



September 13, 2022

Rodney Nelson
rbn3@aol.com

Dear Mr. Nelson,

Thank you for contacting the City of Geneva with your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq.

On August 12, you requested the following: *"I am NOT requesting the minutes of the closed section unless the closure was unlawful. I AM now requesting a copy of the "action" that "has been filed and is pending" and all associated documents and communications. IF the closed session was improperly entered based upon the "probable or imminent" provision of OMA, I request a copy of the meeting minutes NOW as the meeting closure was unlawful"*

Attached please find the document responsive to your request.

It is the City's intent to fully comply with not only the specifics of the Illinois Freedom of Information Act, but with the spirit behind it. As such, we have made every attempt to comply with your request. If there is a specific document you are seeking that has not been provided, we respectfully request that you notify us, as the omission of such would be inadvertent and not intentional.

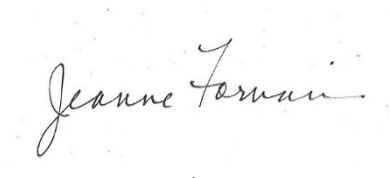
You have a right to have this denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC:

Public Access Counselor Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706
Fax: 217-782-1396
Email: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Fornari". The signature is written in black ink and is surrounded by a faint, circular, dotted border.

Jeanne Fornari
FOIA Officer

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

TOWERNORTH DEVELOPMENT, LLC, A)	
Delaware Limited Liability Company,)	
)	Case No.
Plaintiff,)	
v.)	Judge
)	
CITY OF GENEVA, ILLINOIS,)	COMPLAINT FOR
)	DECLARATORY AND
Defendant.)	INJUNCTIVE RELIEF
)	
)	EXPEDITED REVIEW
)	PURSUANT TO
)	47 U.S.C. § 332(c)(7)(B)(v)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, TowerNorth Development, LLC. ("Plaintiff" or "TowerNorth"), hereby brings the instant Complaint against the City of Geneva ("Defendant" or the "City"), and respectfully alleges as follows and hereby petitions this Court to conduct an expedited review of Defendant's failure to act on applications submitted by TowerNorth for access to public rights-of-way for authorization to place, construct, or modify personal wireless facilities, in violation of federal law, and to grant injunctive and declaratory relief to TowerNorth permitting it to build a 100 foot stealth monopine personal wireless communications tower and accompanying storage facility at a 7.5 acre heavily wooded site commonly known as 1800 W. State Street, Geneva, Illinois, (the "Oscar Swan location"). TowerNorth is entitled to summary judgement on its claim that the City failed to 'act. within a reasonable period of time' in violation of 47 U.S.C. 332(c)(7)(B)(ii)."

INTRODUCTION AND REGULATORY FRAMEWORK

1. In 1996, Congress enacted the Telecommunications Act of 1996, No. 104-104, 110 Stat. 56 (1996), which amended the Communications Act of 1934, codified in 47 U.S.C. §151 et seq. (hereinafter, the "Act" or the "TCA") as a "pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans."¹

2. Congress has declared that there is a need for wireless communication services, including "personal wireless services," as set forth in the Act, and the rules, regulations and orders of the Federal Communications Commission ("FCC") promulgated pursuant thereto. In order to foster its pro-competitive, deregulatory national policy, Congress included provisions in the Act that encourage competition by restricting the regulation of the placement of personal wireless service facilities by state and local governments and instrumentalities thereof.

3. Section 332(c)(7) of the Act imposes substantive and procedural limitations on state and local governments and instrumentalities thereof to ensure that the Act's pro-competitive goals are not frustrated and it expressly preempts any action or inaction by state or local governments or their agents that effectively prohibits the provision of wireless services.

4. Section 332(c)(7) of the Act strikes a balance between "preserv[ing] the traditional authority of state and local governments to regulate the location, construction, and modification of wireless communications facilities like cell phone towers" ³ and "reduc[ing] ... the impediments imposed by local governments upon the installation of facilities for wireless communications."⁴

¹ The Act, S. Rep. 104-230, at 1 (Feb. 1, 1996) (Conf. Report).

³ *T-Mobile S., LLC v. Cityship of Roswell*, 574 U.S. 293, 300; 135 S. Ct. 808, 814; 190 L.Ed.2d 679 (2015).

⁴ *Cityship of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115; 125 S. Ct. 1453, 161 L.Ed.2d 316, (2005)

5. While Section 332(c)(7)(A) of the Act preserves "the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities," that authority is subject to significant limitations - including Section 332(c)(7)(B)(ii) of the Act, which requires States and local governments or instrumentalities thereof to "act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with [the relevant] government or instrumentality, taking into account the nature and scope of such request."⁵

6. The purpose of Section 332(c)(7)(B)(ii) of the Act is to counteract delays in consideration of wireless facility siting applications by State or local governments or their agents, which thwart timely rollout and deployment of wireless service.

7. Section 332(c)(7)(B)(v) of the Act provides that "any person adversely affected by any... failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such... failure to act, commence an action in any court of competent jurisdiction."

8. As the federal agency tasked with implementing the Act, the FCC has the authority to promulgate rules and regulations to achieve the purposes of the Act.

⁵ 47 U.S.C. § 332(c)(7)(B)(ii).

⁶ *In the Matter of the Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, WT 08-165, FCC 09-99, 24 F.C.C.Rcd. 13,994, ,r 71, Nov. 19, 2009. (the "2009 Shot Clock Order").

⁷ 2009 Shot Clock Order, p. 14,005, ,r 32.

⁸ *Id.*

9. Pursuant to its statutory authority, in November 2009, the FCC adopted an initial order establishing what constitutes a "reasonable period of time" under the Act for a state or local government or instrumentality thereof to take action on an application for a wireless communications site.⁶

10. In the 2009 Shot Clock Order, the FCC recognized that "personal wireless service providers have often faced lengthy and unreasonable delays in the consideration of their facility siting applications, and that the persistence of such delays is impeding the deployment of advanced and emergency services."⁷ In so holding, the FCC sought to promote the deployment of broadband and other critical wireless services.⁸

11. The FCC noted that the purpose of this "shot clock deadline" was to give state or local governments or instrumentalities thereof, "a strong incentive to resolve each application within the timeframe defined as reasonable, or they will risk issuance of an injunction granting the application. In addition, specific timeframes for State and local government deliberations will allow wireless providers to better plan and allocate resources. This is especially important as providers plan to deploy their new broadband networks."⁹

12. On September 26, 2018, the FCC revised its Shot Clocks and policy.¹⁰

⁹ *Id.* at p. 14,000, -r38.

¹⁰ *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT 17-29, WC 17-84, FCC 18-133, 33 FCC Red. 9,088, Sept. 26, 2018. ("Third Report and Order"). The Third Report and Order became effective as of January 14, 2019. 83 Fed. Reg. 51,867 (2018). The Third Report and Order was affirmed, in relevant part, in *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020).

¹¹ Third Report and Order at p. 9,142, i 105.

¹² *Id.* at p. 9,104, i 119.

13. The FCC's "Shot Clock" timelines are codified at 47 C.F.R §1.6003.

14. The FCC also "determined that failure to meet the applicable time frame enables an applicant to pursue judicial relief within the next 30 days."¹²

15. The Shot Clock Order further codified that: "A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time."¹³

16. The presumptively "reasonable period of time" (i.e., the shot clock) runs from when an application is first submitted or proffered.¹⁴

17. The FCC specifically noted that "if an applicant proffers an application, but a state or locality refuses to accept it until a pre-application review has been completed, the shot clock begins to run when the application is proffered."¹⁵

18. Under the FCC's Rules and Regulations, a determination of incompleteness of a siting application tolls the shot clock only if the state or local government or instrumentality thereof provides notice to the applicant in writing within thirty (30) days of the submission of the application, specifically identifying all missing information and identifying the code provision, ordinance, application instruction, or otherwise publicly-stated procedures that require the information to be submitted.¹⁶

19. The expiration of the shot clock period without a determination by the State or local government or instrumentality thereof constitutes a "failure to act" under the Act and allows the applicant to seek redress in federal court pursuant to 47 U.S.C. § 332(c)(7)(B)(v).

¹³ 47 C.F.R. § 1.6003(a)

¹⁴ 47 C.F.R. § 1.6003(e).

¹⁵ Third Report and Order at p. 9,162, ,J145 (citations omitted)

¹⁶ 47 C.F.R. § 1.6003(d)(l).

¹⁷ 47 U.S.C. § 253(a).

20. The expiration of the shot clock period without a determination by the State or local government or instrumentality thereof constitutes a "failure to act" under the Act and allows the applicant to seek redress in federal court pursuant to 47 U.S.C. § 332(c)(7)(B)(v).

21. In addition, Section 253 of the Act prohibits state or local authorities from erecting barriers that may prohibit or may have the effect of prohibiting the ability of any entity to provide telecommunications services, including any action or inaction that results in an unreasonable delay in the deployment of the provider's facilities and provision of telecommunications services.¹⁷

JURISDICTION AND VENUE

22. This Court has subject matter jurisdiction over this action pursuant to (a) 47 U.S.C. §§ 253 and 332(c)(7)(B) because TowerNorth has been adversely affected and aggrieved by Defendants' actions in violation of those provisions of the Act; and (b) 28 U.S.C. § 1331 because this is a civil action that presents federal questions arising under the Act.

23. This Court has jurisdiction to order declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

24. This Court has personal jurisdiction over the Defendant, and venue is proper in this Court, as the Defendant conducts and has conducted continuous, systematic, and routine business within Kane County in the State of Illinois and within the jurisdiction of this Court, pursuant to 28 U.S.C. § 112(c).

25. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events or omissions giving rise to this action occurred in the Northern District of Illinois.

THE PARTIES

26. TowerNorth is a Delaware Limited Liability Corporation and maintains its principal place of business at 750 W Center Street, Floor 3, West Bridgewater in the County of Plymouth in the State of Massachusetts.

27. TowerNorth develops, owns, and leases wireless communications facilities in Illinois and elsewhere in the country. TowerNorth leases space on its facilities to national and regional wireless carriers such as Verizon Wireless (“Verizon”) who provide personal and advanced wireless services, as well as other telecommunications services, as those terms are defined under federal law, to end-user wireless consumers. In providing this service to wireless carriers, TowerNorth is facilitating the development and deployment of advanced wireless and broadband connectivity consistent with the goals of the Communications Act.

28. To provide reliable service to a user, coverage from cell sites must overlap in a grid pattern resembling a honeycomb. If TowerNorth is unable to construct a cell site within a specific geographic area, the wireless carriers it serves, such as Verizon, will not be able to provide service to the consumers within that area.

29. The defendant City is a municipal corporation duly organized under the laws of the State of Illinois with its principal place of business at 22 S. First Street, in Kane County.

EXPEDITED PROCEEDING

30. Pursuant to 47 U.S.C. § 332(c)(7)(B)(v) of the Act, this Court "shall hear and decide [this] action on an expedited basis."

FACTS COMMON TO ALL COUNTS

31. On December 2, 2021 TowerNorth proffered an application to the City for permits to allow for the construction of a wireless communications facility consisting of a 100 foot stealth monopine tower and storage facility for equipment needed to operate the tower, located at the Oscar Swan location within the City's jurisdiction (the "Application").

32. Pursuant to 47 C.F.R. § 1.6003(d), the City had thirty (30) days to request additional information in order to toll the shot clock.

33. On December 30, 2021, the City sent a written request to Plaintiff requesting additional information in connection with the application.

34. Thereafter, on March 15, 2022, Plaintiff resubmitted the information sought by the City, thereby restarting the shot clock. Pursuant to 47 C.F.R. § 1.6003, Defendant had 150 days to approve or reject the Application and, if approved, issue any and all necessary permits and authorizations to TowerNorth.

35. The 150-day "FCC Shot Clock" for the Application expired on or about July 14, 2022.

36. To date, the City has failed to act on the Applications in violation of their statutory and regulatory responsibilities under the Act.

37. Pursuant to 47 U.S.C. § 332(c)(7)(B)(v), this Action is timely filed within thirty (30) days of the Defendants' July 14, 2022 failure to act.

COUNT I
(Unreasonable Delay and Failure to Act on the Applications in Violation of 47 U.S.C. § 332(c)(7)(B)(ii), the Shot Clock Order and FCC Regulations)

38. TowerNorth repeats and re-alleges each and every paragraph stated above and incorporates those paragraphs by reference, as though fully stated here.

39. 47 U.S.C. § 332(c)(7)(B)(ii) provides that, "[a] State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request."

40. Pursuant to 47 C.F.R §1.6003(a), "a siting authority that fails to act on a siting application on or before the shot clock date for the application .. is presumed not to have acted within a reasonable period of time."

41. The Application submitted by TowerNorth constitutes a request for the placement of personal wireless service facilities and, as such, TowerNorth is entitled to the benefits and protections of the Act, FCC Orders, and the FCC's Rules and Regulations with respect to the Application.

42. Pursuant to 47 C.F.R. § 1.6003(d), a determination of incompleteness of a siting application tolls the shot clock if the State or local government or instrumentality thereof provides notice to the applicant in writing within thirty (30) days of the submission of the application, specifically identifying all missing information, and specifying any code provision, ordinance, application instruction, or otherwise publicly-stated procedures that require the information to be submitted.

43. Once a resubmission is made, if the State or local government or instrumentality thereof does not respond in writing within the ten (10) days of the resubmission of a siting application, and fails to specifically identify what, if any, information is missing, the shot clock is not tolled.

44. Although the City notified Plaintiff of a determination of incompleteness within the first thirty (30) days, thereby tolling the shot clock, the City thereafter failed to notify Plaintiff

within ten (10) days of the resubmission on March 15, 2022 of any similar deficiency. As such, the shot clock re-started upon the resubmission on March 15, 2022.

45. Pursuant to 47 C.F.R. § 1.6003(c), the City was required to act on TowerNorth's Applications within 150 days of submission, or no later than July 14, 2022.

46. To date, the City has neither approved nor rejected TowerNorth's Application.

47. Defendant's failure to meet the applicable timeframe presumptively constitutes a failure to act under Section 332(c)(7)(B)(v), enabling TowerNorth as applicant to pursue judicial relief.

48. TowerNorth has commenced this action within thirty (30) days of Defendant's failure to act under the shot clock.

49. Defendant's failure to act has delayed and prevented TowerNorth from securing the necessary approvals and permits to construct and install personal wireless service facilities on the Oscar Swan location in the public right-of-way located in the City.

50. By its acts and omissions, Defendant violated 47 U.S.C. § 332(c)(7)(B)(ii), as authoritatively interpreted by the FCC and codified in the Code of Federal Regulations.

51. Under the circumstances, TowerNorth is entitled to permanent injunctive relief through an order and judgment granting TowerNorth's Application and ordering that Defendant: 1) issue all necessary permits, and, 2) authorize TowerNorth to immediately begin the necessary work to deploy its infrastructure as proposed in its Application.

COUNT II

(For Prohibition of Services and Bar to Entry in Violation of 47 U.S.C. § 253(a))

52. TowerNorth repeats and re-alleges each and every paragraph stated above and incorporates those paragraphs by reference, as though fully stated here.

53. 71. 47 U.S.C. § 253(a) provides that "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

54. 47 U.S.C. § 253(a) applies to a State or local government's failure to act, which unreasonably delays deployment of a provider's personal wireless service facilities and provision of telecommunications services.

55. The City has unreasonably delayed acting on TowerNorth's Application seeking authorization to install personal wireless service facilities at the Oscar Swan location under the jurisdiction of the City.

56. The City's failure to act on the Application constitutes an unreasonable ongoing delay which has had the effect of prohibiting the ability of TowerNorth to provide personal wireless facilities and telecommunications services in violation of 47 U.S.C. § 253(a).

57. TowerNorth has suffered and will continue to suffer irreparable harm as a result of Defendant's failure to act on the Applications and the resulting delay of TowerNorth's efforts to deploy its infrastructure within the jurisdiction of Defendants.

58. Under the circumstances, TowerNorth is entitled to permanent injunctive relief through an order and judgment granting TowerNorth's Application and declaring that Defendant: 1) issue all necessary permits, 2) authorize TowerNorth to immediately begin the necessary work to deploy its infrastructure as proposed in its Application.

PRAYER FOR RELIEF

WHEREFORE, TowerNorth respectfully requests that, pursuant to 47 U.S.C. § 322(c)(7)(B)(v), the Court hear and decide this action on an expedited basis, and issue an Order and Judgment in its favor as follows:

- a) finding and declaring that Defendant's failure to act upon TowerNorth's Application within a reasonable time constitutes a violation of 47 U.S.C. § 332(c)(7)(B)(ii);
- b) finding and declaring that Defendant's failure to act upon TowerNorth's Applications within a reasonable time, pursuant to 47 C.F.R §1.6003(c), amounts to an illegal and unreasonable delay in violation of 47 U.S.C. § 332(c)(7)(B)(ii);
- c) finding and declaring that Defendant's failure to act upon TowerNorth's Application has prohibited or had the effect of prohibiting TowerNorth from providing personal wireless services in violation of 47 U.S.C. § 253(a);
- d) issuing an injunction and/or writ of mandamus compelling and ordering the City to approve the Application and requiring that Defendant immediately issue, pursuant to Federal law, all approvals, necessary permits and authorizations for TowerNorth to immediately install a 100 foot stealth monopine tower, and associated infrastructure at the Oscar Swan location;
- e) enjoining the City from interfering with Plaintiff's use of the proposed site for wireless communication services and construction of the tower and related facilities;

- f) awarding TowerNorth its damages, reasonable attorneys' fees, costs, disbursements, and other expenses of this action as permitted by law; and
- g) granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

TOWERNORTH DEVELOPMENT, LLC

By: s/ Ari J. Rosenthal_____

Ari J. Rosenthal
Ginsberg Jacobs LLC
300 S. Wacker Dr, Suite 2750
Chicago, IL 60606
(312) 660-9611
arosenthal@ginsbergjacobs.com

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

TowerNorth Development, LLC.

(b) County of Residence of First Listed Plaintiff
(Except in U.S. plaintiff cases)

(c) Attorneys (firm name, address, and telephone number)

Ginsberg Jacobs, LLC
300 S. Wacker, Suite 2750, Chicago, IL 60606**DEFENDANTS**

City of Geneva, Illinois

County of Residence of First Listed Defendant Kane County
(In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Check one box, only.)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government not a party.)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate citizenship of parties in Item III.)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)(Check one box, only for plaintiff and one box for defendant.)

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

IV. NATURE OF SUIT (Check one box, only.)

CONTRACT	TORTS	PRISONER PETITIONS	LABOR	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	Habeas Corpus:	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 820 Copyright	<input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 850 Securities/Commodities/Exchange
		<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input checked="" type="checkbox"/> 890 Other Statutory Actions
		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<input type="checkbox"/> 891 Agricultural Arts
REAL PROPERTY	CIVIL RIGHTS	BANKRUPTCY	FORFEITURE/PENALTY	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment			<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	IMMIGRATION		<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities-Employment	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)		FEDERAL TAXES
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
				<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Check one box, only.)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

47 U.S.C. 332 (c)(7)(B)(ii) and (v)

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)**VIII. REQUESTED IN COMPLAINT:**☐ Check if this is a class action under Rule 23, F.R.Cv.P.

Demand \$

CHECK Yes only if demanded in complaint:

Jury Demand: ☐ Yes ☒ No**IX. RELATED CASE(S) IF ANY** (See instructions):

Judge

Case Number

X. Is this a previously dismissed or remanded case?☐ Yes☒ No

If yes, Case #

Name of Judge

Date: 8/8/22

Signature of Attorney of Record /s/ Ari Rosenthal

Authority for Civil Cover Sheet

The ILND 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
(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
(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" 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 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.