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10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 Rosemary D’Augusta, Brenda Davis, Pamela
14 Faust, Carolyn Fjord, Donald C. Freeland,
15 Donald Frye, Gabriel Garavanian, Valarie
16 Jolly, Michael Malaney, Lenard Marazzo,
17 Lisa McCarthy, Timothy Nieboer, Deborah
18 Pulfer, Bill Rubinsohn, Sondra Russell, June
19 Stansbury, Clyde Duane Stensrud, Gary
20 Talewsky, Pamela Ward, Christine M
21 Whalen, Mary Katherine Arcell, Jose Brito,
22 Jan-Marie Brown, and Jocelyn Gardner,

23 Plaintiffs,

24 vs.

25 American Petroleum Institute, Exxon Mobil
26 Corporation, Chevron Texaco Capital
27 Corporation, Phillips 66 Company,
28 Occidental Petroleum Corporation, Devon
Energy, Energy Transfer LP, Hilcorp
Energy, and Continental Resources Inc., et al.

Defendants.

Case No:

**COMPLAINT FOR VIOLATIONS OF
SECTIONS 1 AND 2 OF THE SHERMAN
ANTITRUST ACT (15 U.S.C. §§ 1 AND 2)
AND VIOLATION OF SECTION 7 OF THE
CLAYTON ANTITRUST ACT (15 U.S.C. §
18)**

DEMAND FOR JURY TRIAL

1. The Plaintiffs allege that the Defendants combined and conspired between and among themselves and with Saudi Arabia and Russia to raise the price of oil and gasoline.

They did what they combined and conspired to do.

PROLOGUE

1
2 2. The United States is the largest producer of oil in the world. Saudi Arabia is the
3 second largest producer of oil in the world. Russia is the third largest producer of oil in the
4 world.

5 3. Exxon Mobil is the largest oil company in the United States. Chevron Texaco is
6 the second largest oil company in the United States. Phillips 66 is the third largest oil
7 company in the United States.

8 4. OPEC is the acronym for Organization of Petroleum-Exporting Countries. OPEC
9 was formed in 1961 to coordinate a common conduct for the production and sale of oil and
10 fuel products. Its members are Algeria, Angola, Indonesia, Iran, Iraq, Kuwait, Libya,
11 Nigeria, Qatar, Saudi Arabia, the United Arab Emirates, and Venezuela. Saudi Arabia is by
12 far the largest member of OPEC. OPEC is an international cartel. It operates throughout the
13 world. It exercises the power to control the production and price of oil and other fuel
14 products for its members. OPEC influences the price of oil and gasoline on a worldwide
15 basis.

16 5. OPEC+ is the acronym for all twelve OPEC members plus Russia.

17 6. API is the acronym for the American Petroleum Institute, the trade association for
18 the American oil producers, and provides a convenient forum for oil companies to meet and
19 communicate between each other and among themselves.

20 7. In November of 2016, OPEC and Russia agreed to limit the production and sale of
21 oil and gasoline in an effort to increase prices. They maintained this agreement until March
22 of 2020.

23 8. On Thursday March 5, 2020, OPEC (principally Saudi Arabia) and Russia met in
24 Vienna for the purpose of renewing the production limitation agreement of 2016, which
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1 would run out on March 31, 2020. At the meeting in Vienna, Russia complained that by
2 reason of the OPEC+ production limitation agreement, American oil producers, principally
3 the new shale oil producers, had been able to undercut Russia, capture some of Russia's
4 market share, and establish the United States as the number one producer of oil in the world.
5

6 9. On the next day, Friday, March 6, 2020, Russia refused to renew the production
7 agreement with Saudi Arabia, and walked out of the meeting.

8 10. On the next day, Saturday, March 7, 2020, Saudi Arabia, in retaliation against
9 Russia, announced plans to slash oil prices and increase production.

10 11. On Sunday, March 8, 2020, Saudi Arabia increased its production as the first step
11 in an effort to produce more oil than it had ever done before.

12 12. On Monday, March 9, 2020, oil prices plunged 24% in the largest drop in more
13 than three decades.
14

15 13. By reason of the actions of both Russia and Saudi Arabia to produce as much oil as
16 they could, a world-wide price war broke out, and prices for oil and gasoline began to drop
17 precipitously.

18 14. On Tuesday, March 10, 2020, the CEO of API, Mike Sommers, shocked by the
19 price war, told Bloomberg that the major U.S. oil companies wanted to stabilize the oil
20 prices by "balancing the oil market." Mr. Sommers said, "What we have here is . . . a
21 supply shock because of the decision by Russia and the Saudis to flood the market with oil."
22 Sommers continued, "Ultimately the solution here is to work in a diplomatic way to make
23 sure that oil markets are well balanced." "The group's focus is on balancing the oil
24 market." API and its members intended to do whatever was necessary to stabilize oil prices.
25

26 15. In furtherance of their objective to stabilize prices and stop the price war between
27 Saudi Arabia and Russia, which was requiring members of API to compete with lower
28

1 prices, the CEO of API, at the specific instigation of the major oil company Defendants,
2 contacted the White House to seek a meeting with the former President of the United States,
3 Donald J. Trump.

4 16. Because of the price war between Russia and Saudi Arabia, the major U.S. oil
5 company Defendants were forced to compete and lower their prices for oil and gasoline.
6 However, in an attempt to prevent further erosion and decreases in the price of oil and
7 gasoline, the major U.S. oil company Defendants agreed to take any surplus oil off the
8 market, cut their production, and substantially reduce their investment in exploration and
9 production.
10

11 17. Consequently, on March 24 and 25, 2020, in furtherance of their combination and
12 conspiracy to cut production and raise the price of oil and gasoline, major oil companies
13 announced that they would cut their production of oil. But these reductions were not
14 enough.
15

16 18. Notwithstanding the efforts by the U.S. major oil company Defendants to stabilize
17 and “balance the oil market,” the continuing price war between Saudi Arabia and Russia,
18 was substantially affecting prices in the United States. Russia and Saudi Arabia continued
19 to produce large volumes of oil, and prices continued to fall.
20

21 19. On March 31, 2020, Saudi Arabia reported that it had achieved the largest
22 production of oil in its history - more than 12.3 billion barrels per day. Saudi Arabia
23 celebrated the event.

24 20. On the very next day, Wednesday, April 1, 2020, because of the price war and the
25 increased production by Saudi Arabia and Russia, the former President Donald J. Trump,
26 hailed the reduction of oil and gasoline prices, and the benefits of the free market system:
27

28 “...and now, gasoline is going to be 99 cents a gallon and less. You know that.
That’s already starting. It’s popping up. 99 cents. So that’s like giving a

1 massive tax cut to the people of our country.”

2 Former President Trump continued,

3 “The free market is a wonderful thing. It’s amazing how it can work.”

4
5 21. In addition, and on a roll, the former President, Donald J. Trump, wanted to take
6 advantage of the low oil prices on behalf of the United States itself, stating that he could
7 now buy oil at \$20/barrel, or less, to fill the reserves of the United States. He later
8 instructed the Secretary of Energy, Dan Brouillette, to do so. The Secretary agreed to do as
9 the President said. However, he was made aware of the objectives of the oil company
10 Defendants and API and instead of purchasing the oil at low prices for the United States, he
11 simply took the Defendants’ excess oil off the market and stored it in the Strategic
12 Petroleum Reserve (SPR) in order to eliminate available supply.

13
14 22. After contacts with some of the Defendant oil companies, and API, the former
15 President agreed to meet with them to discuss the price war. The attitude of former
16 President Trump with regard to the very favorable results of the free market and the free
17 enterprise system by reason of the Saudi and Russia price war, changed dramatically and
18 turned toward seeking an agreement with Saudi Arabia and Russia to stop the price war
19 between them so that prices could be raised for oil and gasoline.

20
21 23. On either the afternoon of Wednesday, April 1, 2020, or on Thursday, April 2,
22 2020, former President Trump, at the request of the Defendants, spoke with Vladimir Putin
23 and with the Crown Prince of Saudi Arabia in an effort to stop the price war.

24
25 24. On the next day, Thursday April 2, 2020, after his conversations with Saudi Arabia
26 and Russia, the former President tweeted:

27 “Just spoke to my friend MBS (Crown Prince) of Saudi Arabia, who spoke
28 with President Putin of Russia, & I expect & hope that they will be cutting back
approximately 10 Million Barrels, and maybe substantially more which, if it

1 happens, will be GREAT for the oil & gas industry! ...Could be as high as 15
2 Million Barrels. Good (GREAT) news for everyone!”

3 25. On the next day, Friday, April 3, 2020, the former President met with the CEOs of
4 the Defendants and others in the Cabinet Conference Room in the White House. The people
5 who were present were as follows:

- 6 a) The former President of the United States, Donald J. Trump;
7 b) The American Petroleum Institute (API), by its Chief Executive Officer,
8 Mike Sommers;
9 c) Exxon Mobil Corporation, by its Chairman and Chief Executive
10 Officer, Darren Woods;
11 d) Chevron Corporation, by its Chairman and Chief Executive Officer,
12 Michael Wirth;
13 e) Phillips 66 Company, by its Chairman and Chief Executive Officer,
14 Greg Garland, who was to later serve as the CEO of API;
15 f) Occidental Petroleum, by its President and Chief Executive Officer,
16 Vicki Hollub;
17 g) Devon Energy Corporation, by its President and Chief Executive
18 Officer, David Hager;
19 h) Continental Resources, Inc., by its Chairman of the Board of Directors,
20 Harold Hamm;
21 i) Hilcorp Energy Founder and Chairman, Jeff Hildenbrand;
22 j) Energy Transfer Partners, by its Executive Chairman, Kelcy Warren;
23 k) The United States Secretary Department of Interior, by David
24 Bernhardt;
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- 1 l) The United States Secretary Department of Energy, by Dan Brouillette;
2 and
3 m) The Office of the U.S. Trade Representative, by Trade Representative,
4 Robert Lighthizer.
5

6 Others who were present at the introductory part of the meeting before the secret
7 meeting were:

- 8 n) Kevin McCarthy, United States Representative [R] California;
9 o) John Cornyn, United States Senator [R] Texas;
10 p) Ted Cruz, United States Senator [R] Texas; and
11 q) Dan Sullivan, United States Senator [R] Alaska.
12

13
14 26. Before the secret part of the former President's meeting with the CEOs of the
15 Defendants, and API, the President advised the CEOs that he would tell them about the
16 specifics of his conversations with the Crown Prince of Saudi Arabia and President
17 Vladimir Putin of Russia, in his effort to act as the facilitator to stop the price war so that the
18 US producers could raise the price of oil and gasoline.

19 27. After the secret meeting with the Defendant oil companies, the CEO of API, Mr.
20 Sommers, stated that the price war between Russia and Saudi Arabia, and the consequent
21 excess supply of oil, were the principal subjects of the meeting.
22

23 28. As a result of the meeting, it was understood that if the price war were stopped, the
24 Defendants would increase their prices for oil and gasoline.

25 29. On the following Monday and Tuesday, April 6 and 7, 2020, news articles
26 appeared in the Wall Street Journal and the New York Times, stating that Saudi Arabia and
27 Russia, as a condition of calling off the price war, required that the countries of North
28

1 America (the United States, Canada and Mexico), must also agree to cut production.

2 30. On Thursday, April 9, 2020, former President Trump signaled that there would be
3 a reduction in domestic production when he tweeted: “[T]here is so much production, no-
4 one knows what to do with it.”

5 31. As a “signal” to Saudi Arabia and Russia, that the United States itself would
6 cooperate in reducing the available oil supply on the market, Secretary of Energy, Mr.
7 Brouillette, “opened the Strategic Petroleum Reserve (SPR) to store excess oil from the U.S.
8 producers. And I am pleased to report that crude oil deliveries of 21.3 million barrels to the
9 SPR have been completed, a positive signal for the crude oil markets.”

10 32. Consequently, instead of filling the SPR with oil at very low prices for the benefit
11 of the United States, the Department of Energy, in furtherance of the combination and
12 conspiracy to withdraw oil supply from the market, simply stored over 20 million barrels of
13 the excess oil from the U.S. producers and took it off the market.

14 33. On the same day, Thursday, April 9, 2020, OPEC held an emergency meeting to
15 determine whether the price war would be called off. As a result of that emergency
16 meeting, OPEC+ (Saudi Arabia and Russia) agreed to call off the price war and further
17 agreed to cut the production of oil by 10 million barrels per day for at least a two-month
18 period.

19 34. API’s Sommers lauded the agreement as the result of “strong U.S. diplomacy and
20 reduced domestic production.” Mr. Sommers specifically stated that “this move will help
21 stabilize world oil markets.” The American oil companies had agreed to the demands of
22 Saudi Arabia and Russia. The cartel now included the Americans. It was, in effect and fact,
23 OPEC++ (OPEC plus Russia plus America).

24 35. On Friday, April 10, 2020, at the G-20 meeting, it was made clear by Russian
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1 President Vladimir Putin that everyone must reduce production of oil. He said that his
2 country made a deal with OPEC and the United States. He said that a collective cut of 10
3 million barrels a day would be needed to balance the market:

4 “We are all concerned about the way the situation is developing, everyone is
5 interested in joint and—I’d like to stress it—coordinated actions to ensure long-
6 term market stability.”

7 36. At that same meeting, the former Secretary of Energy for the United States, Dan
8 Brouillette, made the following statement, admitting that he actively participated in reducing
9 oil supply by taking surplus oil off the market:

10 “Speaking for my own country, the United States We estimate by the end
11 of this year, U.S. production will see a reduction of nearly 2 million barrels per
12 day. Some models show even more dramatic figures. For example, up to 3
13 million barrels per day.

14 * * *

15 “For full recovery to recur, we must stabilize world energy markets by putting
16 an end to this dangerous price decline.”

17 * * *

18 “We call on all nations to use every means at their disposal to help reduce
19 surplus.”

20 * * *

21 “For our part, the United States is taking action to open our Strategic Petroleum
22 Reserve to store as much oil as possible. This will take surplus oil off the
23 market at a time when commercial storage is filling up and the market is
24 oversupplied.”

25 * * *

26 “And we will look for more opportunities to ease the hurt felt by our
27 producers.”

28 * * *

“We want to restore price stability . . .”

37. Thus, the American oil companies agreed to cut production by 2 million barrels per
day (or 3 million barrels per day) by the end of the year as a quid pro quo for the cessation
of the price war, just as Russia and Saudi Arabia had demanded. In addition, the Secretary
of Energy aided and abetted the Defendants’ conspiracy by storing and taking off the market
more than 20 million barrels of their oil in the Strategic Petroleum Reserve (SPR).

1 38. By Easter Sunday, April 12, 2020, the deal was done. Competition in the oil
2 industry was eliminated. The former President and Secretary of Energy were facilitators.
3 There was no authority to extend any immunity whatsoever because there was no
4 Congressional sanction for any of this conduct to fix prices, which would be required as a
5 matter of law. *See, United States v. Socony Vacuum Oil Co. Inc.*, 310 U.S. 150 (1940).
6

7 39. Prices for oil and gasoline now began their steady rise by the summer and would
8 increase from 99 cents (or lower) to over \$7 per gallon within two years.

9 40. From the beginning of the conspiracy and as an integral part of its success, the plan
10 of the Defendant oil companies and API was to cajole and persuade former President Trump
11 into abandoning any notion of the free enterprise principles, and, instead, to convince his
12 “friends” Vladimir Putin of Russia and the Crown Prince of Saudi Arabia to end their price
13 war, and to commit to a substantial reduction of their production so that the prices for oil
14 and gasoline could increase to the substantial benefit of all producers, and to the substantial
15 and catastrophic detriment of all consumers, and others who rely on oil and gasoline in their
16 businesses, including, commuters, vacationers, and citizens just driving to the store.
17

18 41. These oil company Defendants are no strangers to agreements with their
19 competitors to eliminate supply in order to increase prices. They have abused their size on
20 numerous occasions. For example, in 1928 under the so-called “As-Is Agreement,” which
21 none of them signed, but which all of them adhered to, the object was to cut production and
22 to take excess supply off the market in order to raise prices. In 1935, they did the same
23 thing again, and were criminally convicted for it. *United States v. Socony Vacuum Oil Co.*
24 *Inc.*, 310 U.S. 150 (1940).
25

26 42. The Defendants used the former President of the United States as a facilitator - see
27 Congressional testimony of Daniel Brouillette - to obtain agreement from Saudi Arabia and
28

1 Russia to cut oil production, along with the American Defendants. The acknowledged
2 effect of these cuts was to increase the price of oil and gasoline.

3 43. Thus, the Defendant American Oil Companies agreed among themselves, and with
4 Saudi Arabia and Russia, to cut the production of oil, to remove and store excess oil supply,
5 to limit future exploration and production of oil, and to stop the price war that had erupted
6 between Saudi Arabia and Russia, all for the purpose and with the intended effect to raise
7 the price of oil and gasoline and other fuels in the United States and elsewhere.

8 44. By reason of these agreements, the price of oil and gasoline was substantially
9 increased, just as the Defendants and co-conspirators had anticipated. Moreover, because of
10 the importance of fuel prices in the economy of the United States, a 50% contributor to
11 inflation, the Defendants and co-conspirators reasonably foresaw that their agreement would
12 ignite the fire of inflation throughout the country. In the absence of these agreements, the
13 price of oil and the price of gasoline would be substantially less than what they have
14 become as a result of these agreements, and inflation would have been far less, if non-
15 existent.

16 45. This is a private antitrust suit brought under Sections 4 and 16 of the Clayton
17 Antitrust Act (15 U.S.C. §§ 15, 26) for actual and potential damages caused by, and for
18 injunctive relief, including divestiture and disgorgement, made necessary by, the
19 Defendants' past, present and threatened continuing violations of Sections 1 and 2 of the
20 Sherman Antitrust Act (15 U.S.C. §§ 1, 2), and the substantial elimination of competition by
21 reason of the Defendants violation of the Section 7 of the Clayton Antitrust Act (15 U.S.C.
22 §18).

23 46. Plaintiffs seek damages caused by reason of these violations and, in addition, seek
24 injunctive relief, including divestiture and disgorgement, against this conduct as it continues
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1 to substantially threaten injury and ongoing damage to the Plaintiffs and to many others who
2 rely upon fuel in their businesses and in their daily lives.

3 47. Once the American Oil Defendants had met with former President Trump on April
4 3, 2020, they succeeded in convincing the former President to change his mind about the
5 benefits to the American economy of low-priced oil, and convinced him, contrary to the
6 interests of consumers, farmers, small businesses, and others, to support higher oil prices
7 and to initiate inflation. Former President Trump, in support of the American oil
8 companies, and in order to prop up the price of oil, made direct calls to Mohammed bin
9 Salman, the Crown Prince of Saudi Arabia, and Vladimir Putin, President of Russia,
10 wherein the former President with the advice, consent, and prodding of the American oil
11 companies promised that the American oil companies would reduce their production of oil
12 to meet the oil production limitations pledged by Russia and Saudi Arabia, all with the
13 purpose and intent of raising the price of oil and gasoline and other fuels “to restore price
14 stability” in the United States and indeed worldwide.

15 48. The OPEC++ deal was initially stalled by Mexico, but repeated calls between
16 former President Trump and Mexican President Andrés Manuel López Obrador, as well as
17 Saudi Crown Prince Mohammed bin Salman and Russian President Vladimir Putin,
18 succeeded in finalizing the agreement. The former President of the United States, with the
19 consent of the Defendant American Oil companies, promised to reduce production in the
20 United States by some 250,000 to 300,000 barrels of oil a day in order to help Mexico reach
21 the 400,000 barrel a day reduction demanded by Saudi Arabia and Russia.

22 49. By reason of these agreements, the price for a barrel of oil has substantially risen
23 from less than \$20.00 per barrel to over \$100.00 per barrel.

24 50. By reason of these agreements, the price of a gallon of gasoline has risen from the
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1 former President's acknowledged "99 cents per gallon and lower" to over \$4.00 per gallon
2 for regular and \$5.00 for premium, and now approaching \$6.00 or \$7.00 per gallon, all as
3 intended by the co-conspirators. The fact that the price of a gallon of gasoline would
4 continue to increase substantially was predicted by Harold Hamm, Chairman and CEO of
5 Continental Resources, and by the former President, Donald J. Trump, in November of
6 2020.
7

8 51. As a consequence of these increases that have resulted from the Defendants'
9 agreement to cut production and join the agreements with Saudi Arabia and Russia, any
10 company that purchased oil or gasoline or fuel on the basis of dollars per barrel the damage
11 since March and April of 2020 to today is at least \$80.00 per barrel.
12

13 52. For any person who purchased gasoline on the basis of dollars per gallon, the
14 damage since March and April of 2020 to today is at least \$3.00 to \$6.00 per gallon.
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16 53. Because of the Defendants' price fixing, each of the Defendants announced the
17 largest profits that they ever had in their history. It was also revealed that they paid no
18 taxes, and indeed some of them are entitled to rebates.
19

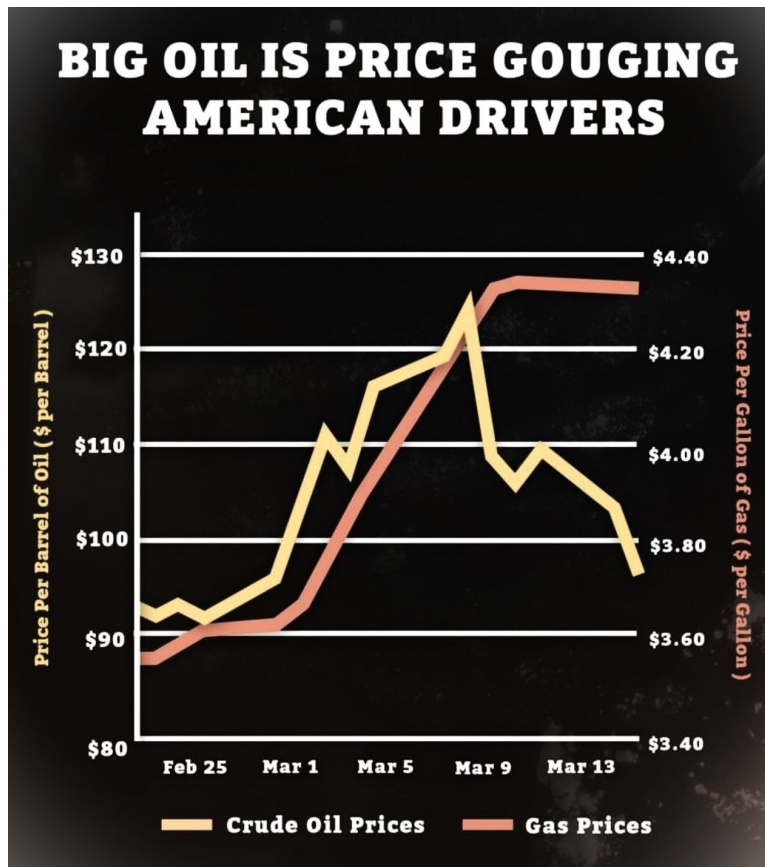
20 54. Under the principle that "a wrongdoer cannot profit by its own wrongdoing," the
21 Defendants' profits flowing from the combination and conspiracy must be disgorged.
22

23 55. The Supreme Court on many occasions has stated that "size carries with it the
24 opportunity for abuse which is not to be ignored when it is shown to have been utilized in
25 the past." The Defendants' abuse of their size in this case cannot be ignored. Consequently,
26 in order to ensure that the Defendants cannot profit by their own wrongdoing, orders of
27 disgorgement must issue.
28

56. Also, in order to restore competition among oil companies in the United States,
orders of divestiture must issue that separate Exxon from Mobil; Chevron from Texaco,

1 Phillips from Conoco; and any acquisitions or mergers by Occidental Petroleum, Devon
 2 Energy, Energy Transfer LP, Hilcorp Energy Company, and Continental Resources done
 3 either in 2018 and 2019. These unlawful acquisitions have contributed substantially to the
 4 ease with which these companies entered into the combination and conspiracy in 2020.

5
 6 57. Because of the violations alleged, the Defendant oil companies have complete
 7 control over the oil industry in the United States. As one example of their power to fix
 8 prices and exclude competition is the following chart which demonstrates that the
 9 Defendants are now charging high prices for gasoline that do not even have any relationship
 10 to the descending price of crude oil.



58. Because of these artificial and conspiratorial increases, and because fuel prices make up as much as 50% of the rate of inflation from March of 2020 to the present, the

1 economy of the United States has been encumbered by a substantial increase in the price of
 2 other commodities and services dependent directly or indirectly upon the cost of fuel,
 3 including food, clothing, transportation, manufacturing, distribution and retail services.
 4

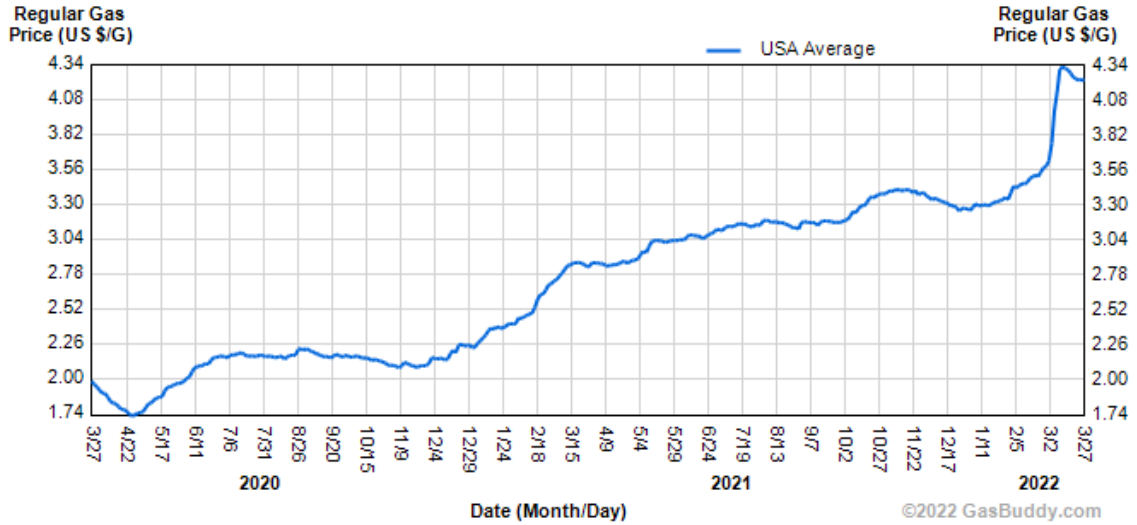
5 59. By reason of the unlawful combination and conspiracies of the American oil
 6 company Defendants, the National and California average retail prices increased
 7 substantially over the last two years, as noted below.

8 **Retail Gas Price Averages -**
 9 **California & USA**

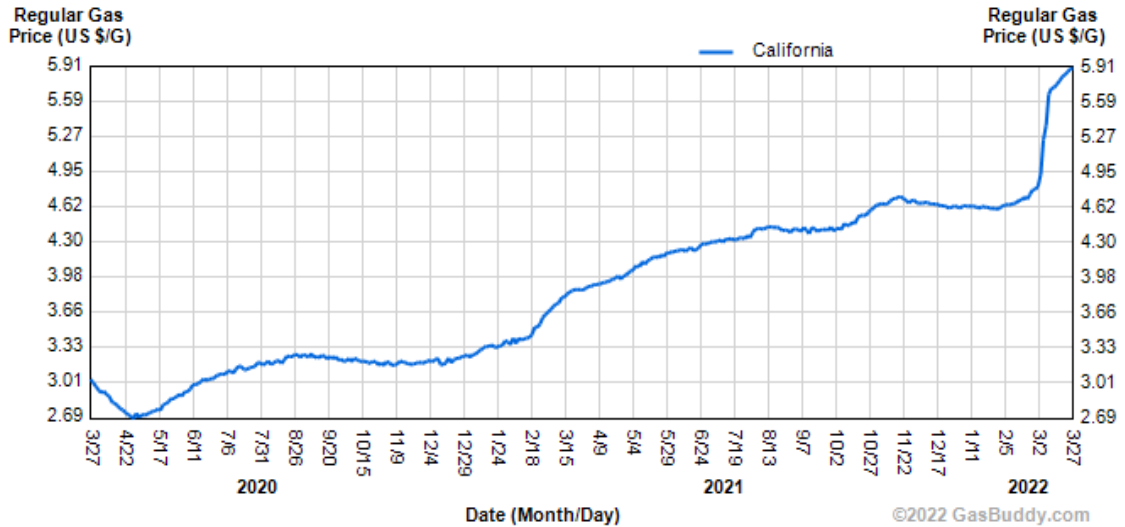
10	Date	CA Retail Price	USA Retail Price
11	April 30, 2020	\$2.82	\$1.77
12	May 31, 2020	\$2.77	\$1.96
13	June 30, 2020	\$2.97	\$2.12
14	July 31, 2020	\$3.10	\$2.17
15	August 31, 2020	\$3.16	\$2.18
16	September 30, 2020	\$3.17	\$2.16
17	October 31, 2020	\$3.14	\$2.14
18	November 30, 2020	\$3.12	\$2.12
19	December 31, 2020	\$3.14	\$2.24
20	January 31, 2021	\$3.26	\$2.39
21	February 28, 2021	\$3.43	\$2.63
22	March 31, 2021	\$3.78	\$2.86
23	February 28, 2021	\$3.43	\$2.87
24	March 31, 2021	\$3.78	\$2.85
25	April 30, 2021	\$3.91	\$2.87
26	May 31, 2021	\$4.06	\$3.02
27	June 30, 2021	\$4.18	\$3.09
28	July 31, 2021	\$4.25	\$3.13
	August 31, 2021	\$4.31	\$3.14
	September 30, 2021	\$4.31	\$3.17
	October 31, 2021	\$4.40	\$3.38
	November 30, 2021	\$4.59	\$3.39
	December 31, 2021	\$4.59	\$3.27
	January 31, 2022	\$4.58	\$3.32
	February 28, 2022	\$4.66	\$3.60
	March 21, 2022	\$5.85	\$4.25

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24 Month Average Retail Price Chart



24 Month Average Retail Price Chart



60. In the absence of these alleged agreements, the price of oil and gasoline would be substantially less than it was in April of 2020, and inflation would be substantially lower, if non-existent, at the present time.

JURISDICTION

61. This Court has subject matter jurisdiction of the federal antitrust claims asserted in this action under 15 U.S.C. §§ 15 and 26, and 28 U.S.C. §§ 1331 and 1337.

62. Plaintiffs have paid more for gasoline to Defendants than they would have paid in a competitive market within the United States.

1 63. The Court has personal jurisdiction over the Defendants because all Defendants are
2 domiciled and/or are found within the United States, and venue is proper in this District
3 under 15 U.S.C. § 22, and under 28 U.S.C. § 1391. Defendants transact business and are
4 found within this District.

5 64. Defendants have engaged in, and their activities have substantially affected the
6 interstate and foreign trade and commerce of the United States. Defendants all provide a
7 range of products and services that are intentionally marketed, distributed, sold, and offered
8 to consumers throughout the fifty states and across state lines and in foreign countries.

9 65. The restraints alleged in this Complaint affect and are a burden on the free and
10 open trade between and among the States of the United States and the trade and commerce
11 between and among the United States and foreign nations.

12
13 **THE PARTIES**

14
15 66. Each of the following Plaintiffs named below is an individual and a citizen of the
16 State listed as the address for each such Plaintiff, and in the four years prior to the filing of
17 this action, each Plaintiff was a consumer of gasoline:

18
19 Rosemary D'Augusta, Burlingame, CA
20 Brenda Davis, Dallas, TX
21 Pamela Faust, Cincinnati, OH
22 Carolyn Fjord, Sacramento, CA
23 Donald C. Freeland, Cincinnati, OH
24 Donald Frye, Colorado Springs, CO
25 Gabriel Garavanian, Boston, MA
26 Valarie Jolly, Dallas, TX
27 Michael Malaney, Grand Rapids, MI
28 Lenard Marazzo, Reno, NV
Lisa McCarthy, Naples, FL
Timothy Nieboer, Kalamazoo, MI
Deborah Pulfer, Sidney, OH
Bill Rubinsohn, Philadelphia, PA
Sondra Russell, Waco, TX
June Stansbury, Reno, NV

1 Clyde Duane Stensrud, Seattle, WA
2 Gary Talewsky, Boston, MA
3 Pamela Ward, Holmes Beach, FL
4 Christine M Whalen, New Orleans, LA
5 Mary Katherine Arcell, New Orleans, LA
6 Jose Brito, Reno, NV
7 Jan-Marie Brown, Reno, NV
8 Jocelyn Gardner, Colorado Springs, CO

9 67. Plaintiffs are consumers of gasoline, and each has purchased gasoline from
10 Defendants' company-owned stores and/or other gas stations that have distributed gasoline
11 produced by Defendants, and/or their co-conspirators, and they have been harmed and
12 continue to be threatened with harm and damage in that they have been deprived of price
13 competition that they otherwise would have enjoyed but for the Defendants' anticompetitive
14 agreement to reduce the production of oil in order to raise the price of oil and gasoline.

15 68. Plaintiffs have both directly and indirectly paid Defendants and/or the co-
16 conspirators for gasoline whose prices have been inflated by the Defendants' conspiracy.

17 69. Defendant American Petroleum Institute (API) is a non-profit trade association,
18 and is a non-profit corporation organized and existing under the laws of the District of
19 Columbia. It is headquartered in Washington DC. It is comprised of members who are
20 engaged in the production, distribution and sale of oil. API served as a forum and a
21 facilitator whereby they have the opportunity and use that opportunity to conspire against
22 the public and have contrived means to raise prices. In this case, they did just that.

23 70. The Chairman of API from 2018 to 2020 was Darren Woods, the Chairman and
24 Chief Executive Officer of Exxon Mobil.

25 71. The Chairman of API from 2020 to 2022 was Greg Garland, Chairman and Chief
26 Executive Officer of Phillips 66.

27 72. The Chairman of API from January 2022 to present is Michael Wirth, Chairman
28

1 and Chief Executive Officer of Defendant Chevron. Each of these executives also served on
2 the executive committee of API, and had the opportunity and used this opportunity to
3 stabilize prices.

4 73. Defendant Exxon Mobil Corporation is a corporation organized and existing under
5 the laws of the State of New Jersey. It is the largest oil and gas production company in the
6 world. It is headquartered in Irving, Texas. Exxon revenue for the twelve months ending
7 December 31, 2021, was \$285 billion, a 57% increase year-over-year. Exxon gross profit
8 for the twelve months ending December 31, 2021, was \$55 billion, a 78% increase year-
9 over-year. Defendant Exxon Mobil is one of the successor companies of Standard Oil
10 Company after the mandated break up in 1911 by the Supreme Court of the United States in
11 *Standard Oil Co. of New Jersey v. United States*, 221 U.S. 1 (1911).

12
13
14 74. Defendant Chevron Texaco Capital Corporation is a corporation organized and
15 existing under the laws of the State of California. It is headquartered in San Ramon,
16 California. Chevron revenue for the twelve months ending December 31, 2021, was \$162
17 billion, a 72% increase year-over-year. Chevron gross profit for the twelve months ending
18 December 31, 2021, was \$95 billion, a 140% increase year-over-year. Defendant Chevron
19 is one of the successor companies of Standard Oil Company after the mandated break up in
20 1911 by the Supreme Court of the United States in *Standard Oil Co. of New Jersey v.*
21 *United States*, 221 U.S. 1 (1911).

22
23 75. Defendant Phillips 66 Company is a corporation organized and existing under the
24 laws of the State of Delaware. It is headquartered in Houston, Texas. Phillips 66 revenue
25 for the twelve months ending December 31, 2021, was \$111 billion, a 74% increase year-
26 over-year. Phillips 66 gross profit for the twelve months ending December 31, 2021,
27 was \$9.4 billion, a 46% increase year-over-year. Defendant Phillips 66 Company was
28

1 formerly ConocoPhillips which was a spin-off of Standard Oil Company after the mandated
2 break up in 1911 by the Supreme Court of the United States in *Standard Oil Co. of New*
3 *Jersey v. United States*, 221 U.S. 1 (1911).

4 76. Defendant Occidental Petroleum Corporation is a corporation organized and
5 existing under the laws of the State of Delaware. It is headquartered in Houston, Texas.
6 Defendant Occidental Petroleum Corporation is an American company engaged in
7 hydrocarbon exploration in the United States. Occidental Petroleum revenue for the twelve
8 months ending September 30, 2021, was \$22.2 billion, almost a 10% increase year-over-
9 year. Occidental Petroleum gross profit for the twelve months ending September 30, 2021,
10 was \$13.1 billion, a 15% increase year-over-year.

11 77. Defendant Devon Energy is a corporation organized and existing under the laws of
12 the State of Delaware. It is headquartered in Oklahoma City, Oklahoma. Defendant Devon
13 Energy is an independent energy company engaged primarily in the exploration,
14 development and production of oil, natural gas and natural gas liquids. Devon Energy
15 revenue for the twelve months ending December 31, 2021, was \$11 billion, a 147%
16 increase year-over-year. Devon Energy gross profit for the twelve months ending
17 December 31, 2021, was \$9.8 billion, a 163% increase year-over-year.

18 78. Defendant Continental Resources Inc. is a corporation organized and existing
19 under the laws of the State of Oklahoma. Defendant Continental Resources Inc. is an
20 American petroleum and natural gas exploration and production company. It is
21 headquartered in Oklahoma City, Oklahoma. Continental Resources revenue for the twelve
22 months ending December 31, 2021, was \$5.7 billion, a 121% increase year-over-year.

23 79. Defendant Energy Transfer LP is a company engaged in natural gas and propane
24 pipeline transport. It is organized under the laws of the State of Delaware and
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27
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1 headquartered in Dallas, Texas. Energy Transfer LP's revenue for the twelve months
2 ending September 30, 2021, was \$58.8 billion, a 38% increase year-over-year. Energy
3 Transfer LP's annual gross profit for 2020 was \$13.5 billion.

4 80. Defendant Hilcorp Energy Company is a corporation organized and existing under
5 the laws of the State of Texas. Defendant Hilcorp Energy Company is one of the largest,
6 privately held oil and gas exploration and production companies in the United States.

7 81. Various persons, partnerships, firms, and corporations not named as Defendants in
8 this lawsuit, and individuals, the identities of which and who are presently unknown, have
9 participated as co-conspirators with Defendants in the offenses alleged in this Complaint,
10 and have performed acts and made statements in furtherance of the illegal contracts,
11 combinations, and conspiracies. When and if these persons are discovered, the Plaintiffs
12 may seek to amend the Complaint to include them as co-conspirators.

13 **VIOLATIONS ALLEGED**

14 *First Claim for Relief*

15 *An Agreement to Reduce Production of Oil in Violation of the Sherman Antitrust Act § 1*

16 82. Plaintiff incorporates the allegations of paragraphs 1 through 81 above.

17 83. The Defendants combined and conspired to fix and stabilize prices by agreeing to
18 reduce production, store surplus oil, and engage in other acts designed for the purpose and
19 with the effect of increasing and stabilizing prices of oil and gasoline, all in per se violation
20 of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

21 *Second Claim for Relief*

22 *Conspiracy to Monopolize in Violation of the Sherman Antitrust Act § 2*

23 84. Plaintiff incorporates the allegations of paragraphs 1 through 83 above.

24 85. The Defendants have combined and conspired to suppress and eliminate actual and
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1 potential competition in the production and sale of oil and gasoline by agreeing to reduce
2 the production and to increase the price of oil and gasoline in the United States. The
3 Defendants have combined and conspired to suppress and eliminate the actual competition
4 between and among themselves and with Saudi Arabia and Russia in the production and
5 sale of oil and gasoline.
6

7 86. By reason of their combination and conspiracy to cut production and raise the
8 prices of oil and gasoline, the Defendants exercised their power to fix prices and exclude
9 competition, and they did both as factually alleged above.

10 87. The Defendants' anticompetitive practices violate Section 2 of the Sherman
11 Antitrust Act, 15 U.S.C. § 2.

12
13 *Third Claim for Relief*
14 *Anticompetitive Mergers and Acquisitions*

15 88. Plaintiff incorporates the allegations of paragraphs 1 through 87 above.

16 89. The top three major oil companies in the United States, Exxon Mobil, Chevron
17 Texaco, and Phillips 66, are the result of the unlawful mergers or acquisitions. In each case,
18 the mergers and acquisitions substantially lessened competition and tended to create a
19 monopoly in the production, distribution and sale of oil and gasoline.

20 90. As noted above, these three Defendants acted in combination to reduce production
21 and to increase prices of oil and gasoline. In doing so, they achieved the status as a group to
22 be able to fix prices and exclude competition. They have abused their size. They have
23 previously engaged in combinations and conspiracies to limit production and to increase
24 prices. They have a contumacious disregard of the antitrust laws, and have demonstrated by
25 the facts alleged above that they have no compunction about violating the law if and when it
26 pleases them to do so, and that they have repeatedly done so as an abuse of the size and
27 power they have achieved as a result of these unlawful mergers.
28

1 91. As a consequence of these mergers and acquisitions and the ease with which The
2 Defendants cooperate with each other on matters that are clearly unlawful, it is necessary
3 that they be required to split up into individual companies in an effort to restore competition
4 in the oil industry.
5

6 **REQUEST FOR RELIEF**

7 92. To remedy these illegal acts, Plaintiffs request that the Court find as follows:

8 a. Adjudge and decree that the alleged combination and conspiracy
9 between and among the Defendants, and the combination and conspiracy between and among
10 the Defendants, Saudi Arabia and Russia, are illegal combinations and conspiracies in
11 violation of Section 1 of the Sherman Antitrust Act, in that they combined and conspired to
12 cut production and raise prices;
13

14 b. Adjudge and decree that the alleged combination and conspiracy
15 between and among the Defendants, and the combination and conspiracy between and among
16 the Defendants, Saudi Arabia and Russia are illegal combinations and conspiracies in violation
17 of Section 2 of the Sherman Antitrust Act, in that they achieved the unlawful power to exclude
18 actual and potential competition and to fix prices and did so;

19 c. Enter judgment in favor of Plaintiffs and against the Defendants and
20 award Plaintiffs threefold the amount of the damages as awarded by the jury and award
21 Plaintiffs their reasonable attorneys' fees and costs, and any pre-judgment and post-judgment
22 interest as permitted by law;
23

24 d. Enjoin the Defendants from entering into any combination or
25 conspiracy to fix or stabilize prices, including any agreements or understanding to limit
26 production, distribution or sale of oil or gasoline;
27
28

1 e. Enjoin the Defendants from entering into any combination or
2 conspiracy with either Saudi Arabia or Russia, or both, to fix or stabilize prices, including any
3 agreements or understanding to limit production, distribution or sale of oil or gasoline;

4 f. Require the Defendants to disgorge the profits earned from their
5 violations of Sections 1 and 2 of the Sherman Antitrust Act, the amounts of which can be
6 determined by the jury;

7 g. Enter any other preliminary or permanent injunctive relief necessary
8 and appropriate to restore competitive conditions in the markets affected by the Defendants'
9 unlawful conduct; and
10

11 h. Enter an order requiring that Exxon be divested of Mobil; Chevron be
12 divested of Texaco; Phillips 66 be divested of Conoco; and that all of them be split up into
13 individual companies as made necessary to restore competition in the oil industry;

14 i. Enter any additional relief the Court finds just and proper.
15

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands a trial by jury as its right under the Seventh Amendment to the
18 Constitution of the United States or as given by statute. Fed. R. Civ. P. 38.

19 Dated: March 28, 2022

ALIOTO LAW FIRM

20
21 By: /s/ Joseph M. Alioto

22
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CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

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

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

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

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

Large table with columns: 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):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

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

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

JUDGE

DOCKET NUMBER

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

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

DATE

SIGNATURE OF ATTORNEY OF RECORD

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

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

- I. a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
 - c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.