

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LOIS SCHOFIELD

Plaintiff,

VS.

ATLANTA WOMEN’S MEDICAL
CENTER, INC.

Defendant.

*
*
*
*
*
*
*
*

CIVIL ACTION
Case No.

Complaint and Demand
for Jury Trial

COMPLAINT

COMES NOW, Lois Schofield, Plaintiff in the above-styled action, and shows the Court the following:

JURISDICTION AND VENUE

1.

This is an action brought under 42 U.S.C. §§12101 et seq, and 29 U.S.C. §§621 et seq. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343

2.

Pursuant to 28 U.S.C. §1391 (b) and (c), venue is properly in this Court

PARTIES

3.

The Plaintiff is currently 79 years of age, and a female citizen of the United

States of America, and of Cobb County, State of Georgia. She currently resides at 3466 Shawnee Trail, Smyrna, GA 30080.

4.

The Defendant, Atlanta Women’s Medical Center, Inc. (hereinafter “AWMCI” or “Defendant”) is registered as a Georgia Corporation with its principal place of business being 235 West Wieuca Rd., Atlanta, Fulton County, GA 30342. AWMCI is authorized to conduct business in the State of Georgia, and it is an “Employer” as that term is used under the laws applicable to this action. At all times pertinent to this action, Defendant was conducting business within the geographical boundaries of this Court in the Northern District of Georgia as an abortion clinic, providing surgical abortion care and post-surgical care, counseling and patient educational services.

5.

AWMCI has employed more than 20 employees in each of the 20 or more calendar weeks in the current or preceding calendar year.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6.

On November 14, 2011 and within 180 days of the discriminatory acts

complained of herein, the Plaintiff filed with the Equal Employment Opportunity Commission (“EEOC), a timely “Charge of Discrimination” alleging unlawful age discrimination in violation of the Age Discrimination in Employment Act of 1967, as amended, and discrimination based upon Defendant’s agent’s a perceived physical disability in violation of the Americans with Disabilities Act of 1990, as amended. A true and correct copy of the Charge is attached hereto as Plaintiff’s Exhibit “A.” At the time of the discriminatory acts the Plaintiff was 76 years of age.

7.

On July 12, 2013, the EEOC issued to the Plaintiff a notice of right to sue. Having found reasonable cause to believe having found violations of the aforesaid statutes had occurred. A copy of the Notice of Right to Sue is attached hereto as Plaintiff’s Exhibit “B.”

8.

Plaintiff properly exhausted her administrative remedies and has initiated this present lawsuit within 90 days of receiving the EEOC notice of her right to sue.

PERTINENT UNDERLYING FACTS

9.

The Plaintiff was originally employed by Defendant AWMCI as a full time employee in 1995 as a Certified Registered Nurse Anesthetist (CRNA), and continuously worked providing patient anesthesia services for the entity through March 30, 2011, when she voluntarily took a medical leave of absence in order to have medically necessary hip replacement surgery. She had also worked at the clinic on a part time basis for a number of years prior to 1995.

10.

Prior to taking the medical leave of absence, in addition to performing anesthesia services, the Plaintiff did a number of other jobs around the clinic which were not related to anesthesia, whenever her assistance was needed and when asked by her supervisor, the Director of the clinic. For example, she would draw blood for the lab tech when asked; she would check supplies for the clinic and report on inventory supplies, when requested she would assist in preoperative evaluations when the nurse on duty was absent or late, she would evaluate patients during registration when directed; she would climb a ladder to replace light bulbs; she frequently cleaned the kitchen, because others would not; she answered the

phone; and she even unclogged the toilet on occasion. During operative procedures she was directly supervised by a surgical medical doctor, who made the ultimate decisions as to the activities in the operating room and regarding the care and treatment of the patients. She did not make her own schedule.

11.

From September, 1995 through approximately 1997, the Plaintiff worked a three day schedule for the clinic, which was every day the clinic was providing services at that time. In 1997 the clinic began operating four days per week, and the Plaintiff adopted the same four day work week. She was directed to also take calls after hours for the clinic 24 hours\day, 7 days per week, and upon receiving emergency calls, she would telephone the Director of the clinic and a doctor and usually would be the first one to report to the clinic and unlock the facility. Her schedule which included the after hours telephone calls, continued until her leave of absence on March 30, 2011. Plaintiff took very few vacation days, and was an employee who competently performed her job, without complaint. She was a model employee and a team player for the 15+ years she worked for AWMCI.

12.

Plaintiff was cleared by her physician to return to work on a full time basis with no restrictions beginning June 15, 2011. At that time she was 76 years of

age, but was fully capable of and competent in the performing of her job. In fact, while working at the clinic, she was never unable to perform her job as a CRNA, or to perform other functions within the clinic when requested. During her absence, she had been asked by the clinic to arrange for a temporary replacement, which she did.

13.

While still on her medical leave of absence, the Plaintiff attended a retirement party on June 6, 2011 for the then clinic director, Golda Melnick. Also in attendance at that party was the defacto owner of the clinic, Mr. Randy Lazarus. During that party, Mr. Lazarus inquired about the Plaintiff's physical condition after her surgery, and although the Plaintiff responded that she was fine and better than before the surgery, the owner expressed doubt that she could perform her job functions at the clinic, because of the hip surgery and his consequent perceived disability. The Plaintiff assured him she was perfectly capable of doing her job.

14.

Because of the clinic owner's misconceptions, in which he believed that the Plaintiff was unable to perform her job at the AWMCI's clinic as a CRNA because of her perceived disability when combined with her age, the Plaintiff was fired with no warning or any attempt to accommodate the perceived disability.

When Plaintiff called the clinic on June 8, 2011 to advise the new clinic director that she was ready and able to start work, she was advised that AWMCI would not permit her to resume her position at the clinic, and she was replaced by a much younger person, who was not as competent as the Plaintiff.

15.

The Defendant, through Mr. Lazarus and the Director, acting on its behalf, terminated the Plaintiff's employment because of a perceived disability and because of the Plaintiff's age. The perception was totally and completely erroneous.

COUNT I

PERCEIVED DISABILITY DISCRIMINATION

16.

Plaintiff realleges, adopts and incorporates for the purpose of this paragraph 16 all those allegations set forth in paragraphs 1-15.

17.

Defendant, through its agents, apparent agents and employees, and because of their perception of the Plaintiff as being physically disabled, intentionally, maliciously and wrongly refused to accommodate the Plaintiff. and terminated the

Plaintiff's employment. At all times pertinent to the claims herein, the Plaintiff was willing and fully capable of performing the essential job functions of her position as a CRNA, with or without accommodations. Plaintiff had the education, experience, mental ability, and physical ability to perform all of the functions required of her as a CRNA at AWMCI, and still possesses those abilities and skills. Defendant has tacitly admitted that Plaintiff is capable of competently performing services as a CRNA, because through its employees it has offered to use her services as needed on a part time or substitute basis.

18.

This Defendant is responsible for the violations of the Plaintiff's rights, as set forth herein, because through its agents it exercised control over the adverse and disparate treatment of the Plaintiff. At all times material hereto the actions and inactions affecting the Plaintiff were committed in the course of the employment or supervisory relationship agents or employees had with Defendant, and with its actual or constructive knowledge; therefore, this Defendant is vicariously liable to the Plaintiff for all the unlawful conduct of its owner, agents, apparent agents, employees and officials.

19.

As a direct and proximate result of the Defendant's intentional and

malicious actions, through its defacto owner, agents and employees as described above, the Plaintiff has suffered direct and consequential damages, including lost wages and income, pain and suffering, emotional distress, mental anguish, embarrassment, and other damages.

20.

The Defendant has intentionally acted with callous and reckless disregard and indifference to the Plaintiff's rights. Defendant's actions have been malicious, wanton and willful. Plaintiff is entitled to punitive damages.

COUNT II

UNLAWFUL AGE DISCRIMINATION

21.

Plaintiff realleges, adopts and incorporates for the purpose of this paragraph 21 all those allegations set forth in paragraphs 1-20 above.

22.

The actions of AWMCI in terminating the Plaintiff because of her age, or her age in conjunction with her perceived disability, violated the Age Discrimination in Employment Act, 29 U.S.C. §§ 621, et seq.

23.

At the time of the discriminatory act of terminating the Plaintiff, she was 76

years of age, but fully capable of performing her full time job as a CRNA. The Defendant, through the actions of its owner\agent erroneously concluded that because of her age and disability, the Plaintiff was incapable of competently performing her CRNA duties, and he verbally communicated that to her. He thus terminated her employment and hired a much younger and less competent individual to fill the Plaintiff's position as a CRNA.

24.

This Defendant is responsible for the violations of the Plaintiff's rights, as set forth herein, because it exercised control over the adverse disparate treatment of the Plaintiff.

25.

At all times material hereto, the actions and inactions affecting the Plaintiff were committed in the course of the employment or supervisory relationship the owner\agent employees or corporate officials had with Defendant, and with its actual or constructive knowledge; therefore, this Defendant is vicariously liable to the Plaintiff for all the unlawful conduct of its agents, apparent agents, employees and officials.

26.

As a direct and proximate result of the Defendant's actions described above

the Plaintiff has suffered direct and consequential damages including lost wages and income, pain and suffering, emotional distress, mental anguish, embarrassment, and other damages attendant with her employment and working relationship with AWMCI.

27.

The Defendant has intentionally acted with callous and reckless disregard and indifference to the Plaintiff's rights. Defendant's actions have been malicious, wanton and willful. Plaintiff is entitled to punitive damages.

COUNT III

BREACH OF CONTRACT

28.

Plaintiff realleges, adopts and incorporates for the purpose of this paragraph 27 all those allegations set forth in paragraphs 1-15 above.

29.

Plaintiff had a contract with the Defendant which provided that the contract could be terminated upon the Defendant giving the Plaintiff 30 days written notice of its intent to terminate the working relationship between Defendant and Plaintiff.

30.

Defendant through its agents and employees breached the contract with the Plaintiff by failing to provide the 30 day written notice of termination. Instead this Plaintiff was summarily and wrongfully terminated without any notice or warning in violation of the terms of the contract and also in violation of the Americans With Disabilities Act, 42 U.S.C. §§12101 et seq, and in violation of the Age Discrimination in Employment Act, 29 U.S.C. §§ 621, et seq.

31.

Because the Defendant wrongfully breached its contract of employment with the Plaintiff, Defendant is liable to the Plaintiff for contractual and compensatory damages in an amount to be proven at trial.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues triable by jury.

WHEREFORE, Plaintiff demands the following relief:

- (a) Judgment in its favor against Defendant;
- (b) Lost income and employment benefits in an amount to be proven at trial.
- (c) Compensatory damages in an amount to be proven at trial;
- (d) Punitive damages to be determined by the enlightened conscience of the jury and in an amount to be proven at trial;
- (e) Liquidated double damages in accordance with 29 U.S.C, § 626(b);

(e) Plaintiff's reasonable attorney's fees;

(f) Appropriate injunctive relief and reinstatement to her position as a CRNA
with AWMCI;

(g) Interest;

(h) All court costs,

(i) Such other and further relief as this Court deems just and proper.

Respectfully submitted,
s/ NICHOLAS G. DUMICH
Nicholas G. Dumich
Georgia State Bar No. 232650
Attorney for Plaintiff

NICHOLAS G. DUMICH, ESQ.
248 ROSWELL ST.
MARIETTA, GA 30060

Tel: (770) 241-5550
Fax: (770) 426-9584
ndumich@bellsouth.net

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA

EEOC

410-2012-00755

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mrs. Lois O. Schofield

Home Phone (Incl. Area Code)

(404) 754-4706

Date of Birth

██████-1934

Street Address

City, State and ZIP Code

3466 Shawnee Trail, Smyrna, GA 30080

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

ATLANTA WOMEN MEDICAL CENTER, INC

No. Employees, Members

15 - 100

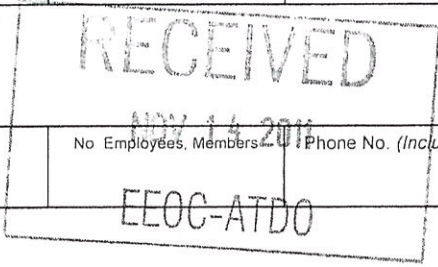
Phone No. (Include Area Code)

(404) 257-0057

Street Address

City, State and ZIP Code

235 West Wieuca Road, Atlanta, GA 30342



Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

- RACE
- COLOR
- SEX
- RELIGION
- NATIONAL ORIGIN
- RETALIATION
- AGE
- DISABILITY
- GENETIC INFORMATION
- OTHER (Specify)

06-06-2011 **06-28-2011**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I was hired by the above company in September 1995 as a Certified Registered Nurse Anesthetist (CRNA). On June 6, 2011, while attending a retirement party for another employee; I was told by the owner that he did not think I could work at the clinic any longer. A younger CRNA was hired to replace me.
- II. Randy Lazarus, Owner, advised me that I was discharged due to my disability.
- III. I believe I have been discriminated against because of my age (76) in violation of the Age Discrimination in Employment Act of 1967, as amended and because of a perceived disability in violation of Title I of the Americans with Disabilities Act of 1990, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Nov 14, 2011

Date

Lois O. Schofield CRNA

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)

To: **Lois O. Schofield**
3466 Shawnee Trail
Smyrna, GA 30080

From: **Atlanta District Office**
100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
410-2012-00755	David Hendrickson, Investigator	(404) 562-6948

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

- NOTICE OF SUIT RIGHTS -

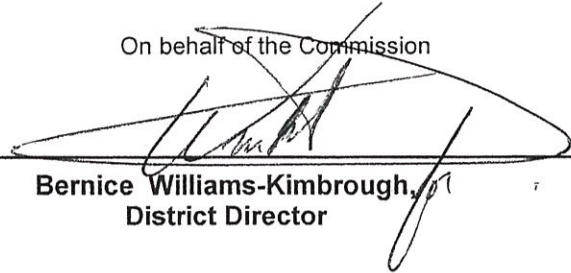
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Bernice Williams-Kimbrough,
District Director

JUL 12 2013

(Date Mailed)

Enclosures(s)

cc: **Randy Lazarus**
Owner
ATLANTA WOMEN'S MEDICAL CENTER, INC.
500 Kings Highway North
Cherry Hill, NJ 08034

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

LOIS SCHOFIELD

Plaintiff(s)

v.

ATLANTA WOMEN'S MEDICAL CENTER, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Atlanta Women's Medical Center, Inc.
C/O Ms. Stacey Lynn
Executive Director
235 West Wieuca Rd.
Atlanta, GA 30342

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nicholas G. Dumich, Esq Telephone: (770) 241-5550
248 Roswell St.
Marietta, GA 30060

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Atlanta Women's Medical Center, Inc.
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p>I. (a) PLAINTIFF(S) LOIS SCHOFIELD 3466 Shawnee Trail Smyrna, GA 30080</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>COBB COUNTY</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANT(S) ATLANTA WOMEN'S MEDICAL CENTER, INC. 235 West Wieuca Rd. Atlanta, GA 30342</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>FULTON COUNTY</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p>
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</p> <p>NICHOLAS G. DUMICH. Telephone (770) 241-5550 Attorney at Law Fax: (770) 426-9584 248 Roswell St. Email: ndumich@bellsouth.net Marietta, GA 30060</p>	<p>ATTORNEYS (IF KNOWN)</p> <p>Unknown</p>

<p>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF <input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY) <input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT <input type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)</p> <table style="width:100%; border: none;"> <tr> <td style="text-align: center; width: 25%;">PLF</td> <td style="text-align: center; width: 25%;">DEF</td> <td style="width: 25%;"></td> <td style="text-align: center; width: 25%;">PLF</td> <td style="text-align: center; width: 25%;">DEF</td> <td style="width: 20%;"></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>CITIZEN OF THIS STATE</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> <td>INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>CITIZEN OF ANOTHER STATE</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td>INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>CITIZEN OR SUBJECT OF A FOREIGN COUNTRY</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td>FOREIGN NATION</td> </tr> </table>	PLF	DEF		PLF	DEF		<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	CITIZEN OF THIS STATE	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 2	<input type="checkbox"/> 2	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5	<input type="checkbox"/> 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	<input type="checkbox"/> 3	<input type="checkbox"/> 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6	<input type="checkbox"/> 6	FOREIGN NATION
PLF	DEF		PLF	DEF																					
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	CITIZEN OF THIS STATE	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE																				
<input type="checkbox"/> 2	<input type="checkbox"/> 2	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5	<input type="checkbox"/> 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE																				
<input type="checkbox"/> 3	<input type="checkbox"/> 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6	<input type="checkbox"/> 6	FOREIGN NATION																				

IV. 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 District) 6 MULTIDISTRICT LITIGATION 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

(IF COMPLEX, CHECK REASON BELOW)

<p><input type="checkbox"/> 1. Unusually large number of parties.</p> <p><input type="checkbox"/> 2. Unusually large number of claims or defenses.</p> <p><input type="checkbox"/> 3. Factual issues are exceptionally complex</p> <p><input type="checkbox"/> 4. Greater than normal volume of evidence.</p> <p><input type="checkbox"/> 5. Extended discovery period is needed.</p>	<p><input type="checkbox"/> 6. Problems locating or preserving evidence</p> <p><input type="checkbox"/> 7. Pending parallel investigations or actions by government.</p> <p><input type="checkbox"/> 8. Multiple use of experts.</p> <p><input type="checkbox"/> 9. Need for discovery outside United States boundaries.</p> <p><input type="checkbox"/> 10. Existence of highly technical issues and proof.</p>
---	--

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ (Referral)	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 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
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 444 WELFARE
- 440 OTHER CIVIL RIGHTS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 950 CONSTITUTIONALITY OF STATE STATUTES
- 890 OTHER STATUTORY ACTIONS
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ To be determined

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Julie E. Carnes

DOCKET NO. 1: 12-cv-658-JEC

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETTIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. 1:12-cv-658-JEC, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.



10-7-2013

SIGNATURE OF ATTORNEY OF RECORD

DATE