

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

J.D., by his father and next friend, BRIAN
DOHERTY,

Plaintiff,

v.

COLONIAL WILLIAMSBURG
FOUNDATION
P.O. Box 1776
Williamsburg, VA 23187-1776

Serve On:

Mitchell Reiss, President
Colonial Williamsburg Foundation
P.O. Box 1776
Williamsburg, Virginia 23187-1776

Defendant.

JURY TRIAL DEMANDED

Civil Action No.:

COMPLAINT

Plaintiff, J.D., through undersigned counsel, sues Colonial Williamsburg Foundation, and states as follows:

PRELIMINARY STATEMENT

1. J.D. (“Plaintiff”) is an eleven-year-old student who loves history, travel and Tae Kwon Do and who resides in Maryland with his mother and father. J.D. has a medical condition for which he receives treatment at Johns Hopkins that prevents him from safely eating foods containing wheat and gluten – when he ingests foods containing wheat and gluten J.D. has a cascade of significant symptoms to include syncope (loss of consciousness), pain,

difficulty concentrating, and asthma flares, and in the period after ingesting even trace amounts of gluten has required emergency medical treatment. In May of 2017, J.D. traveled to Colonial Williamsburg with his fifth grade class for a long-anticipated educational experience that included a visit to Shields Tavern, an experiential learning program owned and operated by the Colonial Williamsburg Foundation (“Defendant” or “Colonial Williamsburg”). Although he could not eat the food offered because of his disability, J.D. was eager to participate, learn, and experience colonial life to the full extent his disability allowed. J.D. helped raise funds for five years to pay for the trip, including the cost of a visit to Shields Tavern. Colonial Williamsburg Foundation violated Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.*, and the Virginia Rights of Persons with Disabilities Act when it required J.D. to leave its facility to eat and excluded J.D. from participation alongside his peers solely because of his disability.

2. Plaintiff seeks declaratory and injunctive relief, compensatory damages, and attorneys’ fees, and costs.

THE PARTIES

3. Plaintiff, J.D., lives in Anne Arundel County, Maryland with his parents. He is an eleven-year-old student who recently completed 5th grade.

4. Defendant, Colonial Williamsburg Foundation, is a Virginia non-profit that provides educational experiences to visitors of all ages, including school tour groups, with a stated mission of “feed[ing] the human spirit by sharing America’s enduring story.” Colonial Williamsburg Foundation describes its venue not as someplace to visit but as someplace to experience, stating it is “the only place that takes you back in time to the dawn of America” and invites visitors to “[s]tep back in time and meet the people who made America – sing with

them, dance with them, eat with them, and have fun with them.” Colonial Williamsburg welcomes school groups to experience colonial life promising to provide students with an opportunity to “be active participants in the colonial world.” Colonial Williamsburg Foundation is located at 100 Visitor Center Drive, Williamsburg, Virginia 23185 but receives correspondence at P.O. Box 1776, Williamsburg, Virginia, 23187-1776.

5. Among the experiences it offers visitors, Colonial Williamsburg Foundation owns and operates a venue located at 422 East Duke of Gloucester Street in Williamsburg, Virginia called Shields Tavern that allows visitors to experience life in a colonial gathering place.

6. Colonial Williamsburg Foundation is a recipient of federal financial assistance as well as state funding.

JURISDICTION

7. Jurisdiction over these claims is invoked pursuant to 28 U.S.C. § 1331, 1332, 1343, and 1367.

FACTUAL ALLEGATIONS

8. J.D. is an eleven-year-old who attends elementary school in Maryland. He is fascinated by history and dreams of being a history professor when he grows up. J.D. loves reading and can always be found with a book in his hands, often a book about history. He enjoys traveling, particularly when the travel allows him to learn about the past. J.D. also has significant health conditions that cause substantial impairment to the major life activities of eating, breathing, standing and thinking. J.D.’s specialists have not been able to determine whether he has Celiac Disease or whether he has Non-Celiac Gluten Sensitivity as is often the case with children experiencing similar symptomology. Regardless, multiple specialists at Johns Hopkins have concluded that it is critical J.D. not ingest gluten, even in trace amounts. When J.D. eats

foods containing gluten, he experiences precipitous drops in blood pressure that result in him losing consciousness (syncope). When he experiences syncope, he is at risk of and has received head injuries requiring hospital treatment. He also requires emergency treatment if his episodes of syncope last longer than five minutes. When J.D. accidentally ingests gluten, his symptoms have lasted up to six months requiring medical care and treatment and careful monitoring.

9. It is not a dietary preference for J.D. to avoid gluten – it is a medical necessity. At school, at playdates, and at special events, J.D. is simply not able to safely eat the food offered and instead his parents take care to pack and send him with safe food. In this way, J.D. can do what other children do, except he must be very careful not to eat food that is unsafe for him.

10. The culmination of 5th grade at J.D.'s elementary school is an overnight visit to Colonial Williamsburg. Children, including J.D., begin raising money to fund the trip in first grade.

11. Throughout his 5th grade year, J.D.'s class prepared for the much anticipated visit to Colonial Williamsburg. Beginning in August of 2016, J.D. began work on a year-long research project. The curriculum is designed to prepare the children for the trip. J.D. read *Blood on the Water* and *Chains*, learned about Jamestown and wrote a paper about political life in the British Colony for which he received a grade of A+.

12. In May of 2017, J.D. traveled with his class of approximately 30 children and 30 adults to Colonial Williamsburg to learn about and experience life in Colonial America.

13. J.D.'s school arranged the trip through the Colonial Williamsburg Foundation. The paid educational experience included a visit to Shields Tavern to allow the children to experience social life and customs of the 1700's.

14. Although J.D. was unable to eat the meals on the trip, he was happy to enjoy all other aspects of the learning experience.

15. J.D.'s father, Brian Doherty, was a chaperone on the trip and brought safe food from home for J.D. to eat so J.D. could experience Colonial Williamsburg alongside his peers.

16. Students who visit Colonial Williamsburg are told they will be "immersed in 18th-century Virginia's colonial capital city." Defendant promises its "interactive programs and cross-curricular investigations will engage students' minds" and that students "will see and experience life as the founding families did in the 1700s..."

17. A highlight of the visit to Colonial Williamsburg was an experience at Shields Tavern. Shields Tavern is an historic tavern owned and operated by Defendant. At Shields Tavern, costumed historical interpreters offer guests the experience of life in a Colonial tavern and provide "a glimpse into the cosmopolitan nature of the British Colonies." Costumed servers circulate and teach guests about various aspects of tavern life including the social and practical aspects of colonial life. Guests are also served a meal while at Shields Tavern.

18. On May 11, 2017, J.D. and his father arrived with their group for the educational experience at Shields Tavern and were seated like the other participants. Upon information and belief, J.D.'s school group were the only guests at Shields Tavern and seats had been reserved for them. Although J.D. knew he could not eat the food, he was excited for the experience.

19. After J.D. and his father were seated, Mr. Doherty informed the historical interpreter assigned to their table that J.D. was unable to safely eat the food because of his disability so it was not necessary to bring him a meal. Mr. Doherty explained that J.D. would be happy to just enjoy the experience. Mr. Doherty explained that he had safe food for J.D. and proceeded to bring out the safe food. Another costumed interpreter told Mr. Doherty that he and

his son could not stay if J.D. was going to eat his food and would need to leave the premises immediately.

20. Mr. Doherty requested to speak with a manager but the manager also told J.D. in front of his peers and their parents that he would need to immediately leave the building if J.D. was going to eat his safe food.

21. J.D. was crying openly as he was removed from Shields Tavern in front of his peers.

22. J.D.'s teacher spoke up on J.D.'s behalf and attempted to convince Shields Tavern management to allow J.D. to remain and learn just like the other children. Management refused and insisted J.D. wait outside. As part of this conversation, it was revealed that Shields Tavern permits toddlers to eat outside food, including goldfish and Lunchables inside the restaurant.

23. It was raining and cool in Williamsburg on May 11, 2017. J.D., crying and humiliated, was made to sit outside Shields Tavern in the rain and wait while his classmates learned about colonial life and ate their meals.

24. The experience was deeply humiliating for an eleven-year-old boy. Before his exclusion, J.D. was able to participate fully with his peers with confidence. After his exclusion and because of Defendant's callous and discriminatory conduct, J.D. felt less worthy than other children and embarrassed by his disability.

25. After his exclusion from Colonial Williamsburg, J.D. became self-conscious about his medical condition and began to expect that he would be unwanted and excluded.

26. J.D.'s family intend to return to Williamsburg later this year but J.D. remains unable to equally access all of the programming Colonial Williamsburg offers.

27. Defendant is a recipient of federal financial assistance because it has accepted \$3,574,964 in federal funds from a wide variety of agencies including the National Foundation on the Arts and Humanities, Department of Defense, Department of Homeland Security, General Services Administration, and Department of the Treasury.

28. Defendant is a recipient of state financial assistance because it has received state funding for tourism purposes, including from the Virginia Tourism Corporation, a state agency.

COUNT I
SECTION 504 OF THE REHABILITATION ACT OF 1973

29. Plaintiff, J.D., repeats and re-alleges the foregoing paragraphs in support of this claim.

30. Plaintiff is a qualified individual with a disability under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 because he is substantially limited in the major life activities of breathing, standing, thinking, and eating and was a visitor to Colonial Williamsburg.

31. Defendant is a recipient of federal financial assistance because it has accepted \$3,574,964 in federal funds from a wide variety of agencies including the National Foundation on the Arts and Humanities, Department of Defense, Department of Homeland Security, General Services Administration, and Department of the Treasury.

32. Defendant discriminated against the Plaintiff solely on the basis of his disability by excluding him from the educational experience it offered to other non-disabled children. In so doing, Defendant denied J.D. meaningful access and an equal opportunity to participate in and benefit from Defendant's programs and activities in violation of Section 504 of the Rehabilitation Act.

33. Defendant's exclusion of J.D. was intentional. When informed that J.D. could not safely eat the food because of his disability, Defendant refused to allow him to otherwise

participate in its program and required him to leave the building and eat outside because of his disability.

34. J.D. was injured as the result of Defendant's conduct. In requiring this eleven-year-old child to eat outside in the rain while his peers benefited from the educational experience Defendant offered others, Defendant subjected J.D. to humiliation, embarrassment, and isolation on the basis of his disability. J.D.'s family regularly visits Williamsburg, Virginia, have a plan to visit later this year, and intends to return to Colonial Williamsburg on their next visit. However, J.D. remains unable to access the programming at Shields Tavern due to Defendant's discriminatory policies and practices.

COUNT II
AMERICANS WITH DISABILITIES ACT

35. Plaintiff, J.D., repeats and re-alleges the foregoing paragraphs in support of this claim.

36. Title III of the ADA prohibits discrimination based on disability by businesses and nonprofit organizations that serve the public. 42 U.S.C. 12182(a); *see also* 42 U.S.C. 12181(7) (defining "public accommodation").

37. Defendant is a place of public accommodation because it is, *inter alia*, a "place of education," a "place of public gathering," a "place of exhibition or entertainment," a "place of recreation". 42 U.S.C. § 12181.

38. J.D. is an individual with a disability because he is substantially limited in the major life activities of eating, standing, thinking, and breathing.

39. J.D. was qualified to visit Shields Tavern because he was part of a tour group scheduled to experience Shields Tavern.

40. Defendant excluded J.D. from its programs and activities and denied him the opportunity to participate in violation of 42 U.S.C. 12182(b)(1)(A)(i) (“It shall be discriminatory to subject an individual... on the basis of a disability or disabilities... to a denial of the opportunity of the individual... to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.”).

41. Defendant must “make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the [entity] can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.” 28 C.F.R. 36.302(a); *see also* 42 U.S.C. 12182(b)(2)(A) (an entity must offer reasonable modifications, accommodations, and auxiliary aids and services).

42. Defendant violated the Title III of the ADA by excluding J.D. from Shields Tavern on the basis of his disability and by refusing to modify its policies or practices.

43. J.D.’s family visits Williamsburg regularly and plans to return to Colonial Williamsburg later this year. J.D. would like to experience Shields Tavern but remains unable to do so because of Defendant’s discriminatory policies and practices.

**COUNT III
VIRGINIA RIGHTS OF PERSONS WITH DISABILITIES ACT**

44. Plaintiff, J.D., repeats and re-alleges the foregoing paragraphs in support of this claim.

45. Plaintiff is a qualified individual with a disability under the Virginia Rights of Persons with Disabilities Act because he is substantially limited in the major life activities of breathing, standing, thinking, and eating and was a visitor to Colonial Williamsburg.

46. Upon information and belief, Defendant is a recipient of state financial assistance because it has received state funding for tourism purposes, including from the Virginia Tourism Corporation, a state agency.

47. Defendant discriminated against the Plaintiff solely on the basis of his disability by excluding him from the educational experience it offered to other non-disabled children. In so doing, Defendant denied J.D. meaningful access and an equal opportunity to participate in and benefit from Defendant's programs and activities in violation of the Virginia Rights of Persons with Disabilities Act.

48. Defendant's exclusion of J.D. was intentional. When informed that J.D. could not safely eat the food because of his disability, Defendant refused to allow him to otherwise participate in its program and required him to leave the building and wait outside because of his disability.

49. J.D. was injured as the result of Defendant's conduct. In requiring this eleven-year-old child to wait outside in the rain while his peers benefited from the educational experience Defendant offered others, Defendant subjected J.D. to humiliation, embarrassment, and isolation on the basis of his disability.

50. J.D.'s family regularly visits Williamsburg, Virginia, have a plan to visit later this year, and intends to return to Colonial Williamsburg on their next visit. However, J.D. remains unable to access the programming at Shields Tavern due to Defendant's discriminatory policies and practices.

RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court provide the following relief:

- a. Issue a declaratory judgment that Defendant's policies, procedures, and practices have subjected Plaintiff to discrimination in violation of Section 504 of the Rehabilitation Act of 1973, Title III of the Americans with Disabilities Act, and the Virginia Rights of Persons with Disabilities Act;
- b. Enjoin Defendant from any policy, procedure, or practice that will deny Plaintiff meaningful access to and an equal opportunity to participate in and benefit from Defendant's services or that will exclude Plaintiff from its programs or services;
- c. Order Defendant to promulgate and comply with policies and procedures to ensure that Defendant does not discriminate in the future against Plaintiff;
- d. Order Defendant to train all its employees about its obligations pursuant to federal law and about Defendant's policy and procedures for allowing access for individuals with disabilities;
- e. Award compensatory damages pursuant to Section 504 of the Rehabilitation Act of 1973 and the Virginia Rights of Persons with Disabilities Act;
- f. Award reasonable costs and attorneys' fees; and
- g. Award any and all other relief that may be necessary and appropriate.

Date: July 19, 2017

Respectfully submitted,

s/Michael S. Stein
Michael S. Stein
Mary Vargas*
STEIN & VARGAS, LLP

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Washington, DC 20002
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*Mary C. Vargas simultaneously files her Application to Qualify as a Foreign Attorney Under Local Civil Rule 83.1(D) seeking leave to participate *pro hac vice*.

JURY DEMAND

Plaintiff hereby demands that this action be tried before a jury.

s/Michael S. Stein
Michael S. Stein

JS 44 (Rev. 06/17)

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

J.D., by and through his next friend, BRIAN DOHERTY

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

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

Michael Stein, Stein & Vargas, LLP, 840 First Street NE, Third Floor
Washington, D.C. 20002 240-793-3185

DEFENDANTS

COLONIAL WILLIAMSBURG FOUNDATION

County of Residence of First Listed Defendant (Clty of Williamsburg)
(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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	LABOR <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 424 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	
	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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):

42 U.S.C. ss 12181 et seq.; 29 U.S.C. 794

Brief description of cause:

Discrimination based on disability in violation of federal and state law.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

07/19/2017

SIGNATURE OF ATTORNEY OF RECORD

s/Michael S. Stein

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.Cv.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; **NOTE: 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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN 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 Rule 23, F.R.Cv.P.
 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 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.