

James Hochberg
Haw. Bar No. 3686
JAMES HOCHBERG, A.A.L.
Bishop Street Tower, Ste 2100
700 Bishop Street
Honolulu, HI 96813
(808) 534-1514
(808) 538-3075 (fax)
jim@jameshochberglaw.com

Kevin H. Theriot*
AZ. Bar No. 030446
Kenneth Connelly*
AZ. Bar No. 025420
ALLIANCE DEFENDING FREEDOM
15100 N. 90TH STREET
Scottsdale, AZ 85260
(480) 444-0020
(480) 445-0028 (fax)
ktheriot@ADFlegal.org
kconnelly@ADFlegal.org

Attorneys for Plaintiffs
(See Next Page For Additional Counsel)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

**CALVARY CHAPEL PEARL
HARBOR, d/b/a A PLACE FOR
WOMEN IN WAIPIO, a Hawaii
Corporation; NATIONAL
INSTITUTE OF FAMILY AND
LIFE ADVOCATES d/b/a NIFLA, a
Virginia corporation,**

Plaintiffs

v.

**DOUGLAS S. CHIN, in his official
capacity as Attorney General for the
State of Hawaii; DAVID IGE, in his
official capacity as Governor of the
State of Hawaii,**
Defendants.

Civ. Action No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY, INJUNCTIVE,
AND OTHER RELIEF**

ADDITIONAL COUNSEL

Anne O'Connor*
California Bar No. 135341
New Jersey Bar No. 7371997
NATIONAL INSTITUTE OF FAMILY
AND LIFE ADVOCATES
5601 Southpoint Centre Blvd.
Fredericksburg, VA 22407
(540) 372-3930
AOConnor@nifla.org

Attorneys for Plaintiffs

**Applications for Admission Pro Hac Vice forthcoming*

Come now the Plaintiffs, by and through their attorneys, and for their causes of action against Defendants aver the following:

INTRODUCTION

1. This case is a federal civil rights action, brought pursuant to 42 U.S.C. § 1983, challenging the constitutionality of Hawaii Senate Bill 501 of the 2017 Hawaii legislative session (hereinafter the “Act”), which became law on July 12, 2017. A copy of the Act is attached hereto as Exhibit A.

2. Plaintiffs are a non-profit, pro-life, Christian church operating a pregnancy center known as A Place for Women in Waipio, located in Waipahu, Hawaii, and a national non-profit pro-life membership organization with 5 affiliates in Hawaii. Plaintiffs seek to provide help and pro-life information to women in unplanned pregnancies so that they will be supported in choosing to give birth, and practical medical or non-medical support free of charge in support of Plaintiffs’ pro-life viewpoint.

3. The Act, however, imposes government compelled speech upon the Plaintiff pregnancy centers due to their support for pregnant women, and in ways that undermine the centers’ messages.

4. The Act requires pregnancy centers such as Plaintiff Calvary Chapel’s “A Place for Women in Waipio” (“Calvary Chapel”) and other similar members of Plaintiff National Institute of Family and Life Advocates (“NIFLA”) to post a disclosure saying the State of Hawaii provides free or low-cost access to comprehensive planning services—including abortion and contraception services—and providing an internet address and phone number to refer or arrange for such

services. The notice must also include a statement that only ultrasounds performed by qualified healthcare professionals and read by licensed clinicians should be considered medically accurate.

5. The Act is therefore unconstitutional under the First Amendment to the United States Constitution. It is a classic example of compelled speech in violation of the Free Speech Clause. The law is expressly content-based, both because it compels the content of speech and because it regulates only speakers who wish to discuss the subject of pregnancy rather than any other health topic. The law is also viewpoint based because it forces pro-life pregnancy centers to promote abortion, and by exempting other health care facilities providing pregnancy care. For similar reasons the Act violates the free speech clause of the Hawaii Constitution, Art. I, Sec. 4.

6. The Act is also impermissibly vague under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

7. The Act impermissibly burdens religion, is neither neutral to religion nor generally applicable, and therefore violates the Free Exercise Clause of the First Amendment to the United States Constitution.

8. The Act also violates federal statutory law, namely the Coats-Snowe Amendment, 42 U.S.C. § 238n, which protects health care entities from being required to refer for abortion or make arrangements for such referrals.

9. Accordingly, preliminary and permanent injunctive and declaratory relief against the Act are warranted.

10. Calvary Chapel is directly regulated by the Act.

11. NIFLA asserts organizational standing on behalf of its Hawaii members throughout the State of Hawaii that, just like Calvary Chapel, are regulated by the Act and unconstitutionally compelled to speak in violation of their views and mission. As discussed below, NIFLA's claims fit comfortably within the Supreme Court's doctrine of organizational standing, thus permitting it to obtain judicial relief for its members.

12. The Act went into effect July 12, 2017.

13. Therefore, preliminary injunctive relief is needed immediately in order to prevent irreparable harm to the rights of Plaintiffs and NIFLA's Hawaii members.

JURISDICTION AND VENUE

14. This Court has jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343. This Court has authority to grant the requested injunctive relief under 28 U.S.C. § 1343; the requested declaratory relief under 28 U.S.C. §§ 2201 and 2202; and costs and attorneys fees under 42 U.S.C. § 1988(b). This Court has supplemental jurisdiction over Plaintiffs' state claims under 28 U.S.C. § 1367.

15. Venue lies in the Federal District Court for the District of Hawaii pursuant to 28 U.S.C. § 1391(b). A substantial part of the actions or omissions giving rise to this case occurred within the District, and at least one Defendant resides in this District.

IDENTIFICATION OF THE PARTIES

Plaintiffs

16. Plaintiff Calvary Chapel is a religious not-for-profit corporation duly incorporated under the laws of Hawaii, with its principal place of business at 94-1044 Waipio Uka Blvd., Waipahu, HI 96797.

17. It provides pregnancy-related medical as well as non-medical information and services without charge to its clients under the supervision of its Director, Sue Skinner, in furtherance of its religious beliefs. Medical services are provided under the supervision of the Medical Director, Dr. Vivien Wong.

18. Plaintiff National Institute of Family and Life Advocates is a religious not-for-profit corporation duly incorporated under the laws of Virginia, with its principal place of business at 5610 Southpoint Ctr. Blvd., #103, Fredericksburg, VA 22407.

19. It is comprised of member pregnancy centers from across the nation, including 5 in the state of Hawaii, that provide medical or non-medical information and services without charge to their clients, and are therefore regulated by the Act.¹

20. Three of NIFLA's Hawaii members provide medical services, while two provide only non-medical services.

21. Upon information and belief, the state of Hawaii does not license Plaintiffs' facilities or other pregnancy centers like them, regardless of whether

¹ Aloha Pregnancy Care and Counseling Center, which is one of NIFLA's members, is not represented by undersigned counsel as part of this complaint. Each remaining NIFLA member in Hawaii is represented by undersigned counsel as part of this complaint.

they are offer medical or non-medical services.

Defendants

22. Defendant Douglas S. Chin is the Attorney General for the State of Hawaii and is sued in his official capacity. He is responsible under the Act for enforcing its provisions against entities in violation thereof, including the Plaintiff and NIFLA’s other Hawaii Members. The Act explicitly authorizes the attorney general to “bring an action in the district court of the district in which the center [alleged to have violated the Act] is located to enforce” the Act. Exhibit A.

23. Defendant David Ige is the Governor of the State of Hawaii, and is sued in his official capacity. He is the chief executive of the State of Hawaii and is responsible for funds that the state has received from the federal government, subjecting it to 42 U.S.C. § 238n.

FACTUAL ALLEGATIONS

24. Plaintiff Calvary Chapel and NIFLA’s other member pregnancy centers provide compassionate and loving information and services to serve the medical, emotional, and material needs of women who face unplanned pregnancies to help them choose birth for their children.

Calvary Chapel

25. Calvary Chapel is a Christian church located in Waipahu. As a ministry of the church, Calvary Chapel operates A Place for Women in Waipio (hereinafter “Calvary Chapel”), a pregnancy center which exists to serve women and their unborn children. Calvary Chapel also operates a preschool, a kindergarten, a K-8 elementary school, and approximately 30 other ministries

consistent with its religious faith and teachings, on the same premises that houses the church proper.

26. A Place for Women is located in the same building as Calvary Chapel's other places of ministry such as its sanctuary and rooms where Bible classes are taught.

27. A Place for Women is an integral part of Calvary Chapel's purpose and ministry to the people of Hawaii.

28. Calvary Chapel provides both medical and non-medical pro-life information and services—at no charge—to women facing unplanned pregnancies.

29. Calvary Chapel provides its services to women in unplanned pregnancies pursuant to its pro-life viewpoint, desiring to empower the women it serves to choose life for their child, rather than abortion.

30. Calvary Chapel describes its mission on its website: “[t]he mission of A Place for Women in Waipio is to empower as many men and women as possible in Hawaii to make healthy life choices in regards to sexuality and child bearing consistent with the sanctity of life. We do this by providing compassionate resources of hope through free medical and consultation services for pregnancy and community education programs while sharing the gospel of Jesus Christ.”

31. Medical services provided by Calvary Chapel include urine pregnancy tests and ultrasound examinations.

32. Non-medical services provided by Calvary Chapel include pregnancy counseling, adoption referrals, abstinence education, post-abortive recovery classes, child birth education classes, and the provision of various materials and

supplies (including diapers and baby clothes) to pregnant women.

33. The medical team at Calvary Chapel consists of a medical director and nurses. Dr. Vivien Wong is the medical director at Calvary Chapel. Dr. Wong is board certified in radiology.

34. Calvary Chapel is a religious organization and pursues its pro-life message and activities as an extension of its religious belief that human life is a gift from God that should under no circumstances be destroyed by abortion.

35. Calvary Chapel, as matter of religious belief, supports natural family planning as an appropriate manner of preventing pregnancy, and does not support the provision of the full range of contraceptive drugs and devices approved by the United States Food and Drug Administration. It would therefore violate the religious beliefs of Calvary Chapel to promote or provide artificial means of contraception.

National Institute of Family and Life Advocates (“NIFLA”)

36. NIFLA is a non-profit membership organization comprised of a network of both medical and non-medical centers providing pro-life medical care and pro-life information services to women facing unplanned pregnancies.

37. NIFLA is incorporated as a religious organization.

38. NIFLA provides both medical and non-medical pro-life pregnancy centers with legal resources and counsel, with the aim of developing a network of life-affirming ministries in every community across the nation in order to achieve an abortion-free America.

39. NIFLA’s mission is to empower the choice for life by: equipping

pregnancy centers with legal counsel and support; enabling pregnancy centers to convert to medical clinic status; and energizing pregnancy centers with a renewed vision for the future.

40. NIFLA has five member centers in Hawaii, three of which (including Calvary Chapel) provide medical services, and two of which provide only non-medical services.

41. NIFLA's religious mission includes helping its member centers advance their pro-life objectives, whether those centers are expressly religious like Calvary Chapel, or not.

42. NIFLA's Hawaii members are regulated under the Act and are subject to the Act's compelled speech requirements.

43. NIFLA has organizational standing to represent all of its member pregnancy centers from the State of Hawaii. *See New York State Club Ass'n v. City of New York*, 487 U.S. 1, 9 (1988).

44. Each member center of NIFLA would otherwise have standing to sue in its own right in this case.

45. The interests that NIFLA seeks to protect are germane to NIFLA's purpose, including the purpose to support its pro-life pregnancy center members and enable them to carry out their respective missions, consistent with their pro-life and religious viewpoints.

46. Neither the claims asserted nor the relief requested requires participation of all of NIFLA's individual members in this suit, but can be awarded to NIFLA's members as a group.

Senate Bill 501

The Act's Requirements

47. The Hawaii legislature indicates that the purpose of the Act “is to ensure that women in Hawaii are able to make personal reproductive health decisions with full and accurate information regarding their rights to access the full range of health care services that are available.” Exhibit A.

48. The Act defines a “limited service pregnancy center” as a facility that: (A) Advertises or solicits clients or patients with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling; (B) Collects health information from clients or patients; and (C) Provides family planning or pregnancy-related services, including but not limited to obstetric ultrasound, obstetric sonogram, pregnancy testing, pregnancy diagnosis, reproductive health counseling, or prenatal care.”

49. The Act mandates that “[e]very limited service pregnancy center in the State shall disseminate on-site to clients or patients the following written notice in English or another language requested by a client or patient.” Exhibit A.

50. The notice which limited service pregnancy centers are required to provide must state the following: “Hawaii has public programs that provide immediate free or low-cost access to comprehensive family planning services, including, but not limited to, all FDA-approved methods of contraception and pregnancy-related services for eligible women. To apply online for medical insurance coverage, that will cover the full range of family planning and prenatal

care services, go to mybenefits.hawaii.gov. Only ultrasounds performed by qualified healthcare professionals and read by advanced clinicians should be considered medically accurate.” Exhibit A.

51. The notice must state “the internet address for online medical assistance applications and the statewide phone number for medical assistance applications.” Exhibit A.

52. The notice must be disclosed in “at least one of the following ways”:

- (1) A public notice on a sign sized at least eight and one-half inches by eleven inches, written in no less than twenty-two point type, and posted in a clear and conspicuous place within the center's waiting area so that it may be easily read by individuals seeking services from the center; or
- (2) A printed or digital notice written or rendered in no less than fourteen point type that is distributed individually to each patient or client at the time of check-in for services; provided that a printed notice shall be available to all individuals who cannot or do not wish to receive the notice in a digital format

Exhibit A.

53. The Act further requires that the notice be “written . . . in English or another language requested by a client or patient” Exhibit A. In practical terms, this means that the centers could be required to publish notices in multiple languages.

54. Furthermore, a pregnancy center “that provides or assists in the provision of pregnancy testing shall provide the individual tested with a free

written statement of the results of the pregnancy test in English or another language requested by a client or patient immediately after the test is completed.” Exhibit A.

55. Upon information and belief, state social services in Hawaii provide or refer women for abortions.

56. Therefore, the Act therefore requires “limited service pregnancy centers” to provide referrals for abortion and/or arrange for referrals for abortion by requiring such centers to provide contact information for the applicable state social service resource to all clients so that they may procure an abortion.

57. Calvary Chapel’s primary purpose is providing pregnancy-related information and services.

58. Calvary Chapel offers limited obstetric ultrasounds to pregnant women.

59. Calvary Chapel offers pregnancy tests or pregnancy diagnosis.

60. Calvary Chapel advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

61. Calvary Chapel has staff or volunteers who collect health information from clients.

62. NIFLA’s other centers also meet the Act’s definition of “limited service pregnancy centers” for reasons substantially similar to Calvary Chapel.

63. Calvary Chapel and NIFLA’s other related centers are thus subject to the Act’s required disclosures as “limited service pregnancy centers.”

64. The legislative history of the Act indicates that the Act is intended to force pro-life pregnancy centers to advertise abortion services. The legislative

history of the Act further indicates that the Act is meant to advertise abortion services. Previous versions of the bill required the disclaimer to advertise “abortion” services, but the Act was later amended to read “pregnancy-related services.” See http://www.capitol.hawaii.gov/session2017/bills/SB501_.HTM; see also Balir, Chad, AG: Hawaii Senate Improperly Withheld Testimony From Public, HONOLULU CIVIL BEAT, Apr. 11, 2017, available at <http://www.civilbeat.org/2017/04/ag-hawaii-senate-improperly-withheld-testimony-from-public/>. The previous disclaimer read: “Hawaii has public programs that provide immediate free or low-cost access to comprehensive family planning services including all FDA-approved methods of contraception, prenatal care, and abortion for eligible women. To determine whether you qualify, contact the appropriate Med-QUEST division eligibility office.” See http://www.capitol.hawaii.gov/session2017/bills/SB501_HTM.

65. Upon information and belief, the Act does not apply to facilities providing abortions.

Organizations Not Covered by the Act

66. The Act does not apply to “health care facilit[ies].” Exhibit A. “Health care facility” is defined as “any facility designed to provide comprehensive health care, including but not limited to hospitals licensed pursuant to chapter 321, intermediate care facilities, organized ambulatory health care facilities, emergency care facilities and centers, health maintenance organizations, federally qualified health centers, and other facilities providing similarly organized comprehensive health care services.” *Id.*

67. Neither Calvary Chapel nor NIFLA's other member centers provide "comprehensive health care," but provide only pregnancy services.

68. The Act does not affect—and places no communication or disclosure requirements upon—all other facilities or centers that provide family planning or reproductive health services, so long as those other provide "comprehensive health care."

69. Thus, Calvary Chapel and NIFLA's other member centers are subjected by the state to a compelled speech requirement from which all other facilities offering an array of similar health services—but additionally abortion and contraception, to which Calvary Chapel and NIFLA's other member centers object to providing on religious and moral grounds—are exempted.

70. Upon information and belief, the Act's practical exemption, in purpose and effect, applies to facilities which provide abortion and contraception as part of "comprehensive health care" services, freeing them from the Act's disclosure requirements, while leaving pro-life facilities subject to them.

Enforcement Provisions of the Act

71. Covered facilities like Calvary Chapel and NIFLA's other member centers which fail to comply with the Act are liable for a civil penalty of \$500 for a first offense and \$1000 for each subsequent offense. Exhibit A.

72. The Attorney General is empowered by the Act to bring an action to enforce the Act and to impose a civil penalty pursuant to the Act if the pregnancy center is "provided with reasonable notice of noncompliance, which informs the center that it is subject to a civil penalty if it does not correct the violation within

thirty days from the date the notice is sent to the center, and the violation is not corrected as of the expiration of the thirty-day notice period, the attorney general may bring an action in the district court of the district in which the center is located to enforce this section.” Exhibit A.

73. The Act also states: “[a]ny person who is aggrieved by a limited service pregnancy center’s violation of section 321-A may bring a civil action against the limited service pregnancy center in the district court of the district in which the center is located to enjoin further violations” Exhibit A.

74. That person (person being defined as including a “natural or legal person”) is entitled under the Act to recover “actual damages sustained together with the costs of the suit including reasonable attorneys’ fees.” Exhibit A.

75. The Act also permits a court, “in its discretion,” to “increase the award of damages [up] to . . . three times the actual damages sustained.” Exhibit A.

76. The Act further allows the court, “in its discretion,” to impose a civil fine of not more than \$1,000 to be paid to a plaintiff. Exhibit A.

The Act’s Effect on Plaintiffs

77. The Act compels Calvary Chapel and NIFLA’s other member centers to engage in government-mandated speech.

78. The pregnancy discussions and help provided by Plaintiff Facilities are of an ideologically sensitive nature.

79. Forcing the Act’s disclosures on Plaintiff Facilities’ speech is detrimental to their mission of counseling and helping women in accordance with their religious beliefs and in line with their viewpoint.

80. Plaintiff Facilities desire not to utter the disclosures required by the Act.

81. Plaintiff Facilities intend to not comply with the Act.

82. Plaintiff Facilities desire to continue engaging in their own speech and expressive services while refusing to post, distribute, or otherwise communicate the required compelled statements.

83. Plaintiff Facilities' refusal to comply with the Act subjects them to fines and prosecution by Defendants—and even private persons and organizations—under the Act.

84. Plaintiff Facilities are subject to the harms of prosecution and private civil actions under the Act if they fail to comply.

85. Plaintiff Facilities are non-profit organizations with limited funding and relatively small budgets.

86. The Act's penalties would significantly harm Plaintiff Facilities' ability to continue their expressive operations.

87. The Act imposes three untenable choices on Plaintiff Facilities: comply with the Act in violation of their expressive views and religious beliefs; continue their speech and services without complying with the Act and be prosecuted or sued, penalized, and injured in their ability to pursue their expressive operations; or cease their expressive activities and services altogether.

88. Plaintiffs face a credible threat of adverse state or private action because of the Act.

89. Requiring Plaintiff Facilities to utter the Act's disclosures forces

Plaintiff Facilities to undermine the content, context, and tone of the viewpoint that they wish to deliver in their pro-life messages.

90. The Act imposes an impermissible penalty and chill on Plaintiff Facilities' speech, subjecting Plaintiff Facilities to irreparable harm.

91. Requiring the religious Plaintiff Facilities to utter the Act's disclosures imposes a burden on the exercise of their religious beliefs by requiring them to promote abortion and contraception and/or to undermine their pro-life message of love and support which they pursue precisely because of their religious beliefs.

92. The Act's regulation of Plaintiff Facilities imposes penalties based on vague terms that do not provide adequate notice of whether or how the law applies and what constitutes a violation of the Act.

93. The Act's permitting of private civil actions by "[a]ny person who is aggrieved by a . . . violation" is vague as to what constitutes a violation and what renders a person "aggrieved."

94. The Act's disclosure requirements for Calvary Chapel and NIFLA's other medical centers require that those centers "provide referrals for . . . abortions" or "make arrangements" for such referrals, in the meaning of 42 U.S.C. § 238n.

95. The medical centers are health care entities protected under 42 U.S.C. § 238n.

96. The health providers in Plaintiff Facilities responsible for compliance with the Act include individual physicians.

97. The State of Hawaii receives federal funding including "governmental

payments provided as reimbursement for carrying out health-related activities” that subject it to 42 U.S.C. § 238n.

98. 42 U.S.C. § 238n is an “Act of Congress providing for the protection of civil rights” belonging to the Plaintiff Facilities, under 28 U.S.C. § 1343.

99. Plaintiff Facilities have both individual rights under 42 U.S.C. § 238n and remedies under 28 U.S.C. § 1343 and 42 U.S.C. § 1983 to bring this action for the violation of their rights under 42 U.S.C. § 238n.

100. Enforcement of the Act will irreparably harm Plaintiff Facilities by infringing upon their First Amendment rights to free speech and religious exercise; the Fourteenth Amendment right to due process and the freedom from uncabined government discretion; and the individual rights contained in 42 U.S.C. § 238n for the facilities providing medical services.

101. Defendants—and private persons or parties—are vested with power to enforce the Act against Plaintiff Facilities.

102. Passage of the Act into law represents an imminent and concrete threat that either Defendants or private persons will enforce the Act against Plaintiff Facilities.

103. Enjoining Defendants and the private persons empowered to bring civil actions from enforcing the Act is necessary to protect Plaintiff Facilities from the chill and punishment imposed on their rights.

104. Each of the potential enforcement actions permitted by the Act would be perpetrated under the color of state law, including the statutes, regulations, customs, policies, and usages of the State of Hawaii.

105. Plaintiffs have no adequate remedy at law.

CLAIMS FOR RELIEF

FIRST CLAIM: VIOLATION OF THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

106. Paragraphs 1–105 are incorporated as if fully set forth herein.

107. The First Amendment to the United States Constitution provides in relevant part: “Congress shall make no law . . . abridging the freedom of speech.”

108. The First Amendment is applicable to state and local governments by incorporation in the Fourteenth Amendment.

109. The Act unconstitutionally restricts Plaintiff Facilities’ rights of free speech, which includes the right to refrain from speaking, to choose how and when to deliver particular messages, and the right to refuse to speak a government-dictated message.

110. The Act unconstitutionally forces Plaintiff Facilities, on pain of government penalty and exposure to private civil suits, to engage in government disclaimers that Plaintiff Facilities would not otherwise recite, that undermine Plaintiff Facilities’ message, and that contradict Plaintiff Facilities’ viewpoint from which they speak.

111. The Act is unconstitutionally and substantially overbroad.

112. The Act is also unconstitutionally underinclusive, because by its exemption it omits many centers that provide pregnancy related services.

113. The Act imposes an unconstitutional chill and penalty on Plaintiff Facilities’ speech, and without declaratory and injunctive relief, will continue to

do so.

114. The Act is a content-based regulation of speech.

115. The Act also unconstitutionally discriminates against Plaintiff Facilities' speech based on their viewpoint because, among other things, it requires them to promote abortion options, and it exempts from the Act's requirements facilities that provide certain family planning or Med-QUEST services.

116. By compelling government speech and by regulating speech based viewpoint the Act is presumptively unconstitutional and at the very least subject to strict scrutiny.

117. Strict scrutiny is also required because the Act regulates the speech of the Plaintiff Facilities based on its content.

118. The Act does not promote any legitimate, or compelling, government interest, and Defendants lack any evidence or sufficient evidence to demonstrate the existence of such an interest.

119. The Act is not tailored at all, much less narrowly tailored, to further any governmental interest, and it does not do so by the least restrictive means of Plaintiff Facilities' speech.

120. Defendants have ample alternative channels to achieve any alleged interest without imposing the Act's burdens on the speech of Plaintiffs.

121. The Act is an unconstitutional restriction of speech under any standard applicable to the Plaintiff Facilities.

122. The Act is unconstitutional not only as applied to Plaintiff Facilities, but on its face as applied to any facility.

123. Accordingly, the Act violates the First Amendment to the United States Constitution.

124. Therefore, the Act and Defendants' enforcement thereof unconstitutionally infringes on Plaintiffs' rights, thereby entitling Plaintiffs to the relief requested below, pursuant to 42 U.S.C. §1983.

125. WHEREFORE, Plaintiffs respectfully request that the Court grant the relief set forth hereinafter in the prayer for relief.

SECOND CLAIM: VIOLATION OF THE RIGHTS OF PLAINTIFF FACILITIES UNDER THE FIRST AMENDMENT'S FREE EXERCISE OF RELIGION CLAUSE

126. Paragraphs 1–105 are incorporated as if fully set forth herein.

127. Plaintiff Facilities exercise their religion in their provision of pro-life information and services, and in the way in which they choose to speak and not speak during the same.

128. Plaintiff Facilities are religious and faith-based organizations that can and do exercise religion, including in promoting their pro-life message and in providing their medical and non-medical services.

129. Forcing Plaintiff Facilities to recite the Act's disclosures substantially burdens the exercise of religious beliefs of Plaintiff Facilities, undermining their pro-life message and the way in which they promote that message in pursuit of their religious beliefs.

130. The Act is not neutral or generally applicable because—among other things—it exempts certain facilities that offer “comprehensive health care.”

131. Defendants cannot offer sufficient justification to burden Plaintiff Facilities' free exercise of religion by means of the Act.

132. The Act therefore violates Plaintiff Facilities' rights under the Free Exercise of Religion Clause.

133. The Act also violates Plaintiff Facilities' "hybrid" rights under the Free Exercise of Religion Clause in conjunction with their freedom of speech.

134. The First Amendment's Free Exercise of Religion Clause requires the government to satisfy strict scrutiny before it may burden an organization's exercise of religion in conjunction with exercising its right to free speech.

135. The Act infringes on a hybrid of Plaintiffs' Free Exercise of Religion and Free Speech rights.

136. Defendants cannot show a compelling interest for imposing the Act on Plaintiff Facilities, nor can they demonstrate that the Act pursues its goals in the means least restrictive of Plaintiff Facilities' rights.

137. Accordingly, the Act violates the Plaintiff Facilities' First Amendment right to the free exercise of religion and violates a hybrid of their Free Exercise of Religion and Free Speech rights.

138. WHEREFORE, Plaintiffs respectfully request that the Court grant the relief set forth hereinafter in the prayer for relief.

THIRD CLAIM: VIOLATION OF THE COATS-SNOWE AMENDMENT, 42 U.S.C. §238N

139. Paragraphs 1–105 are incorporated as if fully set forth herein.

140. Defendants violated, and continue to violate, 42 U.S.C. § 238n by requiring Calvary Chapel and NIFLA’s other medical member centers to provide referrals for abortion and/or to make arrangements for referrals for abortion by requiring such medical centers to provide contact information for the applicable state social services office in order to procure abortion services.

141. By requiring these medical centers to provide contact information to state social services offices for abortion services, Defendants have violated Plaintiffs’ rights under 42 U.S.C. § 238n.

142. Plaintiffs have suffered and continue to suffer injury and irreparable harm by Defendants’ actions, thereby giving rise to the need for injunctive, declaratory, and other forms of relief against Defendants.

143. WHEREFORE, Plaintiffs respectfully request that the Court grant the relief set forth hereinafter in the prayer for relief.

FOURTH CLAIM: VIOLATION OF THE FREE SPEECH CLAUSE OF THE HAWAII CONSTITUTION, ART. I, SEC. 4

144. Paragraphs 1–105 are incorporated as if fully set forth herein.

145. The free speech clause of the Hawaii Constitution, Art. I, Sec. 4, provides that “[n]o law shall be enacted . . . abridging the freedom of speech.”

146. Although “[t]he language of [the] federal and Hawai‘i constitutional free speech provisions is identical” the Hawaii Supreme Court “may find that the Hawai‘i Constitution affords greater free speech protection than its federal counterpart.” *Oahu Publications Inc. v. Ahn*, 331 P. 3d 460, 472 (Haw. 2014).

147. At the very least then, the Hawaii constitution provides as much protection for free speech as does the First Amendment to the United States Constitution, but it may also provide greater protection.

148. The Act unconstitutionally restricts Plaintiff Facilities' rights of free speech under the Hawaii Constitution, which includes the right to refrain from speaking, to choose how and when to deliver particular messages, and the right to refuse to speak a government-dictated message.

149. The Act unconstitutionally compels Plaintiff Facilities, upon pain of government penalty and even government-sanctioned private suits, to recite government messages they would otherwise not communicate, messages that undermine Plaintiff Facilities' own chosen messages and beliefs, and that contradict the viewpoint from which Plaintiff Facilities' speak.

150. The Act is unconstitutionally and substantially overbroad.

151. The Act is also unconstitutionally underinclusive because it exempts many centers that provide pregnancy-related services.

152. The Act imposes an unconstitutional chill and penalty on Plaintiff Facilities' speech, and without declaratory and injunctive relief, it will continue to do so.

153. The Act is a content-based regulation of speech.

154. The Act also unconstitutionally discriminates against Plaintiff Facilities' speech based on their viewpoint because, among other things, it requires them to promote abortion and contraception options, and it exempts from the Act's requirements facilities that provide certain family planning or Med-QUEST

services.

155. By compelling government speech and by regulating speech based upon viewpoint the Act is presumptively unconstitutional and at the very least subject to strict scrutiny.

156. Strict scrutiny is also required because the Act regulates the speech of the Plaintiff Facilities based on its content.

157. The Act does not promote any legitimate, or compelling, government interest, and Defendants lack any evidence or sufficient evidence to demonstrate the existence of such an interest.

158. The Act is not tailored at all, much less narrowly tailored, to further any governmental interest, and it does not do so by the means least restrictive of Plaintiff Facilities' speech.

159. Defendants have ample alternative channels to achieve any alleged interest without imposing the Act's burdens on the speech of Plaintiffs.

160. The Act is an unconstitutional restriction of speech under any standard applicable to Plaintiff Facilities.

161. The Act is unconstitutional not only as applied to Plaintiff Facilities, but on its face as applied to any facility.

162. Accordingly, the Act violates the free speech clause of the Hawaii Constitution, Art. I, Sec. 4.

163. WHEREFORE, Plaintiffs respectfully request that the Court grant the relief set forth hereinafter in the prayer for relief.

FIFTH CLAIM: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION

164. Paragraphs 1–105 are incorporated as if fully set forth herein.

165. The Fourteenth Amendment of the United States Constitution’s right to due process protects against the government’s imposition of penalties such as fines based on vague terms that do not give regulated entities adequate notice of whether or how the law applies and what entities can do to comply.

166. The Act is vague because it does not adequately define: (a) “comprehensive health care,” (b) “health care facility,” (c) “health information.” (d) “violation,” or (d) “aggrieved.”

167. Accordingly, the Act violates Calvary Chapel’s and NIFLA’s other member centers’ Fourteenth Amendment guarantees of due process.

168. WHEREFORE, Plaintiffs respectfully request that the Court grant the relief set forth hereinafter in the prayer for relief.

PRAYER FOR RELIEF

Plaintiffs respectfully request the following relief:

A. Declare the Act unconstitutional under the United States and Hawaii Constitutions and in violation of the federal statute herein pled, both on its face and as-applied to Plaintiffs;

B. Enter preliminary and permanent injunctions against the enforcement of the Act by Defendants and any person acting in concert with them or pursuant to the private right of action contained in the Act;

C. Award Plaintiff the costs of the litigation, including reasonable

attorneys' fees and expenses under 42 U.S.C. § 1988;

D. Enter preliminary and permanent injunctions ordering Defendant Ige to disgorge federal funds the State of Hawaii has received from the United States Department of Health and Human Services and other federal offices in an appropriate amount and in excess of \$75,000, penalizing them for the injury they threaten to cause Plaintiffs and others, and prohibiting the receipt of further funding until they have remedied that injury, and until they have brought state law into compliance with 42 U.S.C. § 238n; and

E. Award any and all other relief the Court deems just and proper.

Plaintiffs demand a jury for all issues so triable.

Respectfully submitted on this 12th day of July, 2017.

/s/ James Hochberg

James Hochberg

Haw. Bar No. 3686

JAMES HOCHBERG, A.A.L.

Bishop Street Tower, Ste 2100

700 Bishop Street

Honolulu, HI 96813

(808) 534-1514

(808) 538-3075 (fax)

jim@jameshochberglaw.com

Kevin H. Theriot*
AZ Bar No. 030446
Kenneth Connelly*
AZ Bar No. 025420
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
480.444.0020
480.444.0028 (fax)
ktheriot@ADFlegal.org
kconnelly@ADFlegal.org

Anne O'Connor*
California Bar No. 135341
New Jersey Bar No. 7371997
NATIONAL INSTITUTE OF FAMILY
AND LIFE ADVOCATES
5601 Southpoint Centre Blvd.
Fredericksburg, VA 22407
(540) 372-3930
AOConnor@nifla.org

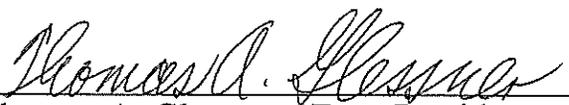
Attorneys for Plaintiffs

**Applications for Admission Pro Hac Vice forthcoming*

DECLARATION UNDER PENALTY OF PERJURY

I hereby declare under penalty of perjury, including pursuant to 28 U.S.C. § 1746, that the foregoing allegations with respect to the National Institute of Family Life Advocates (NIFLA) and its members are true and correct.

Executed on the 11th day of July, 2017, in the United States

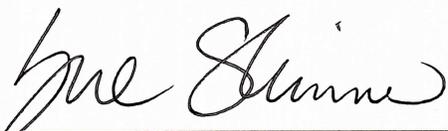


Thomas A. Glessner, Esq., President of
NIFLA
On behalf of NIFLA

DECLARATION UNDER PENALTY OF PERJURY

I hereby declare under penalty of perjury, including pursuant to 28 U.S.C. § 1746, that the foregoing allegations with respect to Calvary Chapel Pearl Harbor, A Place for Women in Waipio, are true and correct.

Executed on the 12 day of July, 2017, in the United States



Sue Skinner
Director
Calvary Chapel Pearl Harbor, A Place for
Women in Waipio

THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that all women in Hawaii,
2 regardless of income, should have meaningful access to effective
3 reproductive health services. Public programs providing
4 insurance coverage and direct services for reproductive health
5 care and counseling to eligible, low-income women are currently
6 available through the department of health and department of
7 human services.

8 Thousands of women in Hawaii are in need of publicly-funded
9 family planning services, contraception services and education,
10 pregnancy-related services, prenatal care, and birth-related
11 services. In 2010, sixteen thousand women in Hawaii experienced
12 an unintended pregnancy, which can carry enormous social and
13 economic costs to both individual families and to the State.
14 Many women in Hawaii, however, remain unaware of the public
15 programs available to provide them with contraception, health
16 education and counseling, family planning, prenatal care,
17 pregnancy-related, and birth-related services.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

1 Because family planning decisions are time sensitive and
2 care early in pregnancy is important, Hawaii must make every
3 possible effort to advise women of all available reproductive
4 health programs. In Hawaii, low-income women can receive
5 immediate access to free or low-cost comprehensive family
6 planning services and pregnancy-related care through Med-QUEST
7 and the department of health's family planning program.
8 Providers who contract with these programs are able to
9 immediately enroll patients in these programs at the time of a
10 health center visit.

11 Requiring facilities that provide pregnancy- or family
12 planning-related services to provide accurate health information
13 and to inform clients of the availability of and enrollment
14 procedures for reproductive health programs will help ensure
15 that all women in the State can quickly obtain the information
16 and services that they need to make and implement informed,
17 timely, and personally appropriate reproductive health
18 decisions.

19 The purpose of this Act is to ensure that women in Hawaii
20 are able to make personal reproductive health decisions with



1 full and accurate information regarding their rights to access
2 the full range of health care services that are available.

3 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§321-A Limited service pregnancy centers; notice of
7 reproductive health services. (a) For purposes of this
8 section, "limited service pregnancy center" or "center":

9 (1) Means a facility that:

10 (A) Advertises or solicits clients or patients with
11 offers to provide prenatal sonography, pregnancy
12 tests, or pregnancy options counseling;

13 (B) Collects health information from clients or
14 patients; and

15 (C) Provides family planning or pregnancy-related
16 services, including but not limited to obstetric
17 ultrasound, obstetric sonogram, pregnancy
18 testing, pregnancy diagnosis, reproductive health
19 counseling, or prenatal care; and

20 (2) Shall not include a health care facility. For the
21 purposes of this paragraph, a "health care facility"



S.B. NO. 501
S.D. 1
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1 means any facility designed to provide comprehensive
2 health care, including but not limited to hospitals
3 licensed pursuant to chapter 321, intermediate care
4 facilities, organized ambulatory health care
5 facilities, emergency care facilities and centers,
6 health maintenance organizations, federally qualified
7 health centers, and other facilities providing
8 similarly organized comprehensive health care
9 services.

10 (b) Every limited service pregnancy center in the State
11 shall disseminate on-site to clients or patients the following
12 written notice in English or another language requested by a
13 client or patient:

14 "Hawaii has public programs that provide immediate free or
15 low-cost access to comprehensive family planning services,
16 including, but not limited to, all FDA-approved methods of
17 contraception and pregnancy-related services for eligible women.

18 To apply online for medical insurance coverage, that will
19 cover the full range of family planning and prenatal care
20 services, go to mybenefits.hawaii.gov.



1 Only ultrasounds performed by qualified healthcare
2 professionals and read by licensed clinicians should be
3 considered medically accurate."

4 The notice shall contain the internet address for online
5 medical assistance applications and the statewide phone number
6 for medical assistance applications.

7 (c) The information required by subsection (b) shall be
8 disclosed in at least one of the following ways:

9 (1) A public notice on a sign sized at least eight and
10 one-half inches by eleven inches, written in no less
11 than twenty-two point type, and posted in a clear and
12 conspicuous place within the center's waiting area so
13 that it may be easily read by individuals seeking
14 services from the center; or

15 (2) A printed or digital notice written or rendered in no
16 less than fourteen point type that is distributed
17 individually to each patient or client at the time of
18 check-in for services; provided that a printed notice
19 shall be available to all individuals who cannot or do
20 not wish to receive the notice in a digital format.



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S.D. 1
H.D. 2
C.D. 1

1 (d) No limited service pregnancy center that collects
2 health information from any individual seeking or receiving its
3 services shall disclose any individually identifiable health
4 information to any other person, entity, or organization without
5 express written authorization from the subject individual. Any
6 disclosure made under this section shall be limited by the
7 express terms of the written authorization and all applicable
8 state and federal laws and regulations, including the federal
9 Health Insurance Portability and Accountability Act of 1996 and
10 title 45 Code of Federal Regulations part 164.

11 (e) A limited service pregnancy center that provides or
12 assists in the provision of pregnancy testing shall provide the
13 individual tested with a free written statement of the results
14 of the pregnancy test in English or another language requested
15 by a client or patient immediately after the test is completed.

16 (f) Upon receipt of a written request from an individual
17 to examine or copy all or part of the individual's recorded
18 health information or other information retained by a limited
19 service pregnancy center, the center shall, promptly as required
20 under the circumstances but in no case later than fifteen
21 working days after receiving the request:



- 1 (1) Make the information available for examination by the
- 2 individual during regular business hours;
- 3 (2) Provide a free copy to the individual, if requested;
- 4 (3) Inform the individual if the information does not
- 5 exist or cannot be found; and
- 6 (4) If the center does not maintain the record or
- 7 information, inform the individual of that fact and
- 8 provide the name and address of the entity that
- 9 maintains the record or information.

10 **§321-B Limited service pregnancy centers; enforcement;**

11 **private right of action.** (a) A limited service pregnancy

12 center that violates section 321-A shall be liable for a civil

13 penalty of \$500 for a first offense and \$1,000 for each

14 subsequent offense. If the center is provided with reasonable

15 notice of noncompliance, which informs the center that it is

16 subject to a civil penalty if it does not correct the violation

17 within thirty days from the date the notice is sent to the

18 center, and the violation is not corrected as of the expiration

19 of the thirty-day notice period, the attorney general may bring

20 an action in the district court of the district in which the

21 center is located to enforce this section.



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S.D. 1
H.D. 2
C.D. 1

1 A civil penalty imposed pursuant to this subsection shall
2 be deposited to the credit of the general fund.

3 (b) Any person who is aggrieved by a limited service
4 pregnancy center's violation of section 321-A may bring a civil
5 action against the limited service pregnancy center in the
6 district court of the district in which the center is located to
7 enjoin further violations and to recover actual damages
8 sustained together with the costs of the suit including
9 reasonable attorneys' fees. The court may, in its discretion,
10 increase the award of damages to an amount not to exceed three
11 times the actual damages sustained. If damages are awarded
12 pursuant to this subsection, the court may, in its discretion,
13 impose on a liable center a civil fine of not more than \$1,000
14 to be paid to the plaintiff.

15 A party seeking civil damages under this subsection may
16 recover upon proof of a violation by a preponderance of the
17 evidence.

18 For the purposes of this subsection, "person" includes a
19 natural or legal person.

20 (c) The enforcement procedure and remedies provided by
21 this section shall be in addition to any other procedure or



1 remedy that may be available to the State or a person aggrieved
2 by a violation of this chapter.

3 (d) This section and section 321-A are not intended to
4 require regulation or oversight of limited service pregnancy
5 centers by the department of health."

6 SECTION 3. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 4. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 5. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.



S.B. NO. 501
S.D. 1
H.D. 2
C.D. 1

Report Title:

Limited Service Pregnancy Centers; Disclosures; Privacy; Remedy

Description:

Requires all limited service pregnancy centers to disclose the availability of and enrollment information for reproductive health services. Defines limited service pregnancy center. Establishes privacy and disclosure requirements for individual records and information. Authorizes civil penalties and civil actions for enforcement and remedy. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number)</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:30%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:40%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
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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 (Excl. 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	<p>PERSONAL INJURY</p> <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 <p>CIVIL RIGHTS</p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <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 <p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <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)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.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; 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 clerks 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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.