

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
EASTERN DIVISION**

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**KEITH F. BELL, PH.D.,**

**Plaintiff,**

**-v-**

**LLOY BALL AND USA VOLLEYBALL**

**Defendants.**

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**Civil Action No. 1:18-cv-156**

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff, Keith F. Bell, Ph.D. ("Dr. Bell" or "Plaintiff"), by and through his attorneys Alexander I. Passo and Latimer LeVay Fyock LLC, files this Complaint to recover damages arising from violations of Dr. Bell's intellectual property rights by Defendants Lloy Ball and USA Volleyball (collectively, "Defendants"). In support of his claims, Plaintiff states as follows:

**THE PARTIES**

1. Plaintiff is, and at all relevant times has been, a resident of Texas.
2. Lloy Ball is a natural person who lives in Angola, Indiana. Ball may be served at 1640 Lane 105 Lake James, Angola, IN 46703-8533, or wherever he may be found.
3. USA Volleyball is a Colorado non-profit corporation that may be served through its registered agent, USA Volleyball, at 4065 Sinton Rd., Suite 200, Colorado Springs, CO 80907, or wherever USA Volleyball may be found.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 & 1338 in that the claims arise under an act of Congress relating to copyrights. This Court has supplemental jurisdiction under 28 U.S.C. § 1367(a) over Plaintiff's claims under state law. This Court also has diversity jurisdiction in this case because Plaintiff and Defendants are from different states and the amount in controversy exceeds \$75,000. There is complete diversity among the parties.

5. This Court has jurisdiction over Ball because he resides and is domiciled in Indiana. The Court has jurisdiction over USA Volleyball because:

- a. It is doing business in this state;
- b. Has caused personal injury or property damage by an act or omission done within this state; and
- c. Has caused personal injury or property damage in this state by an occurrence, act or omission done outside this state. USA Volleyball regularly does or solicits business or engages in any other persistent course of conduct, or derives substantial revenue or benefit from goods, materials, or services used, consumed, or rendered in this state.

6. Plaintiff contends that there is both specific and general jurisdiction over Defendants in these states, that each has sufficient minimum contacts to satisfy due process, and that the exercise of jurisdiction over Defendants comports with traditional notions of fair play and substantial justice.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiff's claims occurred in this judicial district and

because Defendants live and/or have their principal places of business in this state within this judicial district and division.

### **THE FACTS**

#### ***Dr. Bell and His Sports Psychology Practice***

7. Dr. Bell is an internationally recognized sports psychology and performance consultant. He has worked as a sports psychologist with over 500 teams, including the Olympic and national teams for the United States, Canada, Australia, New Zealand, Hong Kong, Fiji, and the Cayman Islands.

8. In addition to his work with sports teams, Dr. Bell speaks at national and international coaching symposia. Among others, he has been a featured speaker with the American Swim Coaches Association, Australian Coaches Association, Canadian Coaches Association, Japanese Coaches Association, and British Swim Coaches Association.

9. Dr. Bell has also enjoyed success as an athlete and coach. He is a four-time collegiate All-American swimmer, holds numerous world and national masters swim records, and has coached U.S. national, university, collegiate, high school, and club swimming teams.

10. Further, Dr. Bell has authored and had published 10 books and over 80 articles relating to sports psychology and sports performance. He also has been a regular columnist for national swimming publications such as *Swimmers*, *Swimmers Coach*, *SwimSwam*, and *Swim Texas Magazine*, and is a periodic contributor to *Austin Fit Magazine*.

#### ***Dr. Bell's Original Literary Work, Winning Isn't Normal***

7. In 1981, Dr. Bell wrote the book entitled *Winning Isn't Normal* ("Winning Isn't Normal" or the "Infringed Work"), which was first published in 1982. The book has enjoyed

substantial acclaim, distribution, and publicity. Dr. Bell is the sole author of this work and continues to own all rights in the work.

8. Dr. Bell holds a copyright registration for the Infringed Work. A copyright registration certificate for *Winning Isn't Normal* was issued to Dr. Bell by the United States Copyright Office on or about September 21, 1989, with the registration number TX-0002-6726-44. A true and correct copy of the Certificate of Registration is attached hereto as **Exhibit A**.

9. Since Dr. Bell authored and published the Infringed Work, *Winning Isn't Normal*, he has and continues to promote, distribute, offer for sale, and sell numerous copies of the work. Currently, among others, Dr. Bell offers *Winning Isn't Normal* for sale through Amazon.com and the website keelpublications.com.

10. Dr. Bell has made and continues to make meaningful efforts to create a market for *Winning Isn't Normal* and to protect and enjoy the rights afforded to him under the Copyright Act. Importantly, as part of these efforts, Dr. Bell creates, markets, and sells works derivative of the Infringed Work, such as posters and t-shirts that display a particular passage from *Winning Isn't Normal* (the "WIN Passage"). The WIN Passage is viewed by Dr. Bell and others as the heart of Dr. Bell's literary work *Winning Isn't Normal*. A true and correct copy of the WIN Passage is attached as **Exhibit B**.

11. Dr. Bell owns the domain winningisntnormal.com, which points to the keelpublications.com website where Dr. Bell offers the Infringed Work *Winning Isn't Normal* and derivative works for sale.

12. Due to the popularity of his original work *Winning Isn't Normal*, Dr. Bell has been able to increase his international recognition as an authority in sports psychology and sports

performance and has been asked to speak at conferences, symposia, and other engagements as a result.

13. Dr. Bell has offered and continues to offer licenses at fair and reasonable rates to others who wish to publish or otherwise use the popular WIN Passage on the internet or in traditional publishing mediums.

14. Dr. Bell has taken due care to provide notice of his copyright in *Winning Isn't Normal*. Dr. Bell has included pertinent copyright notices on physical and electronic copies of *Winning Isn't Normal* and derivative works, provides pertinent copyright notices on Amazon.com and keelpublications.com, and includes a conspicuous copyright watermark on digital images of derivative works (such as posters) or excerpts that he posts online or otherwise distributes. Dr. Bell also includes information on keelpublications.com regarding how to contact Dr. Bell about obtaining permission to use the WIN Passage or other portions of *Winning Isn't Normal*.

15. Because of Dr. Bell's commercial efforts, Dr. Bell enjoys trademark protection in the word mark WINNING ISN'T NORMAL, which he uses in connection with various goods and services, including his Winning Isn't Normal<sup>®</sup> series of books, of which *Winning Isn't Normal* is part. The United States Patent and Trademark Office issued a trademark registration to Dr. Bell for WINNING ISN'T NORMAL for printed matter on November 4, 2014, with a registration number of 4630749. A copy of the trademark registration is attached as **Exhibit C**.

16. Pursuant to Section 33(b) of the Lanham Act, registration of the WINNING ISN'T NORMAL<sup>®</sup> mark is conclusive evidence of the validity of the registered mark and of Dr. Bell's right to use the registered mark in commerce in connection with the goods or services specified in the registration.

17. As a result of the unique and distinctive nature of Dr. Bell's WINNING ISN'T NORMAL<sup>®</sup> mark and his continued commercial use of the mark, "Winning Isn't Normal" has become widely associated with Dr. Bell and his printed material and related goods and services. The WINNING ISN'T NORMAL<sup>®</sup> mark is indicative to consumers that printed material and related items bearing the WINNING ISN'T NORMAL<sup>®</sup> mark originate from or are affiliated with, sponsored, or approved by Dr. Bell.

***Defendants' Infringement of Dr. Bell's Work***

18. Defendant Ball is the individual connected with and responsible for activity on the social media platform Twitter.com ("Twitter") by the user "@LTPer."

19. Defendant USA Volleyball is connected with and responsible for activity on the social media platform Twitter.com ("Twitter") by the user "@usavolleyball."

20. On or about November 12, 2015, a representation of the WIN Passage was posted to the Twitter account of Defendant Ball. A copy of the Twitter post is attached as **Exhibit D**.

21. The post was made without authorization from Dr. Bell and without attribution to Dr. Bell.

22. On or about November 20, 2015, a representation of the WIN Passage was posted to the Twitter account of Defendant USA Volleyball. A copy of the Twitter post is attached as **Exhibit E**.

23. The post was made without authorization from Dr. Bell and without attribution to Dr. Bell.

24. Neither of the Defendants contacted Dr. Bell to request permission to use Dr. Bell's copyrighted work.

25. Upon information and believe, Defendant Ball had over 2,000 followers when the post was made, and the post of Defendant Ball received at least 51 “Retweets” and 201 “Likes.” Due to the globally accessible nature of Twitter, the post was accessible by Internet users across the world.

26. The post of Defendant USA Volleyball was a “retweet” embedding the post by Defendant Ball. Upon information and believe, Defendant USA Volleyball had over 123,000 followers when the post was made, and the post of Defendant USA Volleyball received at least 30 “Retweets” and over 7,000 “Likes.” Due to the globally accessible nature of Twitter, the post was accessible by Internet users across the world.

27. Dr. Bell sent a cease and desist letter to Defendant Ball on July 15, 2016, and to Defendant USA Volleyball on April 21, 2017. Upon information and belief, both Defendants removed their infringing posts shortly after the letter was sent to Defendant Ball, automatically removing all retweets of the post. The post was therefore accessible on each Defendant’s Twitter page for at least 8 months..

28. While Defendants have tacitly acknowledged their liability to Plaintiff, they have steadfastly refused to enter into a settlement agreement that will protect Plaintiff right in the future and compensate him for his injuries.

### **CLAIM I: COPYRIGHT INFRINGEMENT**

29. Plaintiff repeats and realleges each and every paragraph set forth above as if fully set forth again at length herein.

30. Plaintiff owns valid copyright in the Infringed Work.

31. Defendants have, without authorization, copied one or more of the constituent elements of the Infringed Work that are original.

32. Defendants copied the heart of the Infringed Work almost verbatim, rendering the offending works substantially similar to and/or functionally identical to the Infringed Work.

33. Defendants' copying of the Infringed Work was done willfully and intentionally in violation of federal copyright law, with knowledge that an agreement had not been reached with Plaintiff regarding such copying, and with knowledge that neither a license nor an assignment had been granted to Defendants allowing them to copy or use the Infringed Work.

34. Defendants have, without authorization, publicly displayed one or more of the constituent elements of the Infringed Work that are original.

35. Defendants' public display of the heart of the Infringed Work was done willfully and intentionally in violation of federal copyright law, with knowledge that an agreement had not been reached with Plaintiff regarding such public display, and with knowledge that neither a license nor an assignment had been granted to Defendants allowing them to publicly display the Infringed Work.

36. By so copying and publicly displaying the Infringed Work, Defendants have willfully infringed Plaintiff's copyrights therein, for which infringement Plaintiff is entitled to injunctive relief and to recover damages in the form of either Defendants' actual profits attributable to the infringements or, in the alternative and at Plaintiff's election, statutory damages. Defendants should also be required to pay Plaintiff's attorneys' fees, as authorized by law, associated with their copyright infringement.

## **CLAIM II: TRADEMARK INFRINGEMENT**

37. Plaintiff repeats and realleges each and every paragraph set forth above as if fully set forth again at length herein.

38. As a cause of action and ground for relief, Plaintiff alleges that Defendants have engaged in trademark infringement under Section 32(1) of the Lanham Act, 15 U.S.C. Section 1114(1).



39. The WINNING ISN'T NORMAL trademark is federally registered for use in relation to the following goods: "Printed matter, namely, non-fiction publications, namely, books, booklets, pamphlets, articles, manuals and posters in the field of sports, fitness, and competitive performance and psychology." See the attached trademark registration at **Exhibit C**.

40. The Defendants included Plaintiff's trademark in the Twitter posts discussed herein. The Defendants used Plaintiff's trademark in the Twitter post without the Plaintiff's knowledge or permission and without attribution to Plaintiff.

41. The Twitter post lacked Plaintiff's name, and some readers of the post are likely to be confused so as to infer that the text shown in the post was originated by either of the Defendants, rather than by Plaintiff, and/or that the infringing Twitter posts were affiliated with, sponsored, or approved by Plaintiff.

42. Defendants have infringed the Plaintiff's right to be identified and distinguished from others through use of the trademark.

43. Defendants' willful and deliberate acts described above have caused injury and damages to Plaintiff and have caused injury to Plaintiff's goodwill.

44. As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial.

45. Defendants have infringed Plaintiff's registered trademark and therefore Plaintiff is entitled to costs of suit pursuant to the Lanham Act at 15 U.S.C. § 1117. This is also an extraordinary case under the Lanham Act in which attorney fees should be awarded to Plaintiff.

#### **ATTORNEY FEES**

46. Because of Defendants' willful and intentional infringement of Plaintiff's copyrights, Plaintiff has been required to retain the services of attorneys to protect his rights and interests. Based upon the foregoing, Plaintiff respectfully requests that this Court award costs

of court and reasonable attorneys' fees as part of the requested relief, pursuant to 17 U.S.C. § 505.

47. Plaintiff is also entitled to recover attorney fees for trademark infringement because this is an extraordinary case under the Lanham Act.

**PRAYER**

48. WHEREFORE, Plaintiff demands judgment against Defendants as follows:

49. That the Court issue an injunction prohibiting Defendants and those acting in concert with them from:

- (a) Infringing Plaintiff's federal trademark registration;
- (b) Copying, using, or publicly displaying the Infringed Work or constituent elements thereof that are original;
- (c) Creating any derivative works based on the Infringed Work (either individually or with a third party) without first obtaining a license or assignment from Plaintiff that allows Defendants to do so; and
- (d) Otherwise infringing the rights of Plaintiff with respect to the Infringed Work and Plaintiff's trademark.

50. A judgment awarding damages to Plaintiff based on each of the claims asserted herein, including actual, consequential, incidental, and all other types of damages authorized by law necessary to make Plaintiff whole under applicable law;

51. Actual damages, profits, and/or statutory damages based on copyright infringement;

52. Actual damages, profits, and/or statutory damages based on trademark infringement;

53. That an accounting be directed to determine the profits of Defendants resulting from their activities and that such profits be paid over to Plaintiff, increased as the Court finds to be just under the circumstances;

54. Reasonable and necessary attorney fees pursuant to 17 U.S.C. § 505, the Lanham Act, and other law;

55. The injunctive relief and all necessary findings requested herein;

56. Pre-judgment and post-judgment interest at the highest rate allowed by law;

57. Costs of bringing this claim; and

58. Such other relief at law or in equity to which Plaintiff shows himself justly entitled.

Dated: May 30, 2018

Respectfully submitted,  
By: /s/ Alexander I. Passo  
Alexander I. Passo (33934-64)  
Latimer LeVay Fyock LLC  
55 West Monroe Street, Suite 1100  
Chicago, Illinois 60603  
312-284-6256; Fax: 312-422-8001  
[Apasso@llflegal.com](mailto:Apasso@llflegal.com)

## **EXHIBIT A**

# CERTIFICATE OF COPYRIGHT REGISTRATION



This certificate, issued under the seal of the Copyright Office in accordance with the provisions of section 410(a) of title 17, United States Code, attests that copyright registration has been made for the work identified below. The information in this certificate has been made a part of the Copyright Office records.

*[Signature]*  
REGISTER OF COPYRIGHTS  
United States of America

## FORM TX

UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TX-2 672 644

EFFECTIVE DATE OF REGISTRATION

9 March 21 89

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

### TITLE OF THIS WORK

Winning Isn't Normal

### PREVIOUS OR ALTERNATIVE TITLES

**PUBLICATION AS A CONTRIBUTION** If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. **Title of Collective Work**

If published in a periodical or serial give: **Volume** **Number** **Issue Date** **No. Pages**

2

### NAME OF AUTHOR

a Keith Frank Bell

### DATES OF BIRTH AND DEATH

Year Born 1948 Year Died

Was this contribution to the work a "work made for hire"?

☐ Yes ☒ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country U.S.A.

OR Citizen of ☐ Domiciled in ☐

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

## NOTE

Under this law, the "author" of a "work made for hire" is generally the employer.

### NATURE OF AUTHORSHIP

Entire Text

Briefly describe nature of the material created by this author in which copyright is claimed.

### NAME OF AUTHOR

b

### DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire"?

☐ Yes ☒ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of ☐ Domiciled in ☐

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

### NATURE OF AUTHORSHIP

Briefly describe nature of the material created by this author in which copyright is claimed.

### NAME OF AUTHOR

c

### DATES OF BIRTH AND DEATH

Year Born Year Died

Was this contribution to the work a "work made for hire"?

☐ Yes ☒ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of ☐ Domiciled in ☐

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

### NATURE OF AUTHORSHIP

Briefly describe nature of the material created by this author in which copyright is claimed.

3

### YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

1981

### DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published. Month February Year 1982

Country United States of America

4

### COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

Dr. Keith Bell  
3101 Mistyglens Circle  
Austin, Texas 78746

1598 Winford Ave.  
Ventura, CA 93004

### APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

### TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

**TRANSFER** If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

**MORE ON BACK** \* Complete all applicable spaces (numbers 5-11) on the reverse side of this page.  
\* See detailed instructions.

**DO NOT WRITE HERE**

Page 1 of 2 pages

## **EXHIBIT B**

think you are one of those special people who win national championships and break world records?

Well, guess what? No one is special! The people who win are not special people. There is nothing special about the people who break world records. They are not special people — they do special things! They are just people who do special things. You can too! And you have to do special things, if you want to win.

## **Winning Isn't Normal**

Winning isn't normal. That doesn't mean there's anything wrong with winning. It just isn't the norm. It's highly unusual.

Every race only has one winner. No matter how many people are entered (not to mention all those who tried and failed to make cuts), only one person (or one relay) wins each event.

Winning is unusual. As such, it requires unusual action.

In order to win, you must do extraordinary things. You can't just be one of the crowd. The crowd doesn't win. You have to be willing to stand out and act differently.

Your actions need to reflect unusual values and priorities. You have to value success more than others do. You have to want it more. (Now, take note! Wanting it more is a decision you make and act upon — not some inherent quality or burning inner drive or inspiration!) And you have to make that value a priority.

You can't train like everyone else. You have to train more and train better.

You can't talk like everyone else. You can't think like everyone else. You can't be too willing to join the crowd, to do what is expected, to act in a socially accepted manner, to do what's "in." You need to be willing to stand out in the crowd and consistently take exceptional action. If you want to win, you need to accept the risks and perhaps the loneliness . . . because *winning isn't normal!!*

## **EXHIBIT C**



# United States of America

United States Patent and Trademark Office

## WINNING ISN'T NORMAL

**Reg. No. 4,630,749**

**Registered Nov. 4, 2014**

**Int. Cl.: 16**

**TRADEMARK**

**PRINCIPAL REGISTER**

BELL, KEITH FRANK (UNITED STATES INDIVIDUAL)  
3101 MISTYGLEN CIRCLE  
AUSTIN, TX 78746

FOR: PRINTED MATTER, NAMELY, NON-FICTION PUBLICATIONS, NAMELY, BOOKS, BOOKLETS, PAMPHLETS, ARTICLES, MANUALS AND POSTERS IN THE FIELD OF SPORTS, FITNESS, AND COMPETITIVE PERFORMANCE AND PSYCHOLOGY, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 9-23-1978; IN COMMERCE 12-31-1982.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-947,685, FILED 5-31-2013.

SUSAN STIGLITZ, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

**First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

**Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

## **EXHIBIT D**



Home About

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TWEETS  
4,661

FOLLOWING  
187

FOLLOWERS  
1,894

LIKES  
115

[+ Follow](#)

**Lloy Ball #1**

@LTPer

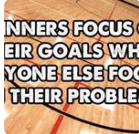
retired

[LTP](#)

[teampineapple.com](#)

Joined July 2009

[381 Photos and videos](#)



Tweets

[Tweets & replies](#)

[Photos & videos](#)



Lloy Ball #1 @LTPer · 2h

[#BeSpecial](#)

## WINNING ISN'T NORMAL

Winning isn't normal. That doesn't mean there is anything wrong with winning. It just isn't normal. It's highly unusual.

Every competition has only one winner. No matter how many people are entered, only one person or team wins the championship.

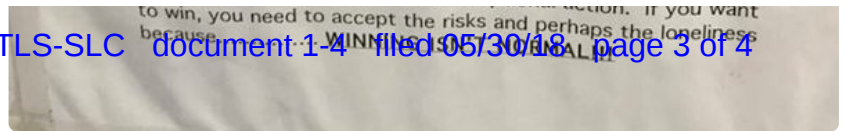
Winning is unusual – as such it requires unusual action.

In order to win, you must do extraordinary things. You cannot just be one of the crowd. The crowd doesn't win. You have to be willing to stand out and act differently.

Your actions need to reflect unusual values and priorities. You have to value success more than others do. You have to want it more. **WANTING IT MORE IS A DECISION YOU MAKE AND ACT UPON – NOT SOME INHERENT QUALITY OR BURNING INNER DRIVE OR INSPIRATION!** You have to make that value a priority.

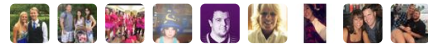
You cannot train like everyone else. You have to train more and train better.

You cannot talk like everyone else. You cannot think like everyone else. You cannot be too willing to join the crowd, to do what is expected, to act in a socially accepted manner, to do what is "in". You need to be willing to stand out in the crowd and **CONSISTENTLY take exceptional action**.



RETWEETS  
**24**

LIKES  
**31**



12:56 PM - 12 Nov 2015 · Details



**High Velocity VBC** @highvelocityvbc · 1h

@LTPer @kalinkiara02 love this! Mentor our athletes about this very thing everyday...it helps to hear it in this way! Thnx



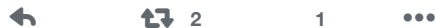
Lloy Ball #1 Retweeted



**All In Volleyball** @Allinvolleyball · 3h

A little #tbt for the bday week of our friend Jeff Ptak

[youtu.be/cNb5Q8UFCZM](https://youtu.be/cNb5Q8UFCZM) [fb.me/43WuEFbJW](https://fb.me/43WuEFbJW)



[View media](#)



**Lloy Ball #1** @LTPer · 9h

Legendary Coach Arnie Ball showing that he's ALWAYS been a #BALLER



Lloy Ball #1 Retweeted



**Team Pineapple VBC** @LBpineapple · 19h

Another 50 kids at the club Round Up tonight!!! Thanks to the 🍍 staff for being #awesome again tonight.



Lloy Ball #1 Retweeted



**Team Pineapple VBC** @LBpineapple · 18h

Pineapple kids & parents got to see 71 year old Coach Arnie Ball diving & shoulder rolling tonight!! He still #amazes me!!!



**Lloy Ball #1** @LTPer · Nov 11

#America





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Have an account? [Log in](#)**Lloy Ball #1**  
@LTPerTWEETS  
5,322FOLLOWING  
179FOLLOWERS  
2,072LIKES  
201[Follow](#)**Lloy Ball #1** @LTPer · 12 Nov 2015

#BeSpecial

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You cannot train like everyone else. You have to train more and train better.

You cannot talk like everyone else. You cannot think like everyone else. You cannot be too willing to join the crowd, to do what is expected, to act in a socially accepted manner, to do what is "in". You need to be willing to stand out in the crowd and **CONSISTENTLY** act differently.



51



78



Lloy Ball #1 Retweeted

**All In Volleyball** @Allinvolleyball · 12 Nov 2015

A little #tbt for the bday week of our friend Jeff Ptak

[youtu.be/cNb5Q8UFCZM](https://youtu.be/cNb5Q8UFCZM)

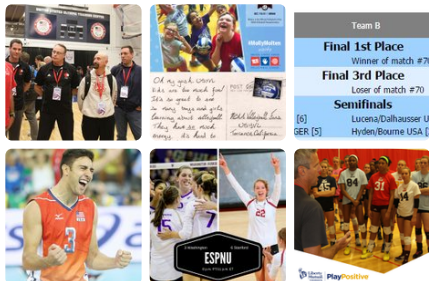
2



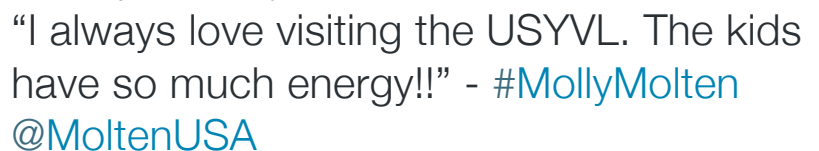
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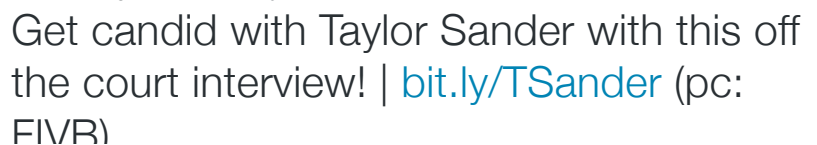
## **EXHIBIT E**



...









15 50



USA Volleyball @usavolleyball · 7h

Set your alarm, watch 3 @UWVolleyball vs 6 @StanfordWVB 11pmET tonight on @ESPNU #NCAAvb [bit.ly/NCAAVBonTV](http://bit.ly/NCAAVBonTV)



29 82



USA Volleyball @usavolleyball · 8h

How does @karch\_kiraly go about setting expectations? Video from @LibertyMutual to find out! [bit.ly/1MgUjmW](http://bit.ly/1MgUjmW)



31 43



USA Volleyball @usavolleyball · 20h

Find out 5 things you might not know about

## Update [bit.ly/111115MNT](https://bit.ly/111115MNT)

Kawika Shoji and Dustin Watten



10 58



**USA Volleyball** @usavolleyball · Nov 11

Tickets going fast for #VBOLympicQualifier in presale thru 10pm CT tonight. Get yours now! [bit.ly/111015Tix](https://bit.ly/111015Tix)

Kayla Banwarth, Kelsey Robinson, Jordan Larson and 7 others



23 92



**USA Volleyball** @usavolleyball · Nov 11

Get to know @shojinator off the court! [bit.ly/EShoji](https://bit.ly/EShoji) (pc: FIVB)



10 56

USA Volleyball Retweeted



**John Kessel** @JohnKesselUSAV · Nov 11





Happy Veterans Day thanks 2 Manny LM & All Armed Forces members & Wounded Warriors -THANK YOU @usavolleyball



43 144



USA Volleyball @usavolleyball · Nov 11

Happy birthday to setter Kawika Shoji - @Kshoji7 - who is in Turkey. We can't wait to see him back in the USA!

46 141

USA Volleyball Retweeted



U.S. Paralympics @USParalympics · Nov 11

Thankful today and everyday for all of our veterans on #TeamUSA! 🇺🇸  
#VeteransDay

Jon Lujan

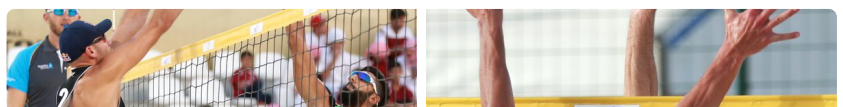


96 222



USA Volleyball @usavolleyball · Nov 11

On to round two at the #QatarOpen! @PhilDalhausser  
@NickLucenaFSU go 3-0 in pool play; @TriBourne @johnhyden 2-1





18 36



USA Volleyball @usavolleyball · Nov 11

Take a glimpse into volleyball in the 1940s!  
#WayBackWednesday | [bit.ly/VB1943](http://bit.ly/VB1943)



62 97



USA Volleyball @usavolleyball · Nov 10

NORCECA Olympic Qualifier presale tix on  
WED. #USAVwnt, DOM, PUR, CAN Jan. 7-  
9 in Lincoln. [bit.ly/111015Tix](http://bit.ly/111015Tix)

Jordan Larson, Kayla Banwarth, Kelsey Robinson and 7 others



55 113

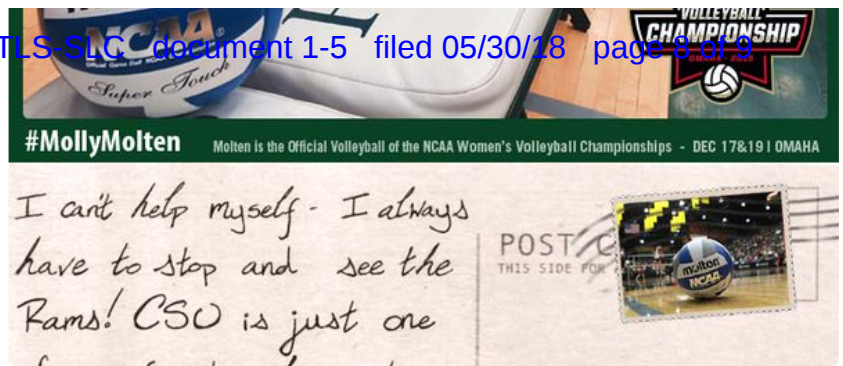


USA Volleyball @usavolleyball · Nov 10

"Of course I had to stop and see the Rams!" -#MollyMolten  
[@MoltenUSA](http://@MoltenUSA)







6 35



**USA Volleyball** @usavolleyball · Nov 10

Find out what @McCutcheonMN, former MNT and WNT head coach, has been up to as head coach of the @GopherVBall! |

[bit.ly/USAVaudioHugh1...](http://bit.ly/USAVaudioHugh1...)

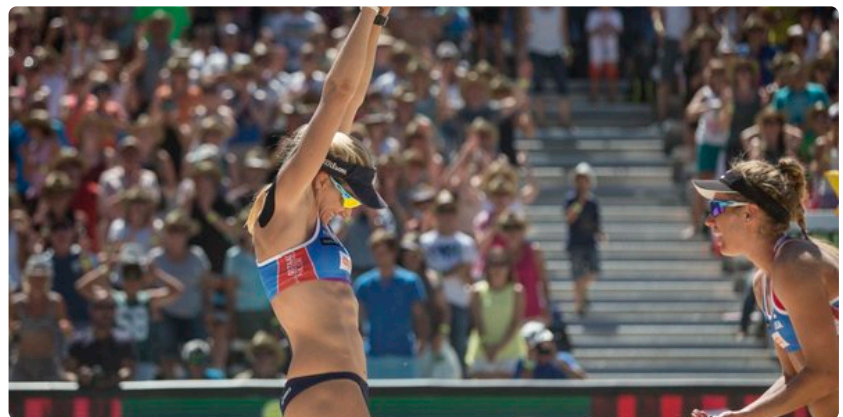
4 14



**USA Volleyball** @usavolleyball · Nov 10

Learn 6 Packing Tips from our beach Olympians and their previous travel horror stories! | [bit.ly/1110PackingTips](http://bit.ly/1110PackingTips)

👤 Kerri Walsh Jennings and April Ross



9 36

### New to Twitter?

Sign up now to get your own personalized timeline!

Sign up

### You may also like ·

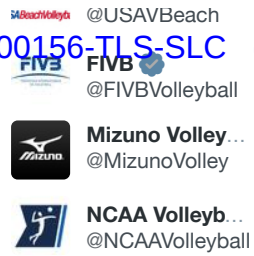
[Refresh](#)



**Volleyball Pro...**  
@vballproblems



**USAV Beach**



#### Trends

#1DHarry  
#NintendoDirect  
#MillionStudentMarch  
Tom Jones  
#WeLoveYouJesy  
Vincent Asaro  
#XF9  
Hungary  
Fast Racing Neo  
YouTube Music

## CIVIL COVER SHEET

USDC IN/ND case 1:18-cv-00156-TLS-SLC document 1-6 filed 05/30/18 page 1 of 2

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**

DR. KEITH BELL

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

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

ALEXANDER I. PASSO, LATIMER LEVAY FYOCK LLC, 55 W.  
MONROE STREET, STE. 1100, CHICAGO, IL 60603, 3122846256

**DEFENDANTS**

LLOY BALL and USA VOLLEYBALL

County of Residence of First Listed Defendant Steuben  
(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 checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" 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)

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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <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 <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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 type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <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 <b>Other:</b> <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			

**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):  
15 U.S.C 1114(1) and 28 U.S.C. 1331 and 1338

Brief description of cause:  
Trademark and Copyright Infringement

**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

05/25/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Alexander I. Passo

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**USDC IN/ND case 1:18-cv-00156-TLS-SLC document 1-6 filed 05/30/18 page 2 of 2**  
**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 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 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.