

# Exhibit A

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

13 DOMENICA BERMAN and ABYGAELE  
14 PIEHL, individually and on behalf of all  
15 others similarly situated,

16 *Plaintiffs,*

17 vs.

18 FORBES MEDIA LLC,

19 *Defendant.*

20 Case No. 3:24-cv-9287

21 **CLASS ACTION COMPLAINT**

- 22 1. Violations of the Invasion of Privacy  
23 Act, Cal. Penal Code § 638.51;  
24 2. Violations of the UCL, Cal. Bus. &  
25 Prof. Code §§ 17200, *et seq.*

26 **DEMAND FOR JURY TRIAL**

1 Plaintiffs Domenica Berman and Abygael Piehl, individually and on behalf of  
2 all others similarly situated, file this Class Action Complaint against defendant  
3 Forbes Media LLC (“Forbes” or “Defendant”), and in support state the following.  
4 All allegations, except those relating to Plaintiffs, are based on information and  
5 belief.

## 6 INTRODUCTION

7 1. This lawsuit concerns Forbes’s surreptitious collection and sharing of  
8 data from visitors to its website, Forbes.com.

9 2. Without first obtaining consent, Forbes uses various trackers on  
10 Forbes.com to collect and share information about its visitors—including their IP  
11 addresses and other unique identifiers—with third parties. These trackers include, but  
12 are not limited to, the LinkedIn Insight Tag, the Bing Universal Event Tracking  
13 (“UET”) Tag, and the Adnx Tracker, developed by LinkedIn, Microsoft, and Xandr,  
14 respectively (collectively, “the Trackers”). The collected information is used by  
15 Forbes and third parties to optimize targeted advertising campaigns.

16 3. The Trackers are “pen registers” under § 638.50(b) of the California  
17 Invasion of Privacy Act (“CIPA”) because they record “routing, addressing, or  
18 signaling information” transmitted by the devices of Forbes.com visitors. Cal. Penal  
19 Code § 638.50(b). The Trackers are also “trap and trace devices” under CIPA  
20 § 638.50(c) because they “capture the incoming electronic or other impulses that  
21 identify . . . dialing, routing, addressing, or signaling information reasonably likely  
22 to identify the source of a wire or electronic communication[.]” Cal. Penal Code  
23 § 638.50(c).

24 4. Forbes repeatedly violated CIPA § 638.51(a) by installing and using the  
25 Trackers without a court order.

26 5. Forbes’s installation and use of the Trackers also violates the California  
27 Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et seq.*  
28

**THE PARTIES**

1  
2 6. Plaintiffs’ IP addresses and other data and identifiers associated with  
3 their devices and browsers were collected, recorded, and shared by the Trackers when  
4 they visited Forbes.com. They bring California state law claims on behalf of similarly  
5 situated Forbes.com visitors (the “Class” as defined in Paragraph 64) arising from  
6 Forbes’s unauthorized use of the Trackers.

7 7. Ms. Berman is an adult living in Encinitas, California. She visited  
8 Forbes.com within the last year while in California.

9 8. Ms. Piehl is an adult living in San Diego, California. She visited  
10 Forbes.com within the last year while in California.

11 9. Defendant Forbes is a Delaware limited liability corporation, with a  
12 principal place of business in New Jersey. Forbes owns and operates Forbes.com,  
13 which covers news and information on business, investing, technology,  
14 entrepreneurship, leadership, and affluent lifestyles.

**JURISDICTION AND VENUE**

15  
16 10. Based on estimates derived from website traffic data, at least 2.2 million  
17 unique visitors (excluding registered users) visited Forbes.com from California  
18 during the last year. CIPA provides for \$5,000 in statutory damages per violation,  
19 resulting in potential damages exceeding \$11 billion. This Court has subject matter  
20 jurisdiction over this action under the Class Action Fairness Act (“CAFA”) because  
21 this is a class action in which the amount in controversy exceeds \$5 million exclusive  
22 of interest and costs, there are over 100 members of the putative Class, and at least  
23 one Class member is a citizen of a different state than Defendant. 28 U.S.C.  
24 § 1332(d).

25 11. This Court has personal jurisdiction over Forbes due to Forbes’s  
26 purposeful conduct originating from California and directed at California residents.  
27 Forbes has a physical office in San Francisco that is home to its second-largest  
28 editorial hub and its marketing and advertising operations. Forbes expanded its

1 physical presence in California to “better capitalize on integrated marketing and sales  
 2 opportunities and to expand its coverage of Silicon Valley and the larger tech  
 3 community.”<sup>1</sup> Forbes thus purposefully directed and marketed the content of its  
 4 website to California residents by, among other things, covering news about  
 5 California and expanding its marketing and sales operations in California. Forbes  
 6 also knew that it was tracking and sharing data about California residents visiting its  
 7 website and should have reasonably foreseen that their actions would cause harm  
 8 within California. Forbes also uses servers in San Francisco to host content for  
 9 Forbes.com, and, as explained below, those servers are responsible for sending  
 10 instructions to Forbes.com visitors’ browsers to share IP addresses and other unique  
 11 identifiers with third parties.

12 12. Venue is proper under 28 U.S.C. § 1391 because Defendant does  
 13 substantial business within this District and a substantial portion of Class members  
 14 were injured in this District.

15 13. Divisional Assignment: A substantial part of the events and conduct  
 16 which give rise to the claims herein occurred in San Francisco County.

## 17 **FACTUAL ALLEGATIONS ABOUT FORBES**

### 18 **I. The California Invasion of Privacy Act**

19 14. The California Invasion of Privacy Act is codified at California Penal  
 20 Code §§ 630 to 638. The Act begins with an expansive statement of purpose:

21 The Legislature hereby declares that advances in science and  
 22 technology have led to the development of new devices and techniques  
 23 for the purpose of eavesdropping upon private communications and that  
 24 the invasion of privacy resulting from the continual and increasing use  
 of such devices and techniques has created a serious threat to the free  
 exercise of personal liberties and cannot be tolerated in a free and  
 civilized society.

25 The Legislature by this chapter intends to protect the right of privacy of

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26  
 27 <sup>1</sup> *Forbes Media Expands San Francisco Presence with Move to New Office*, FORBES,  
 28 July 13, 2017, <https://www.forbes.com/sites/forbespr/2017/07/13/forbes-media-expands-san-francisco-presence-with-move-to-new-office/> (last accessed Dec. 16, 2024).

1 the people of this state.

2 Cal. Penal Code § 631.

3 15. Consistent with this purpose, under CIPA a person “may not install or  
4 use a pen register or trap and trace device without first obtaining a court order.” Cal.  
5 Penal Code § 638.51(a).

6 16. California Penal Code § 638.50(b) defines a “pen register” as “a device  
7 or process that records or decodes dialing, routing, or signaling information  
8 transmitted by an instrument or facility from which a wire or electronic  
9 communication is transmitted, but not the contents of a communication.”

10 17. California Penal Code § 638.50(c) defines a “trap and trace device” as  
11 “a device or process that captures the incoming electronic or other impulses that  
12 identify the originating number or other dialing, routing, addressing, or signaling  
13 information reasonably likely to identify the source of a wire or electronic  
14 communication, but not the contents of a communication.”

15 18. An “electronic communication” is defined as “any transfer of signs,  
16 signals, writings, images, sounds, data, or intelligence of any nature in whole or in  
17 part by a wire, radio, electromagnetic, photoelectric, or photo-optical system[.]” Cal.  
18 Penal Code § 629.51(a)(2).

19 19. A person injured by a CIPA violation may bring an action for \$5,000  
20 per violation. Cal. Penal Code § 637.2.

21 **II. Forbes’s Trackers Are “Pen Registers” and “Trap and Trace Devices”**  
22 **under CIPA.**

23 20. The process of visiting a website involves a series of electronic  
24 communications between the visitor’s browser and the website’s servers. When a  
25 person visits Forbes.com, their browser initiates a series of web requests to Forbes’s  
26 servers to retrieve the webpage and its associated resources. The servers respond by  
27 sending back the webpage’s HTML content along with other resources likes scripts,  
28

1 stylesheets, and images needed to display the page. As the browser processes these  
2 resources, additional requests may be triggered by scripts running on the page.

3 21. The Trackers are scripts of code that Forbes has integrated into its  
4 website. The code causes a visitor's browser to send the visitor's IP address, browser  
5 and device data, and other unique identifiers, such as cookies, with the developers of  
6 the Trackers while the visitor's browser is communicating with Forbes.com's  
7 servers.

8 22. An IP address is a unique numerical identifier, similar to a phone  
9 number, that helps devices connect to websites and services over the internet. When  
10 someone connects to the internet through their home internet service (like Comcast  
11 or AT&T) or a business internet service, that connection is assigned an IP address.  
12 This IP address is like a return address that shows a server where to send data. IP  
13 addresses can provide information about a website visitor's approximate geographic  
14 location, often down to a ZIP code level.

15 23. A cookie is a small text file stored on a device by a website to save  
16 information about a user's visit. Cookies can be used, for example, to authenticate  
17 users, for session management, to personalize user experiences, or for tracking.  
18 Cookies can monitor a person's behavior across visits to the same website or other  
19 websites for analytics or targeted advertising.

20 24. When combined with other data collected and shared by the Trackers,  
21 IP addresses contribute significantly to creating a detailed profile of a person's online  
22 activity. For example, IP addresses can be associated with information about the  
23 websites a person visits, the links they click, the time spent on each page, and even  
24 information submitted on online forms. Patterns of IP address usage, such as  
25 accessing the same webpage regularly on the same device from two distinct locations  
26 (*e.g.*, home and work), can even uniquely identify a specific individual, as few others  
27 would exhibit the same combination of access points. Over time, the collected data  
28 may reveal a person's interests, behaviors, routines, and personal characteristics such

1 as age, gender, occupation, marriage status, and income. This data is used to help  
2 companies target their own marketing efforts and to increase clicks and impressions  
3 generated through targeted advertisements hosted on their websites.

4 25. Forbes does not ask for or receive the consent of visitors before using  
5 the Trackers. In fact, Forbes.com begins the process of tracking and sharing a  
6 visitor's data as soon as the visitor opens a Forbes.com webpage. It is therefore  
7 impossible for visitors to knowingly provide consent before their browsers are  
8 instructed to share their IP addresses, unique identifiers such as cookies, and other  
9 information with third parties.

10 26. Forbes's use of the Trackers invades the privacy of visitors by sharing  
11 their IP addresses and other identifiers and information about their visit to  
12 Forbes.com with third parties for marketing and advertising purposes without their  
13 consent. The Trackers exacerbate this invasion of privacy by correlating data about  
14 a person's visit to Forbes.com with other data that the Trackers have collected, such  
15 as their LinkedIn profile and their visits to other websites which have embedded the  
16 same Trackers.

17 27. As alleged in more detail below, the Trackers are "pen registers" under  
18 CIPA because they capture and transmit Forbes.com visitors' IP addresses and other  
19 unique identifiers—*i.e.*, "routing, addressing, or signaling information"—when  
20 visitors' browsers and Forbes's servers exchange HTTP messages. Cal. Penal Code  
21 § 638.50(b). The Trackers also qualify as "trap and trace" devices because they  
22 capture and transmit "the identifying originating number or other dialing, routing,  
23 addressing, and signaling information" that is "reasonably likely to identify the  
24 source of a wire or electronic communication." Cal. Penal Code § 638.50(c). The  
25 Trackers do not collect the content of the communications between visitors' browsers  
26 and Forbes.com.

27  
28

1           28. Each tracker is a “device or process” within the meaning of Cal. Penal  
2 Code § 538.50(b) because it is part of a software and because it must be run on a  
3 computing device to function.

4           29. The devices that visitors use to visit Forbes.com—*i.e.*, computers,  
5 smartphones, and tablets—are “instruments” or “facilities” within the meaning of  
6 Cal. Penal Code § 638.50(b).

7           30. On information and belief, Forbes did not obtain a court order before  
8 installing or using the Trackers on its website.

9           **A. The LinkedIn Insight Tag**

10           31. LinkedIn is a social media platform for the business community.  
11 Individuals can open a LinkedIn account by providing their full name and email  
12 address, along with additional personal information.

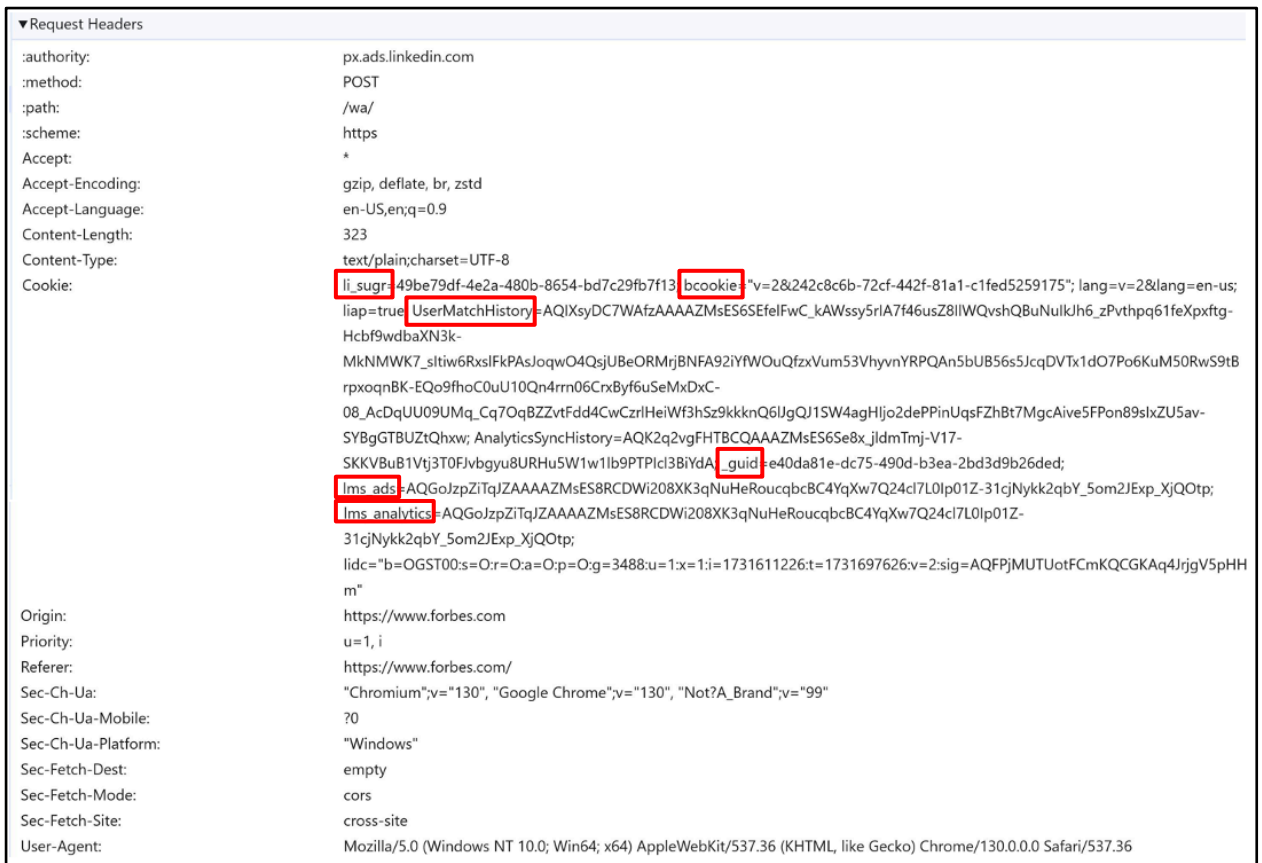
13           32. The LinkedIn Insight Tag is a piece of JavaScript code developed by  
14 LinkedIn that Forbes integrated into its website. After the LinkedIn Insight Tag is  
15 installed, the tag saves cookies on visitors’ web browsers that allow LinkedIn to  
16 match Forbes.com website visitors to their respective LinkedIn member accounts.  
17 LinkedIn’s website explains: “The LinkedIn Insight Tag enables the collection of  
18 data regarding members’ visits to your website, including the URL, referrer, IP  
19 address, device and browser characteristics (User Agent) and timestamp.”<sup>2</sup> This data  
20 allows LinkedIn to gather insights into its members’ interests, behaviors, and  
21 connections as they browse across the internet, for analytics and advertising  
22 purposes.

23           33. Forbes installed the LinkedIn Insight Tag on its website to track and  
24 improve the effectiveness of its advertisements. By tracking a visitor’s IP address  
25 and cross-referencing it with other information that LinkedIn has about the visitor,  
26 the LinkedIn Insight Tag allows Forbes to “track conversions, retarget website  
27

28 <sup>2</sup> *LinkedIn Insight Tag FAQs*, LINKEDIN,  
<https://www.linkedin.com/help/lms/answer/a427660> (last visited Dec. 16, 2024).

visitors, and learn aggregate insights about categories of members interacting with [Forbes’s] ads,”<sup>3</sup> as well as gather information about visitors’ “job titles, companies, industries, and more.”<sup>4</sup>

34. When a visitor initially visits Forbes.com, the visitor’s browser sends a web request to Forbes’s servers, and Forbes’s servers respond with instructions to store various cookies on the visitor’s browser. This is captured in the following image, which shows the cookies installed by the LinkedIn Insight Tag after a visitor opens Forbes.com:



35. According to LinkedIn, the cookies installed by the LinkedIn Insight Tag perform the following functions:

- li\_sugr: “Used to make a probabilistic match of a user’s identity”

<sup>3</sup> *Id.*

<sup>4</sup> *Insight Tag*, LINKEDIN, <https://business.linkedin.com/marketing-solutions/insight-tag> (last visited Dec. 16, 2024).

- 1 • bcookie: “Browser Identifier cookie to uniquely identify devices
- 2 accessing LinkedIn to detect abuse on the platform and diagnostic
- 3 purposes”
- 4 • UserMatchHistory: “LinkedIn Ads ID syncing”
- 5 • \_guid: “Used to identify a LinkedIn Member for advertising through
- 6 Google Ads”
- 7 • lms\_ads: “Used to identify LinkedIn Members off LinkedIn for
- 8 advertising”
- 9 • lms\_analytics: “Used to identify LinkedIn Members off LinkedIn for
- 10 analytics”<sup>5</sup>

11 36. LinkedIn explicitly encourages website owners to enable “enhanced  
12 conversion tracking” in the Insight Tag settings “to continue capturing signals where  
13 3<sup>rd</sup> party cookies are blocked.”<sup>6</sup> This means that LinkedIn could continue to receive  
14 data about Forbes.com visitors even if those visitors instructed their browsers to  
15 block third party cookies.

16 **B. The Universal Event Tracking (UET) Tag**

17 37. The UET Tag is another piece of tracking code that Forbes added to its  
18 website to send data about Forbes.com visitors to Microsoft so that Forbes can “track  
19 conversion goals and target audiences with remarketing lists.”<sup>7</sup> In other words, the  
20 UET Tag sends data to Microsoft when visitors take certain actions (such as reading  
21 an article or clicking an advertisement) so that Microsoft can target ads to those same  
22 visitors when they visit other websites.

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24 \_\_\_\_\_  
25 <sup>5</sup> *LinkedIn Cookie Table*, LINKEDIN, <https://www.linkedin.com/legal/l/cookie-table>  
(last accessed Dec. 16, 2024).

26 <sup>6</sup> *Insight Tag*, LINKEDIN, [https://business.linkedin.com/marketing-solutions/insight-](https://business.linkedin.com/marketing-solutions/insight-tag)  
27 [tag](https://business.linkedin.com/marketing-solutions/insight-tag) (last visited Dec. 16, 2024).

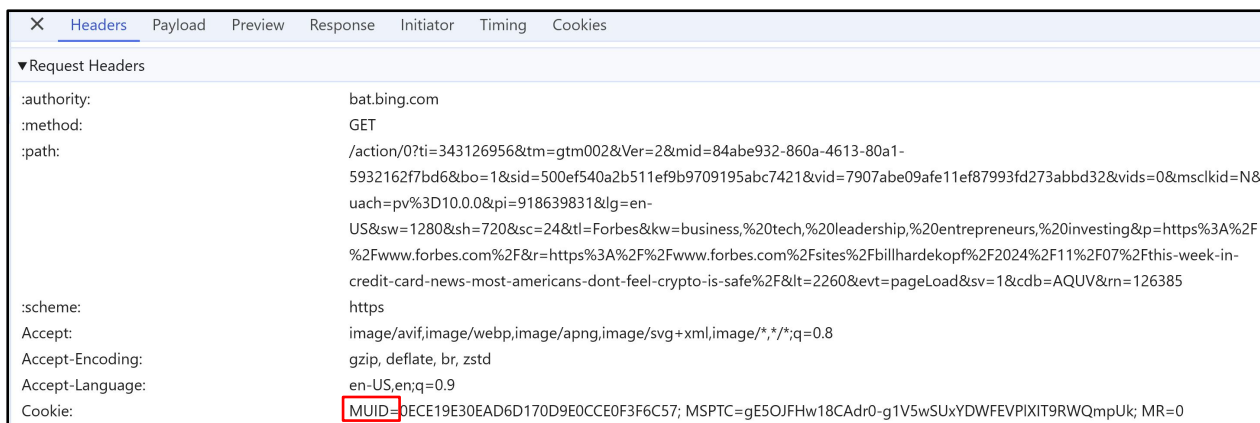
28 <sup>7</sup> *Universal Event Tracking*, MICROSOFT,  
<https://about.ads.microsoft.com/en/tools/performance/conversion-tracking> (last  
accessed Dec. 16, 2024).

1 38. Microsoft states that the UET Tag collects “the IP address and the  
2 Microsoft cookie” from visitors.<sup>8</sup>

3 39. When a visitor initially visits Forbes.com, the visitor’s browser sends an  
4 HTTP request to Forbes’s servers, and Forbes’s servers respond with instructions to  
5 store various cookies on the visitor’s browser, including the MUID cookie, and to  
6 send Microsoft the visitor’s IP address.

7 40. According to Microsoft, the MUID cookie is “a Microsoft cookie that  
8 contains a GUID [globally unique identifier] assigned to your browser. It gets set  
9 when you interact with a Microsoft property, including a UET beacon call or a visit  
10 to a Microsoft property through the browser.”<sup>9</sup> In other words, the UET Tag assigns  
11 a unique and persistent identifier to a specific browser to track a person’s activity  
12 across the internet over time, including their visits to Forbes.com.

13 41. The image below shows the MUID cookie installed by the UET Tag  
14 after a visitor opens a Forbes.com:



### 23 C. The Adnx Tracker

24 42. The Adnx Tracker was developed by software company Xandr, which  
25 was bought by Microsoft in 2021.

26

27 <sup>8</sup> *FAQ: Universal Event Tracking*, MICROSOFT,  
28 <https://help.ads.microsoft.com/#apex/ads/en/53056/2> (last accessed Dec. 16, 2024).

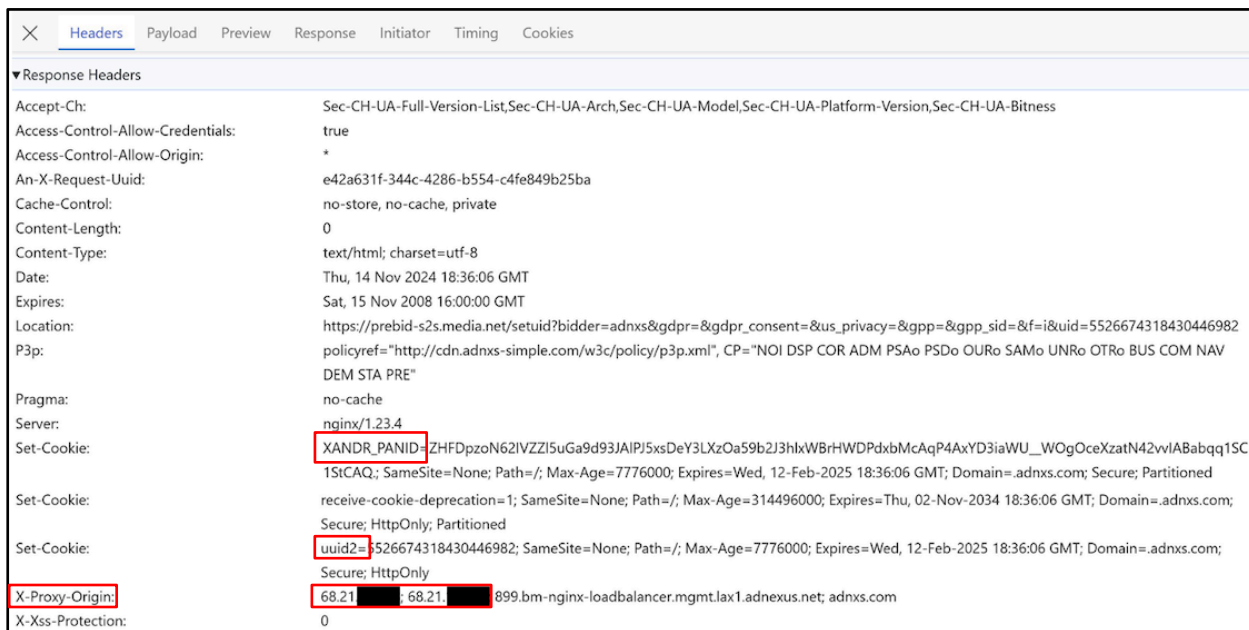
<sup>9</sup> *Id.*

1           43. Xandr is an advanced advertising company that helps companies buy  
2 and sell advertising space on websites. Xandr’s platform seeks to improve the  
3 efficiency and effectiveness of advertising across various channels. Their services  
4 include programmatic advertising, data analytics, and cross-screen media solutions.  
5 Microsoft explains on its website that “[w]ith Xandr, Microsoft can accelerate the  
6 delivery of digital advertising solutions for the open web by combining Microsoft’s  
7 audience understanding, technology and global advertising customer base with  
8 Xandr’s large-scale, data-driven platforms for advertising.”<sup>10</sup>

9           44. Essentially, the Adnx Tracker helps Forbes display targeted  
10 advertisements by using information gathered by Xandr about a specific visitor,  
11 including data about their visits to other websites that use the Adnx Tracker. This is  
12 enabled by the transmittal of the visitor’s IP address and other unique identifiers to  
13 Xandr.

14           45. The Adnx Tracker works through a tracking code added to the  
15 Forbes.com website that causes a visitor’s browser to send the visitor’s IP address to  
16 Xandr, which stores it in a cookie on the visitor’s device for future visits. The image  
17 below shows a visitor’s browser sending its IP address (*i.e.*, X-Proxy-Origin) in  
18 response to instructions sent by the Adnx Tracker:

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23  
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25  
26 \_\_\_\_\_  
27 <sup>10</sup> Mikhail Parakhin, *Microsoft to acquire Xandr to accelerate delivery of digital*  
28 *advertising and retail media solutions*, MICROSOFT ADVERTISING, Dec. 21, 2021,  
<https://about.ads.microsoft.com/en/blog/post/december-2021/microsoft-to-acquire-xandr-to-accelerate-its-digital-advertising-and-retail-media-solutions> (last accessed Dec. 16, 2024).



46. The above image also shows the installation of the “XANDR\_PANID” cookie, which originates from Xandr, and the “uuid2” cookie which remains the same even if a visitor’s IP address changes between sessions. This allows Xandr to persistently identify the same visitor across sessions even if they change networks or locations.

### III. Plaintiffs’ Data Shared by Forbes Has Value.

47. The information surreptitiously shared by Forbes with third parties has economic value.

48. In *The Wall Street Journal*, a former fellow at the Open Society Institute, Christopher Soghoian, explained:

The dirty secret of the Web is that the “free” content and services that consumers enjoy come with a hidden price: their own private data. Many of the major online advertising companies are not interested in the data that we knowingly and willingly share. Instead, these parasitic firms covertly track our web-browsing activities, search behavior and geolocation information. Once collected, this mountain of data is analyzed to build digital dossiers on millions of consumers, in some cases identifying us by name, gender, age as well as the medical conditions and political issues we have researched online.

Although we now regularly trade our most private information for access to social-networking sites and free content, the terms of this

1 exchange were never clearly communicated to consumers.<sup>11</sup>

2 49. The value of the information shared by Forbes with third parties about  
3 its visitors can be quantified. For example, in a study authored by Tim Morey,  
4 researchers studied the value that 180 internet users placed on keeping personal data  
5 secure. Web browsing histories were valued at a rate of \$52.00 per year, and online  
6 advertising click history was calculated at \$5.70 a year.<sup>12</sup>

7 50. A number of platforms also allow consumers to directly monetize their  
8 own data.

- 9 • Ipsos works with Google to offer financial rewards to users in exchange  
10 for tracking their internet browsing activities.<sup>13</sup>
- 11 • Brave's web browser pays users to watch online targeted ads using  
12 "Basic Attention Tokens," which can be used to purchase gift cards.<sup>14</sup>
- 13 • Reclaim is a smartphone app through which consumers can elect to  
14 share their data with certain brands in exchange for compensation.<sup>15</sup>
- 15 • Nielsen also offers an application through which it tracks user activities  
16 in exchange for opportunities to win sweepstakes and earn rewards.<sup>16</sup>

17 51. Through its surreptitious sharing of visitor's data with third parties for  
18 the purpose of improving the efficacy of its advertising campaigns and providing

19 \_\_\_\_\_  
20 <sup>11</sup> Julia Angwin, *How Much Should People Worry About the Loss of Online Privacy?*,  
21 THE WALL STREET JOURNAL, Nov. 15, 2011.

22 <sup>12</sup> Tim Morey, *What's Your Personal Data Worth?*, DESIGN MIND, Jan. 18, 2011,  
23 [https://web.archive.org/web/20131206000037/http://designmind.frogdesign.com/bl  
og/what039s-your-personal-data-worth.html](https://web.archive.org/web/20131206000037/http://designmind.frogdesign.com/blog/what039s-your-personal-data-worth.html).

24 <sup>13</sup> *About the Ipsos Screenwise Panel*, IPSOS, <https://screenwisepanel.com> (last  
25 accessed Dec. 16, 2024).

26 <sup>14</sup> *Brave Rewards*, BRAVE, <https://brave.com/brave-rewards/> (last accessed Dec. 16,  
27 2024).

28 <sup>15</sup> *What is a data order?*, REKLAIM,  
<https://help.reclaimyours.com/en/articles/7971152-what-is-a-data-order> (last  
accessed Dec. 16, 2024).

<sup>16</sup> *Computer & Mobile Panel*, NIELSEN, <https://computermobilepanel.nielsen.com>  
(last accessed Dec. 16, 2024).

1 targeted advertisements on its websites, Forbes is unjustly enriching itself at the cost  
2 of consumer choice, when the consumer would otherwise have the ability to choose  
3 how to monetize their own data. Plaintiffs provided valuable data to Forbes and  
4 received nothing in return.

5 **FACTUAL ALLEGATIONS ABOUT THE NAMED PLAINTIFFS**

6 52. Ms. Berman is an adult who lives in California.

7 53. She visited Forbes.com multiple times in early 2024, and again as  
8 recently as December 9, 2024, using a Chrome browser and a Microsoft Edge  
9 browser on both her computer and her mobile device.

10 54. She has never registered for a Forbes.com account or signed up for a  
11 Forbes.com newsletter.

12 55. When she visited Forbes.com, the Trackers collected her IP address and  
13 other unique identifiers consistent with the process described in paragraphs 20–46  
14 and shared that information with third parties.

15 56. Ms. Berman never provided her consent to Forbes to install or use the  
16 Trackers on her browser.

17 57. Ms. Berman is aware that she can sell her own personal data via other  
18 platforms and applications. Forbes, however, never asked for her permission to share  
19 her data with third parties. Forbes’s practices damaged Ms. Berman’s privacy and  
20 her ability to control her own data.

21 58. Ms. Piehl is an adult who lives in California.

22 59. She visited Forbes.com multiple times in 2024, including as recently as  
23 December 18, 2024, using a Chrome browser on her computer.

24 60. She has never registered for a Forbes.com account or signed up for a  
25 Forbes.com newsletter.

26 61. When she visited Forbes.com, the Trackers collected her IP address and  
27 other unique identifiers consistent with the process described in paragraphs 20–46  
28 and shared that information with third parties.



1           67.    **Predominant Common Questions:** Common questions of law and fact  
2 exist as to all Class members and predominate over any questions affecting solely  
3 individual Class members. Common questions for the Class include, but are not  
4 limited to, the following:

- 5           a.    Whether Forbes in fact installed the Trackers on its website;
- 6           b.    Whether the Trackers cause a visitor’s IP address and other  
7 identifiers to be sent to third parties;
- 8           c.    Whether the Trackers are “pen registers” and/or “trap and trace  
9 devices” under Cal. Penal Code § 638.50;
- 10          d.    Whether Forbes sought or obtained prior consent from Plaintiffs  
11 and the Class to disclose their IP addresses and other identifiers  
12 to third parties;
- 13          e.    Whether Forbes obtained a court order for its use of the Trackers;
- 14          f.    Whether Plaintiffs and Class members are entitled to statutory  
15 damages for Forbes’s CIPA violations;
- 16          g.    Whether Forbes’s use of the Trackers violated the UCL;
- 17          h.    Whether Plaintiffs and Class members have sustained damages  
18 because of Forbes’s conduct and if so, what is the appropriate  
19 measure of damages or restitution; and
- 20          i.    Whether Plaintiffs and Class members are entitled to injunctive  
21 relief to enjoin the unlawful conduct alleged herein.

22           68.    **Typicality:** Plaintiffs’ claims are typical of the claims of other Class  
23 members because Plaintiffs’ IP addresses and other identifiers, like the IP addresses  
24 and other identifiers of Class members, were shared with third parties as a result of  
25 Trackers installed on Forbes.com.

26           69.    **Adequacy of Representation:** Plaintiffs will fairly and adequately  
27 protect the interests of the Class members and have retained counsel who are  
28 competent and experienced in class action litigation, including nationwide class

1 actions and privacy violations. Plaintiffs and their counsel have no interest in conflict  
2 with, or otherwise antagonistic to, the interests of other Class members. Plaintiffs and  
3 their counsel are committed to vigorously prosecuting this action on behalf of the  
4 members of the Class, and they have the resources to do so.

5 70. **Superiority:** A class action is superior to all other available methods for  
6 the fair and efficient adjudication of this controversy since joinder of all members is  
7 impracticable. This proposed class action presents fewer management difficulties  
8 than individual litigation and provides the benefits of a single adjudication,  
9 economies of scale and comprehensive supervision by a single, able court.  
10 Furthermore, as the damages individual Class members have suffered may be  
11 relatively small, the expense and burden of individual litigation makes it impossible  
12 for members of the Class to individually redress the wrongs done to them. There will  
13 be no difficulty in management of this action as a class action.

## 14 CAUSES OF ACTION

### 15 COUNT 1

#### 16 **Violation of the California Invasion of Privacy Act, Cal. Penal Code § 638.51(a)**

17 71. Plaintiffs hereby incorporate the foregoing allegations as if fully set  
18 forth herein.

19 72. Plaintiffs bring this claim individually and on behalf of the Class against  
20 Forbes.

21 73. Section 638.51 of CIPA prohibits the installation or use of “a pen  
22 register or a trap and trace device without first obtaining a court order.”

23 74. A “pen register” is a “device or process that records or decodes dialing,  
24 routing, addressing, or signaling information transmitted by an instrument or facility  
25 from which a wire or electronic communication is transmitted, but not the contents  
26 of a communication.” Cal. Penal Code § 638.50(b).

27 75. A “trap and trace device” is “a device or process that captures the  
28 incoming electronic or other impulses that identify the originating number or other

1 dialing, routing, addressing, or signaling information reasonably likely to identify the  
2 source of a wire or electronic communication, but not the contents of a  
3 communication.” Cal. Penal Code § 638.50(c).

4 76. The Trackers Forbes installed on its website are “pen registers” as  
5 defined by California Penal Code § 638.50(b) because they capture “dialing, routing,  
6 addressing or signaling information” from electronic communications transmitted by  
7 Plaintiffs’ and Class members’ devices. They are also “trap and trace devices” as  
8 defined by California Penal Code § 638.50(c) because they capture “dialing, routing,  
9 addressing, or signaling information reasonably likely to identify the source of a wire  
10 or electronic communication.”

11 77. During the Class Period, Defendant installed the Trackers on  
12 Forbes.com and used them to capture and transmit Plaintiffs’ and Class members’ IP  
13 addresses and other unique identifiers to third parties.

14 78. Plaintiffs and Class members did not provide their consent prior to  
15 Forbes’s installation and use of the Trackers. On information and belief, Forbes also  
16 did not obtain a court order to install or use the Trackers.

17 79. Under California Penal Code § 637.2, Plaintiffs and Class members  
18 have been injured by Forbes’s violations of California Penal Code § 638.51(a), and  
19 each seek statutory damages of \$5,000 per violation.

20 **COUNT 2**  
21 **California Unfair Competition Law**  
22 **Cal. Bus. & Prof. Code § 17200, *et seq.***

23 80. Plaintiffs hereby incorporate the foregoing allegations as if fully stated  
24 herein.

25 81. The UCL prohibits any “unlawful, unfair, or fraudulent business act or  
26 practice and unfair, deceptive, untrue or misleading advertising.” Cal. Bus. & Prof.  
27 Code § 17200. Forbes installation and use of the Trackers on Forbes.com violates the  
28 UCL.

82. Forbes’s “unlawful” acts and practices include its violations of CIPA.

1 83. Forbes’s “unfair” acts and practices include its violation of privacy  
2 interests protected by CIPA.

3 84. Plaintiffs and Class members have suffered injury-in-fact, including the  
4 loss of money and/or property as a result of Forbes’s unfair and unlawful practices,  
5 including the unauthorized disclosure of their IP addresses, other identifiers, and  
6 browsing history on Forbes.com, which have monetary value. Plaintiffs and Class  
7 members have suffered harm in the form of diminution of value of their private and  
8 personally identifiable data and content.

9 85. Forbes’s conduct caused damage to and loss of Plaintiffs’ and Class  
10 members’ property right to control the dissemination and use of their personal  
11 information, internet communications, and browsing history.

12 86. Forbes reaped unjust profits and revenues in violation of the UCL. This  
13 includes Forbes’s profits and revenues from hosting targeted advertisements and  
14 improvements to its own targeted advertisements. Plaintiffs and Class members seek  
15 restitution of these unjust profits and revenues.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs respectfully request that this Court:

- 18 A. Certify this action is a class action under Rule 23 of the Federal Rules  
19 of Civil Procedure;
- 20 B. Appoint Plaintiffs to represent the Class;
- 21 C. Appoint undersigned counsel to represent the Class;
- 22 D. Award statutory damages of \$5,000 for each violation of CIPA section  
23 638.51(a);
- 24 E. For all Counts, award compensatory damages to Plaintiffs and Class  
25 members against Defendant for all damages sustained as a result of  
26 Defendant’s wrongdoing, in an amount to be proven at trial, including  
27 interest thereon;
- 28 F. Award pre- and post-judgment interest on all amounts awarded;

- 1 G. Award restitution, disgorgement, and all other appropriate forms of  
2 injunctive and equitable relief;
- 3 H. Award Plaintiffs and Class members their reasonable costs and expenses  
4 incurred in this action, including attorneys' fees and expert fees; and
- 5 I. Grant Plaintiffs and Class members such further relief as the Court  
6 deems appropriate.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs demand a trial by jury of all issues so triable.

9

10

11 Dated: December 20, 2024

**SUSMAN GODFREY L.L.P.**

12 By: /s/ Krysta Kauble Pachman

13 Krysta Kauble Pachman (280951)

14 Eliza Finley (301318)

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27

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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

Domenica Berman and Abygael Piehl, individually and on behalf of all others similarly situated

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

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

Krysta Kauble Pachman and Eliza Finley, Susman Godfrey L.L.P. 1900 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067 (310) 789-3100

DEFENDANTS

Forbes Media LLC

County of Residence of First Listed Defendant Hudson County, New Jersey (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: 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): Class Action Fairness Act, 28 U.S.C. § 1332(d)(2) Brief description of cause: Violation of Cal. Invasion of Privacy Act, Cal. Pen. Code § 638.51, and Cal. UCL, Cal. Bus. & Prof. Code § 17200, et seq.

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 12/20/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Krysta Kauble Pachman

## 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.