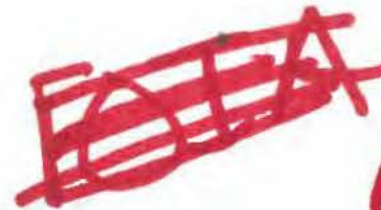




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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

MATTHEW C. ZORN

Plaintiff(s)

v.

UNITED STATES HEALTH AND HUMAN
SERVICES

Defendant(s)

Civil Action No. 1:23-cv-02894

NOV 09 2023

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* U.S. Department of Health and Human Services
Freedom of Information Act Office
200 Independence Avenue, SW
Washington, DC 20201

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:

Matthew C. Zorn
811 Main Street, Suite 4100
Houston, Texas 77002
mzorn@yettercoleman.com

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.

Date: 10/2/2023



CLERK OF COURT

/s/ Ro'Shaila Williams

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:23-cv-02894

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)* _____
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:


~~~~~

9. Plaintiff seeks Court order ordering HHS to produce the requested record to Plaintiff.

## PARTIES

10. Plaintiff **Matthew C. Zorn** is an attorney (<https://www.yettercoleman.com/our-people/matthew-c-zorn/>) and journalist who regularly publishes essays and articles on controlled substances on his newsletter (<http://ondrugs.substack.com>).

11. Defendant **HHS** is an agency within the meaning of 5 U.S.C. § 552(f) that has custody or control of the requested records. The U.S. Department of Health and Human Services may served at Freedom of Information Act Office, 200 Independence Avenue SW, Washington, D.C. 20201.

## JURISDICTION, VENUE, AND EXPEDITED CONSIDERATION

12. This action arises under the laws and Constitution of the United States. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

13. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

14. Expedited consideration is warranted and requested under 28 U.S.C. § 1657.

## FACTS

15. On August 30, 2023, Bloomberg reported that “US health officials are recommending easing restrictions on marijuana, a move that sets the stage for potentially expanding the cannabis market across the country.” (Ex. B)

16. According to article, “[a] top official at the Department of Health and Human Services wrote Drug Enforcement Administration head Anne Milgram calling for marijuana to be reclassified as a Schedule III drug under the Controlled Substances Act, according to a letter dated Aug. 29 that was seen by Bloomberg News.” (Ex. B)

17. According to the article, “[a] DEA spokesperson confirmed the department had received the letter with HHS’s recommendation.” (Ex. B)

19. The same day, August 30, 2023, Plaintiff filed the FOIA Request, i.e., the letter “that was seen by Bloomberg News,” through HHS’s online FOIA portal at <https://requests.publiclink.hhs.gov/App/PalLogin.aspx>. (Ex. A)

20. That afternoon, HHS received Plaintiff’s request and assigned it Request #2023-01171-FOIA-OS. (Ex. C)

21. As of the date of this Complaint’s filing, HHS has not made a determination whether to comply with the FOIA Request. Indeed, it has provided no response at all.

22. The record requested in the FOIA Request has become an item of public interest:

- a. Many news stories have been written about the recommendation.<sup>1</sup>
- b. Many opinion/expert pieces have been written about the recommendation.<sup>2</sup>
- c. Following the August 30, 2023 announcement, Senate Leader Schumer “released the following statement on the Department of Health and Human Services (HHS) recommendation to the Drug Enforcement Agency (DEA) to move marijuana from a Schedule I to a Schedule III controlled substance”: “HHS has done the right thing and DEA should now quickly follow through on this important step to greatly reduce the harm caused by draconian marijuana laws...”<sup>3</sup>
- d. 14 lawmakers wrote to DEA urging it to reject any attempt to reschedule marijuana, claiming that it is “irresponsible” for HHS to recommend rescheduling and that rescheduling should be based on “facts and science.”<sup>4</sup>
- e. Governor Polis wrote to President Biden praising the “evidence based” recommendation.<sup>5</sup>

---

<sup>1</sup> E.g., <https://www.politico.com/news/2023/08/30/marijuana-review-move-to-schedule-iii-00113493>, <https://www.cnn.com/2023/08/30/health/marijuana-schedule-hhs-dea/index.html>, <https://www.nbcnews.com/politics/politics-news/us-health-agency-recommends-easing-federal-marijuana-restrictions-rcna102642>, <https://www.washingtonpost.com/health/2023/08/30/hhs-recommends-marijuana-reclassified/>

<sup>2</sup> E.g., <https://folcypoag.com/news-and-insights/publications/alerts-and-updates/2023/august/the-cannabis-rescheduling-recommendation-what-it-means-and-whats-next/>.

<sup>3</sup> <https://www.democrats.senate.gov/newsroom/press-releases/majority-leader-schumer-statement-on-the-biden-administration-recommendation-to-reschedule-cannabis>

<sup>4</sup> <https://twitter.com/SenatorLankford/status/1701689333554577861/photo/1>

<sup>5</sup> <https://drive.google.com/file/d/1p1lf7hnCihFDamENlV97DY7ps-iOx3msl/view>



- f. Two senators recently filed a bill entitled the “Deferring Executive Authority Act” or “DEA Act.”<sup>6</sup>
- g. The Congressional Research Service recently wrote an Insight piece discussing the implications of rescheduling, linking to news articles.<sup>7</sup>

23. And yet, it is unclear whether all these people writing, commenting, investing, bloviating, legislation, or opining on the recommendation have ever seen the document. It appears the remarks are based on bona fide hearsay. While Bloomberg saw the recommendation and the HHS Secretary highly touted it on X (f/k/a Twitter) at 4:20, to Plaintiff’s knowledge, the Biden Administration has withheld the actual letter and recommendation from the public.

#### **CLAIM**

#### **FIRST CAUSE OF ACTION (FOIA)**

24. Plaintiff incorporates the previously alleged paragraphs by reference.

25. Defendant has improperly withheld agency records from Plaintiff.

26. Because Defendant did not respond within 20 working days, remedies are deemed exhausted. 5 U.S.C. § 552(a)(6)(C)(i). *Citizens for Resp. & Ethics in Washington v. FEC*, 711 F.3d 180, 185 (D.C. Cir. 2013).

27. Neither has Defendant complied with time limits on expedited processing.

28. The agency cannot show exceptional circumstances or due diligence in responding to the FOIA Request.

29. There is no conceivable basis to withhold the letter and recommendation from the public. A record containing a recommendation to reschedule marijuana first leaked to the press and then touted by the HHS Secretary at 4:20 at X (f/k/a Twitter) can’t possibly be FOIA exempt.

---

<sup>6</sup> <https://www.lummis.senate.gov/wp-content/uploads/SIL23A511-1.pdf>

<sup>7</sup> <https://crsreports.congress.gov/product/pdf/IN/IN12240>



*See, e.g., Davis v. DOJ*, 968 F.2d 1276, 1279 (D.C. Cir. 1992). Also, a letter requesting DEA initiate rulemaking under 21 U.S.C. § 811(a) and a medical/scientific under § 811(b) is not preliminary, but HHS's final decision to recommend rescheduling. *See United States Fish & Wildlife Serv. v. Sierra Club, Inc.*, 141 S. Ct. 777, 785-88 (2021). Rather, it communicates to HHS's final view on the matter and binds DEA on scientific and medical matters.

30. Upon production of the document to Plaintiff, Plaintiff intends to post it on the internet for free at <http://ondrugs.substack.com>.

**PRAYER FOR RELIEF**

For these reasons, Plaintiff respectfully requests the Court:

1. Expedite this action under 28 U.S.C. § 1657;
2. Direct Defendant to immediately produce the requested record or in any event, promptly;
3. Award any attorney fees under 5 U.S.C. § 552 justified by law; and
4. Order all other relief deemed just and proper.

Dated: September 29, 2023

Respectfully submitted,

/s/ Matthew C. Zorn  
Matthew C. Zorn  
mzorn@yettercoleman.com  
811 Main Street, Suite 4100  
Houston, TX 77002  
T: (713) 632-8000  
F: (713) 632-8002

# Exhibit A

Request - 2023-01171-FOIA-OS

Create Appeal + Back

## Requester Details

To modify request details please update your requester profile or contact the our office for assistance.

**Mr. Matthew Zorn**

Requester Default Category: News Media

## Request Details

Date Requested 08/30/2023  
Status Assigned for Processing

## General Information

Action Office Office of the Secretary

Request Type FOIA




**Note:** For Privacy Act Requests further verification of identity may be required.

Delivery Mode Download via PAL Account

**Note:** For fastest response time use the [Download Via PAL Account](#) option.

Payment Mode Credit Card - Pay.gov

## Shipping Address

Street1  Street2   
City Houston State Texas  
State (Other) Country United States  
Zip Code 

## Request Information

(Please do not include personal information such as your Social Security Number. The FOIA Office will inform you if such information is necessary.)

Request Description The letter from Asst. Sec. Rachel Levine to Administrator Anne Milgram recommending marijuana be rescheduled to III that is referenced here: <https://www.bloomberg.com/news/articles/2023-08->

Date Range for Record Search From(mm/dd/yyyy) 08/01/2023 To (mm/dd/yyyy) 08/31/2023

Description Document

 [Add Attachment](#)**Fee Information**

Willing Amount (\$)

25.00

Willing to Pay All Fees

**Expedite Information**

As a FOIA requester, you may ask HHS for "expedited processing" of your request. However, you should know that the agency will grant this request only under very specific circumstances. In order to qualify, you must certify that there is an imminent threat to the life or physical safety of an individual or, if you are a person primarily engaged in disseminating information to the public, you must demonstrate that there is an urgency to inform the public about certain federal government activity. HHS must decide whether to grant a request for expedited processing within 10 calendar days. [HHS Regulation 45 eCFR Part 5, Sec.5.27](#)

Expedite Requested

Expedite Reason

I am primarily engaged in the dissemination of information on drug regulation at [ondrugs.substack.com](https://ondrugs.substack.com), and have written extensively about *rescheduling*. There is an urgency to disclose the letter because it is in the news

Expedite Request Status

TBD

[Privacy Policy](#)



Description Document

 [Add Attachment](#)**Fee Information**

Willing Amount (\$)

25.00

Willing to Pay All Fees

**Expedite Information**

As a FOIA requester, you may ask HHS for "expedited processing" of your request. However, you should know that the agency will grant this request only under very specific circumstances. In order to qualify, you must certify that there is an imminent threat to the life or physical safety of an individual or, if you are a person primarily engaged in disseminating information to the public, you must demonstrate that there is an urgency to inform the public about certain federal government activity. HHS must decide whether to grant a request for expedited processing within 10 calendar days. [HHS Regulation 45 eCFR Part 5, Sec. 5.27](#)

**Expedite Requested****Expedite Reason**

I am primarily engaged in the dissemination of information on drug regulation at [ondrugs.substack.com](https://ondrugs.substack.com), and have written extensively about rescheduling. There is an urgency to disclose the letter because it is in the news

**Expedite Request Status**

TBD

[Privacy Policy](#)

# Exhibit B

Live Now  
Markets  
Economics  
Industries  
Tech  
AI  
Politics  
Wealth  
Pursuits  
Opinion  
Businessweek  
Equality  
Green  
Civylab  
Crypto  
More



Cannabis plants grow at a greenhouse near Camarillo, California. Photograph: Jill Connelly/Bloomberg

By [Riley Griffin](#), [Ike Swettitz](#), and [Tiffany Kary](#)  
August 30, 2023 at 11:12 AM CDT  
Corrected September 1, 2023 at 10:38 AM CDT

US health officials are recommending easing restrictions on marijuana, a move that sets the stage for potentially expanding the cannabis market across the country.

A top official at the [Department of Health and Human Services](#) wrote Drug Enforcement Administration head Anne Milgram calling for marijuana to be reclassified as a Schedule III drug under the Controlled Substances Act, according to a letter dated Aug. 29 that

was seen by Bloomberg News.

A DEA spokesperson confirmed the department had received the letter with HHS's recommendation. With final authority to reschedule a drug, DEA will now initiate its own review, the spokesperson said.

Reclassification is a step short of legalizing the drug entirely, but it would mark a critical shift away from marijuana's status as a Schedule I substance, which includes drugs with high risk of abuse, like heroin, LSD and ecstasy. Schedule III substances, such as ketamine, are seen as less dangerous and can be obtained legally with a prescription.

It could also give President Joe Biden an accomplishment to point to ahead of next year's election, while reducing the taxes that cannabis businesses pay. Cannabis advocates say that re-scheduling would be an acknowledgment by the federal government that marijuana has legitimate uses, and would be one step on a path toward greater acceptance and availability.

Marijuana stocks, which are held more by individual than institutional investors, jumped on the news. The MJ PurePlay 100 Index, which tracks cannabis stocks, rose 13% on Wednesday, paring its year-to-date decline to 21%. Columbia Care Inc. gained 39% and Ayr Wellness Inc. climbed 29%.

### MJ PurePlay 100 Index Jumps Most in Ten Months

For stocks that track cannabis stocks, the index rose 13% on Wednesday, paring its year-to-date decline to 21%.

By David S. Lee, The Motley Fool



Biden rolled out new initiatives focused on easing penalties associated with marijuana use in October, pardoning all prior federal offenses of simple possession and urging governors to do the same with state offenses. He also asked the HHS secretary and the US Attorney General to review how marijuana is scheduled based on its medical use, potential for abuse, safety and potential for dependence.

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On Wednesday, White House Press Secretary Karine Jean-Pierre said in a briefing that HHS and the Department of Justice, which oversees the DEA, were engaged in an “independent process” that’s “guided by evidence.”

“We’re going to let that process move forward,” she said, declining to comment further.

#### **Potential for Abuse**

Marijuana is the most commonly used drug in the US that is illegal at the federal level, according to the Centers for Disease Control and Prevention. About 1 in 5 Americans used it at least once in 2019, according to the agency.

Its current status as a Schedule I substance indicates a high potential for abuse with no accepted medical use, along with a lack of accepted safety for use under medical supervision. Yet that conflicts with many states’ rules that allow the drug to be used recreationally and prescribed for treatment of everything from glaucoma to anxiety.

Moving the drug to Schedule III would be the most significant federal cannabis reform in modern history, said Edward Conklin, executive director of the US Cannabis Council.

“Cannabis should have never been scheduled alongside heroin and placed at the center of our nation’s destructive drug war,” Conklin said. “Thankfully that era is coming to a close and is being replaced by a modern and scientific approach to regulating this plant.”

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Rescheduling wouldn’t give the industry a comprehensive regulatory framework. The biggest impact would be to give beleaguered cannabis companies a tax break and make research on the drug easier. Prior restrictions meant that cannabis companies couldn’t

take the same kind of tax deductions as most companies, and its Schedule I designation meant it was hard even for academics to study the drug.

### Extensive Review

HHS's recommendation was based on an extensive [Food and Drug Administration](#) review of marijuana's classification, Assistant Secretary for Health Rachel Levine said in the letter to DEA. The FDA considered eight factors that determine the control status of a substance and recommended that marijuana be placed in the Schedule III category. The National Institute on Drug Abuse agreed with the FDA's recommendation, Levine said.

An HHS spokesperson said the department's "comprehensive scientific evaluation" was completed in less than 11 months in an effort to respond quickly to the president's directive.

"It's a huge day for the cannabis industry," said Bryan Barash, co-chair of the Coalition for Cannabis Scheduling Reform, an advocacy group, and deputy general counsel of Dutchie, a platform for cannabis commerce. "We would just hope that the federal government follows through on their recommendation."

Advertisement

Some cannabis industry advocates said the recommended re-scheduling doesn't go far enough, and it won't fix the clash between federal law and the 38 states that allow it for medical use and 23 states that allow it for recreational use.

The move would do "nothing to align federal law" with the states, which each have their own laws to regulate it, said National Cannabis Industry Association CEO [Aaron Smith](#) in an emailed statement. "The only way to fully resolve the myriad of issues stemming from the federal conflict with state law is to remove cannabis from the Controlled Substances Act and regulate the product in a manner similar to alcohol," he said.

— *With assistance by Tiffany Kary and Akayla Gardner*

(Corrects name of Drug Enforcement Administration in second paragraph of story originally published Aug. 30.)

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# Exhibit C





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## Request Acknowledgement by U.S. Department of Health & Human Services

1 message

---

foiareque t@hh.gov foiareque t@hh.gov

Wed, Aug 30, 2023 at 3:03 PM

To: [REDACTED]

Dear Matthew Zorn,

Request #2023-01171-FOIA-OS has been assigned to the request you submitted. In all future correspondence regarding this request please reference request #2023-01171-FOIA-OS.

Regards,  
U.S. Department of Health & Human Services



---

## Status Update for Request #2023-01171-FOIA-OS

1 message

---

foiareque t@hh gov foiareque t@hh gov

Wed, Aug 30, 2023 at 3 03 PM

To: [REDACTED]

Dear Matthew Zorn,

The status of your FOIA request #2023-01171-FOIA-OS has been updated to the following status 'Received'. To log into the HHS FOIA Submission Site click on the Application URL below.

<https://requests.publiclink.hhs.gov>

Sincerely,  
U.S. Department of Health & Human Services

## CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

| <b>I. (a) PLAINTIFFS</b><br>Matthew C. Zorn<br><br>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Harris, Texas</u><br>(EXCEPT IN U.S. PLAINTIFF CASES)                                                                                                                  | <b>DEFENDANTS</b><br>United States Health and Human Services<br><br>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT<br>(IN U.S. PLAINTIFF CASES ONLY)<br><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                         |                                                               |                         |                         |     |     |                       |                         |                         |                                                           |                         |                         |                          |                         |                         |                                                               |                         |                         |                                         |                         |                         |                |                         |                         |
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| (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)<br>Matthew C. Zorn<br>811 Main Street, Suite 4100<br>Houston, Texas 77002<br>713-632-8000                                                                                                                             | ATTORNEYS (IF KNOWN)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                         |                                                               |                         |                         |     |     |                       |                         |                         |                                                           |                         |                         |                          |                         |                         |                                                               |                         |                         |                                         |                         |                         |                |                         |                         |
| <b>II. BASIS OF JURISDICTION</b><br>(PLACE AN X IN ONE BOX ONLY)                                                                                                                                                                                                               | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                         |                                                               |                         |                         |     |     |                       |                         |                         |                                                           |                         |                         |                          |                         |                         |                                                               |                         |                         |                                         |                         |                         |                |                         |                         |
| <input type="radio"/> 1 U.S. Government Plaintiff<br><input checked="" type="radio"/> 2 U.S. Government Defendant<br><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)<br><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) | <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table> |                         | PTF                                                           | DFT                     |                         | PTF | DFT | Citizen of this State | <input type="radio"/> 1 | <input type="radio"/> 1 | Incorporated or Principal Place of Business in This State | <input type="radio"/> 4 | <input type="radio"/> 4 | Citizen of Another State | <input type="radio"/> 2 | <input type="radio"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="radio"/> 5 | <input type="radio"/> 5 | Citizen or Subject of a Foreign Country | <input type="radio"/> 3 | <input type="radio"/> 3 | Foreign Nation | <input type="radio"/> 6 | <input type="radio"/> 6 |
|                                                                                                                                                                                                                                                                                | PTF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | DFT                     |                                                               | PTF                     | DFT                     |     |     |                       |                         |                         |                                                           |                         |                         |                          |                         |                         |                                                               |                         |                         |                                         |                         |                         |                |                         |                         |
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| Citizen or Subject of a Foreign Country                                                                                                                                                                                                                                        | <input type="radio"/> 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <input type="radio"/> 3 | Foreign Nation                                                | <input type="radio"/> 6 | <input type="radio"/> 6 |     |     |                       |                         |                         |                                                           |                         |                         |                          |                         |                         |                                                               |                         |                         |                                         |                         |                         |                |                         |                         |

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

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| <input type="radio"/> <b>A. Antitrust</b><br><br><input type="checkbox"/> 410 Antitrust                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <input type="radio"/> <b>B. Personal Injury/Malpractice</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Medical Malpractice<br><input type="checkbox"/> 365 Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical<br><input type="checkbox"/> 368 Asbestos Product Liability | <input type="radio"/> <b>C. Administrative Agency Review</b><br><input type="checkbox"/> 151 Medicare Act<br><u>Social Security</u><br><input type="checkbox"/> 861 IIIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><u>Other Statutes</u><br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)                                                                                                    | <input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b><br><br>Any nature of suit from any category may be selected for this category of case assignment.<br><br>*(If Antitrust, then A governs)*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <input type="radio"/> <b>E. General Civil (Other)</b> OR <input type="radio"/> <b>F. Pro Se General Civil</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <u>Real Property</u><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent, Lease & Ejectment<br><input type="checkbox"/> 240 Torts in Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property<br><br><u>Personal Property</u><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <u>Bankruptcy</u><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><u>Prisoner Petitions</u><br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Conditions<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement<br><br><u>Property Rights</u><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)                                      | <u>Federal Tax Suits</u><br><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)<br><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609<br><br><u>Forfeiture/Penalty</u><br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><br><u>Other Statutes</u><br><input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 430 Banks & Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 462 Naturalization Application | <input type="checkbox"/> 465 Other Immigration Actions<br><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)<br><input type="checkbox"/> 490 Cable/Satellite TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes<br><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act) |



|                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="radio"/> <b>G. Habeas Corpus/ 2255</b><br><br><input type="checkbox"/> 530 Habeas Corpus – General<br><input type="checkbox"/> 510 Motion/Vacate Sentence<br><input type="checkbox"/> 463 Habeas Corpus – Alien Detainee                                                                                                                                                                              | <input type="radio"/> <b>H. Employment Discrimination</b><br><br><input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)<br><br><i>*(If pro se, select this deck)*</i>                                                                                                                                                          | <input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b><br><br><input checked="" type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)<br><br><i>*(If pro se, select this deck)*</i>                                                                                                                                                                                                                                                                                                                                            | <input type="radio"/> <b>J. Student Loan</b><br><br><input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans) |
| <input type="radio"/> <b>K. Labor/ERISA (non-employment)</b><br><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 740 Labor Railway Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="radio"/> <b>L. Other Civil Rights (non-employment)</b><br><br><input type="checkbox"/> 441 Voting (if not Voting Rights Act)<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 445 Americans w/Disabilities – Employment<br><input type="checkbox"/> 446 Americans w/Disabilities – Other<br><input type="checkbox"/> 448 Education | <input type="radio"/> <b>M. Contract</b><br><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholder's Suits<br><input type="checkbox"/> 190 Other Contracts<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <input type="radio"/> <b>N. Three-Judge Court</b><br><br><input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)       |

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 USC 552

**VII. REQUESTED IN COMPLAINT**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

**JURY DEMAND:** YES ☐ NO ☒

Check YES only if demanded in complaint

**VIII. RELATED CASE(S) IF ANY**

(See instruction)

YES ☐ NO ☒

If yes, please complete related case form

**DATE:** 09/29/2023

**SIGNATURE OF ATTORNEY OF RECORD** /s/ Matthew C. Zorn

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET 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 services 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT: (b) County of residence. Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.



UNITED STATES DISTRICT AND BANKRUPTCY COURTS  
FOR THE DISTRICT OF COLUMBIA

ANGELA D. CAESAR  
Clerk of Courts

NOTICE OF RIGHT TO CONSENT TO TRIAL  
BEFORE A UNITED STATES MAGISTRATE JUDGE

The substantial criminal caseload in this Court and the requirements of the criminal Speedy Trial Act frequently result in the delay in the trial of civil cases. Aware of the hardship and expense to the parties, counsel, and witnesses caused by the delays which are beyond the control of the Court, this notice is to advise you of your right to trial of your case by a United States Magistrate Judge. By statute, 28 USC §636(c), Fed.R.Civ.P. 73 and Local Civil Rule 73.1, the parties, by consent, can try their case by means of a jury trial or bench trial before a United States Magistrate Judge. Appeals from judgments and final orders are taken directly to the United States Court of Appeals for the District of Columbia Circuit, in the same manner as an appeal from a judgment of a United States District Judge in a civil case.

**WHAT IS THE PROCEDURE?**

One of the matters you are required to discuss at the meet-and-confer conference mandated by Local Civil Rule 16.3 is whether the case should be assigned to a United States Magistrate Judge for all purposes, including trial.

**All parties** must consent before the case is assigned to a Magistrate Judge for trial. You may consent at any time prior to trial. If you expressly decline to consent or simply fail to consent early in the case, you are not foreclosed from consenting later in the case. However, a prompt election to proceed before a Magistrate Judge is encouraged because it will facilitate a more orderly scheduling of the case.

Counsel for the plaintiff has been furnished a copy of the "Notice, Consent and Reference of a Civil Action to a Magistrate Judge (AO 85)" form. If and when the form is executed, your response should be made to the Clerk of the United States District Court.

**WHAT IS THE ADVANTAGE?**

The case will be resolved sooner and less expensively. The earlier the parties consent to assigning the case to a Magistrate Judge the earlier a firm and certain trial date can be established, even if the case is to be tried to a jury.

Upon the filing of the consent form the case will be randomly assigned for all purposes to a Magistrate Judge.

**HOW DO I FILE?**

Once the form is signed by **all parties**, submit the form to the Clerk's Office by mail or email, or file it electronically in CM/ECF using the event ***Consent to Proceed before Magistrate Judge for All Purposes*** (under **Other Documents**). **Do not file the form unless signed by all parties.**

# UNITED STATES DISTRICT COURT

for the

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*Plaintiff*

v.

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*Defendant*

)  
)  
)  
)  
)

Civil Action No.

## NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

*Notice of a magistrate judge's availability.* A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

*Consent to a magistrate judge's authority.* The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

*Printed names of parties and attorneys*

*Signatures of parties or attorneys*

*Dates*

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### Reference Order

**IT IS ORDERED:** This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: 

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*District Judge's signature*

*Printed name and title*

**Note:** Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.