

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**VOCES DE LA FRONTERA, INC.,
RAMIRO VARA, OLGA VARA, JOSE PEREZ,
and ERICA RAMIREZ,**

Plaintiffs,

vs.

**Civil Action
Case No. _____,
(Three-judge panel requested)**

**Members of the Wisconsin Government
Accountability Board, each only in his
official capacity: MICHAEL BRENNAN,
DAVID DEININGER, GERALD NICHOL,
THOMAS CANE, THOMAS BARLAND,
TIMOTHY VOCKE, and KEVIN KENNEDY,
Director and General Counsel for the
Wisconsin Government Accountability Board,**

Defendants.

**PLAINTIFFS' ORIGINAL COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF UNDER THE VOTING RIGHTS ACT OF 1965**

JURISDICTION AND VENUE

1. This is an action for a declaratory judgment and for injunctive relief under Section 2 of the Voting Rights Act, 42 U.S.C. §1973, seeking to redress unlawful dilution of voting strength of Latino residents of the 8th Assembly District located on the near south side of the City of Milwaukee in the State of Wisconsin. Plaintiffs further allege that the legislative redistricting plan adopted by the Legislature of the State of Wisconsin on July 20, 2011, and signed by the Governor on August 9, 2011, unlawfully deprives the Latino community of Milwaukee's near

south side of an effective voting majority in any of the newly created assembly districts despite the fact that the Latino community is sufficiently numerous and geographically compact to allow for at least one assembly district with an effective voting majority. As a result of the redistricting plan, Latino citizens have less opportunity than other members of the electorate to participate in the political process and to elect candidates of their choice to the Legislature of Wisconsin.

2. Jurisdiction over this action is conferred on the Court by 28 U.S.C. §§ 1331, 2201, 2202; and 42 § 1973(c). As this complaint alleges violations of federal law as a result of the reapportionment of legislative districts by Wisconsin's Legislature, a three judge court is required under 28 U.S.C. § 2284.

3. Venue is proper because the violations of the Plaintiffs' voting rights complained of herein are being committed and continue to occur in the City of Milwaukee, Wisconsin, within the Eastern District of Wisconsin;

PARTIES

4. The Plaintiff, Voces de la Frontera, Inc., is a membership based organization that seeks to advance the civil rights, political influence and economic conditions of Wisconsin's Latino community. In light of these objectives, Voces de la Frontera is committed to enforcing the protection afforded by the Voting Rights Act of 1965 to its members, as well as to the larger Latino community and all citizens in general. Voces de la Frontera is a not for profit corporation organized under the laws of the State of Wisconsin with its principal place of business at 1027 South 5th Street, Milwaukee, Wisconsin

5. The Plaintiff, Ramiro Vara, is a Latino citizen of the United States of Mexican American national origin and a resident of the City of Milwaukee, residing at [REDACTED], Milwaukee, Wisconsin.

6. The Plaintiff, Olga Vara, is a Latina citizen of the United States of Puerto Rican national origin and a resident of the City of Milwaukee, residing at [REDACTED] Milwaukee, Wisconsin.

7. The Plaintiff, Jose Perez, is a Latino citizen of the United States of Puerto Rican national origin and a resident of the City of Milwaukee, residing at [REDACTED], Milwaukee, Wisconsin.

8. The Plaintiff, Erica Ramirez, is a Latina citizen of the United States of Mexican national origin and a resident of the City of Milwaukee, residing at [REDACTED] Milwaukee, Wisconsin.

9. The Defendant, Hon. Michael Brennan, is a resident of Marshfield, Wisconsin, and being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

10. The Defendant, Hon. David Deninger, is a resident of Monroe, Wisconsin, and being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

11. The Defendant, Hon. Gerald Nichol, is a resident of Madison, Wisconsin, and being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

12. The Defendant, Hon. Thomas Cane, is a resident of Wausau, Wisconsin, and

being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

13. The Defendant, Hon. Thomas, Barland, is a resident of Eau Claire, Wisconsin, and being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

14. The Defendant, Hon. Timothy Vocke, is a resident of Rhinelander, Wisconsin, and being sued in his official capacity as a member of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

15. The Defendant, Kevin Kennedy, is a resident of Dane County, Wisconsin, and being sued in his official capacity as the Director and General Counsel of the Wisconsin Government Accountability Board and as such is subject to the provisions and requirements of §2 of the Voting Rights Act of 1965.

16. The Government Accountability Board, is an independent agency of state government created pursuant to §15.60, Wis. Stats., and is vested with the responsibility for the administration of chapters 5 to 12 of the Wisconsin Statutes and other laws relating to the conduct of elections, including the election of representatives to the Assembly.

BACKGROUND

17. The statistical analysis by the Wisconsin Legislative Reference Bureau of the 8th Assembly District as promulgated on May 30, 2002, by U.S. District Court for the Eastern

District of Wisconsin, indicated a total population in the year 2000 of 54,074 of which 33,602 were Latino for a Latino population percentage of 62% at that time.

18. On December 21, 2010, the U.S. Census announced and certified the actual enumeration of the population of the State of Wisconsin as of April 1, 2010, at 5,686,986, representing a slight increase in the total population of the State. However, the 2010 census data also demonstrated that the Latino population of the City of Milwaukee had grown from 71,646 in 2000 to 103,007 in 2010, representing an increase of approximately 44%.

19. The data from the April 2010 census indicates that the area of most rapid growth of Milwaukee's Latino community has been on the City's near south side centered in the area of the 8th Assembly District.

20. Based on the April 2010 census, the ideal re-apportioned population for each of the State's assembly districts is now 57,444 persons.

21. On July 20, 2011, the Wisconsin Legislature adopted a redistricting plan in which the 8th Assembly District was assigned a re-apportioned total population of 57,246 of which 37,750 are Latino, for a Latino population percentage of 65.9%. The redistricting plan also assigned to the adjacent 9th Assembly District a re-apportioned total population of 57,233 of which 34,647 are Latino, for a Latino population percentage of 60.53%. This division of the Latino community into two separate adjacent assembly districts dilutes the voting strength of the citizen voting age Latino voters well below 45% of all eligible voters in each district, thereby denying the Latino community an effective voting majority in either district. The division of the Latino community into two separate adjacent but diluted assembly districts also divides the Latino community's established business district in a way that fractures the cohesiveness of the community and ignores natural community boundaries.

22. The data from the April 2010 census and the annual American Community Survey indicate that the current population of the Latino community on Milwaukee's near south side in the vicinity of the re-apportioned 8th and 9th Assembly Districts as adopted by the Legislature is now sufficiently large and geographically compact to allow for one Assembly District with an effective voting majority of voting age Latinos who are United States citizens.

23. Over the course of the last decade, the political and electoral conduct of Latino voters on Milwaukee's near south side in the vicinity of the recently re-apportioned 8th and 9th Assembly Districts demonstrates that the Latino community is politically cohesive.

24. Over the course of the last decade, the political and electoral conduct of non-Latino Caucasian voters on Milwaukee's near south side in the vicinity of the recently re-apportioned 8th and 9th Assembly Districts demonstrates the existence of a pattern of ethnically polarized voting, in that said non-Latino Caucasian voters usually vote as a block, in the absence of special circumstances, to defeat the preferred candidates of the Latino voters.

25. Milwaukee's Latino community bears the socioeconomic effects of historic discrimination in employment, education, health, and other areas, and their depressed socioeconomic status hinders their ability to participate in the electoral process on an equal basis with other members of the electorate.

26. The State of Wisconsin employs voting practices and procedures such as photographic identification requirements which will disproportionately affect Latino citizens and thereby further hinder the ability of Latino citizens to participate in the electoral process on an equal basis with other members of the electorate.

SECTION 2 VOTING RIGHTS CLAIM

27. The Plaintiffs incorporate by reference paragraphs 1 through 26 above and re-allege said paragraphs as if fully set forth herein.

28. The Voting Rights Act of 1965, 42 U.S.C. § 1973, precludes the State of Wisconsin from minimizing the opportunities for minority groups, including Latino citizens, to participate in the political process and in the context of the recent re-apportionment, said statute precludes the State from fracturing minorities into several districts to deprive them of an effective voting majority in situations where there exists a history of racially polarized voting.

29. The redistricting plan adopted by the Wisconsin Legislature on July 20, 2011, fails to create any assembly district with an effective Latino voting majority, despite the significant growth of the Latino community to such a degree that the creation of geographically compact district with an effective Latino voter majority is possible.

30. The redistricting plan adopted by the Wisconsin Legislature on July 20, 2011, fractures the Latino community's voting strength by dividing the Latino community into two districts in which the Latino citizen voting age population is substantially below fifty percent of the voting age population.

31. At all times relevant to the allegations of this Complaint, the Wisconsin Legislature, the Governor of the State of Wisconsin, and the Defendants have acted under color of State law and in complete disregard of the Plaintiffs' rights under the Voting Rights Act.

32. If not otherwise enjoined or directed, the Defendants will carry out their statutory responsibilities for the conduct of legislative elections during the fall of 2012, including elections in the 8th and 9th Assembly Districts based on the impermissibly drawn boundaries, which will irreparably harm the Plaintiffs by violating their rights protected by the Voting Rights Act of

1965.

33. In the absence of legislatively enacted and statutorily permissible assembly districts in the vicinity of the Latino community on Milwaukee's near south side, any elections conducted by the Government Accountability Board in the 8th and 9th Assembly Districts will deprive the Plaintiffs of their civil rights under color of law in violation of 42 U.S.C. §§ 1973, 1983, and 1988.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Court:

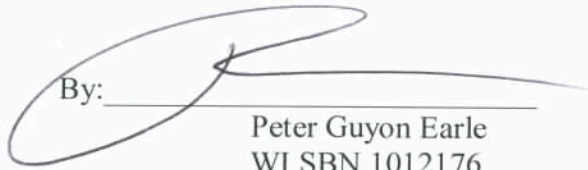
- a. Enter a declaratory judgment finding and declaring that the 8th and 9th Assembly Districts as designated in the legislative redistricting plan adopted by the Wisconsin Legislature on July 20, 2011, violate the Plaintiffs' rights protected by the Voting Rights Act of 1965;
- b. Grant a permanent injunction enjoining the Defendants, including the Government Accountability Board, its employees and agents, including the election officials of the City of Milwaukee and surrounding municipalities and counties, from administering, implementing, preparing for and in any way permitting the nomination or election of candidates to the Assembly or Senate under the current legislative district boundaries adopted by the Wisconsin Legislature on July 20, 2011, and signed by the Governor on August 9, 2011, for the 2012 primary election and November 6, 2012 general election;
- c. In the absence of timely and expeditious action by the Wisconsin Legislature and the Governor to adopt and sign a revised redistricting plan, judicially establish a redistricting plan that remedies the violations of the Plaintiffs

rights under the Voting Rights Act and conforms to the requirements of the
U.S. and Wisconsin Constitutions in advance of the fall 2012 elections;

- d. Award attorneys' fees and costs incurred in this action; and
- e. Grant such other and further relief as this Court deems necessary and proper.

Dated at Milwaukee, Wisconsin, this 31st day of October, 2011.

THE LAW OFFICE OF PETER EARLE
Attorneys for the Plaintiffs

By: 
Peter Guyon Earle
WI SBN 1012176

Address:

839 North Jefferson Street
Suite 300
Milwaukee, WI 53202



THE LAW OFFICE OF JACQUELINE BOYNTON
Attorneys for the Plaintiffs

By: 
Jacqueline E. Boynton
WI SBN 1014570

Address:

2266 North Prospect Ave
Suite 505
Milwaukee, WI 53202



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.)

Place an "X" in the appropriate box: ☐ Green Bay Division ☒ Milwaukee Division

I. (a) PLAINTIFFS

Voces de la Frontera, Inc., Ramiro Vara, Olga Vara, Jose Perez, and Erica Ramirez

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Office of Peter Earle, LLC, 839 N. Jefferson St., #300, Mil. WI 53202
Law Office of Jacqueline Boynton, 2266 N. Prospect Ave., #505, Mil.

DEFENDANTS

Michael Brennan, David Deininger, Gerald Nichol, Thomas cane, Thomas Barland, Timothy Vocke, and Kevin Kennedy

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

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

Attorneys (If Known)
John B. Von Hollen, Maria S. Lazar, Wis. Dept. of Justice, Office of Attorney General, 17 W. Main St., PO Box 7857, Madison, WI 53707

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

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

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

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury PERSONAL INJURY ☐ 362 Personal Injury - Med. Malpractice ☐ 365 Personal Injury - Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 463 Habeas Corpus - Alien Detainee ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS - Third Party 26 USC 7609	☒ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 440 Other Civil Rights	☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition		

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):

42 USC § 1973 (three judge panel requested per 28 USC § 2284)

Brief description of cause:

unlawful dilution of voting rights of Latino community by Wisconsin redistricting plan

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 Stadtmueller, Wood, & Dow

DOCKET NUMBER 2:11-cv-562

DATE

10/31/2011

SIGNATURE OF ATTORNEY OF RECORD

 (Peter G. Earle)

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.