and, combined with the diversion of groundwater, reduces available surface water causing wetlands to be sensitive to drought and more likely to dry up. Climate change will likely worsen the threat

¹ Photo: © Robert Sivinski.

of drought to the Thistle due to projections of long-term drought in the American Southwest. All of these threats pose an imminent danger to the very existence of the Thistle.

20. On October 9, 2008, Guardians filed a petition requesting that the Secretary list the Thistle as a threatened or endangered species under the ESA throughout its range. The Secretary received Guardians' petition on October 15, 2008.

21. On April 3, 2009, Guardians filed suit in the District Court of New Mexico over the failure of the Secretary to issue a timely 90-day finding for the Thistle (WildEarth Guardians v. Salazar, No. 6:09-cv-00331-MCA-RLP). On August 6, 2009, Guardians and the Secretary reached a settlement agreement requiring the Secretary to issue a 90-day finding for the Thistle on or before September 18, 2009.

22. On September 10, 2009, the Secretary issued a positive 90-day finding on Guardians' petition. See 74 Fed. Reg. 46542-46547 (Sept. 10, 2009). The Secretary concluded that the petition presented substantial scientific information that Guardians' request to list the Thistle as a threatened or endangered species may be warranted. The Secretary found that multiple threats may be imperiling the Thistle including habitat loss and degradation from alteration of desert springs, seeps, and wetlands; predation by non-native and native insects; inadequate regulatory protections; drought; and non-native plants. Id. at 46545.

23. Because the Secretary rendered a positive 90-day finding, he was then obligated to proceed to the second step in the ESA listing process, completing a 12-month finding. A 12-month finding must be completed within 12-months of the *receipt* of a petition. See 16 U.S.C. § 1533(b)(3)(B).

24. On October 23, 2009, Guardians provided the Secretary with written 60-day notice of its intent to sue over the Secretary's failure to make a 12-month finding on the petition

to list the Thistle. At that time, more than 12 months had passed since Guardians submitted its petition. The Secretary received Guardians' notice of intent to sue on November 2, 2009. On December 24, 2009, the Secretary acknowledged receipt of Guardians' 60-day notice. In his acknowledgement letter, the Secretary did not provide a date by which he would make a 12-month finding on the Thistle.

25. To date, the Secretary has not made the required 12-month finding on Guardians' petition to list the Thistle.

CLAIM FOR RELIEF

26. Each and every allegation set forth in this Complaint is incorporated herein by reference.

27. The Secretary has failed to make a mandatory 12-month finding concerning Guardians' petition to list the Thistle within 12 months of receiving Guardians' petition and has failed to publish such finding in the Federal Register.

28. By failing to render a 12-month finding on Guardians' petition within 12 months of receipt, the Secretary has failed to perform a mandatory act or duty pursuant to the ESA. See 16 U.S.C. § 1533(b)(3)(B).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff WildEarth Guardians requests that this Court enter judgment providing the following relief:

A. A declaration that the Secretary has violated the ESA by failing to make the 12-month finding on Guardians' petition to list the Wright's Marsh Thistle;

B. An injunction compelling the Secretary to make the 12-month finding on Guardians' petition to list the Wright's Marsh Thistle and to publish such finding in the Federal Register by a reasonable date certain;

C. An order awarding Guardians its costs of litigation, including reasonable attorney's fees, as authorized by the ESA citizen suit provision, 16 U.S.C. § 1540(g); and

D. Such other and further relief as the Court deems just and proper.

Respectfully submitted this 11th day of February 2010.

/s/ Samantha Ruscavage-Barz
Samantha Ruscavage-Barz
17 Orno Creek Road
Placitas, NM 87043
(505) 750-1598
Samantha.RuscavageBarz@gmail.com

Attorney for Plaintiff WildEarth Guardians

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 THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</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:30%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:40%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><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 <i>and</i> 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>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> 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 <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p>CIVIL RIGHTS</p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State 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 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 DEMAND \$ _____ 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 _____

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.