

**FEDERAL PRACTICE COMMITTEE  
MINUTES  
JANUARY 21, 2004  
12 NOON**

The meeting was called to order at approximately 12:10 PM by Chairman Charlie Harris. Carol Barnett, Marty Meyers, Lajuana Counts, J.R. Hobbs and Pat Brune attended in person. Wallace Squibb, Dana Kollar, and Karl Blanchard, Jr. attended by telephone conference. Tim Van Ronzelen and Jennifer Bacon sent regrets as work prevented their attendance.

The meeting began with Pat Brune demonstrating the Federal Practice Committee link to the external Western District of Missouri web site. The by-laws, roster, and future minutes will be available on this site.

Pat Brune also shared the copy of the divisional venue rule adopted by the Court en banc on January 8, 2004. (A copy of this rule is attached to these minutes.) This change to the Local Rules will be posted on the web site for the requisite thirty day comment period and then sent on to the 8<sup>th</sup> Circuit for approval.

A copy of Administrative Directive #13 was also presented to the committee along with the revised Civil Cover sheet. (A copy of both the directive and the cover sheet are attached to these minutes.) This directive was also adopted at the January 8<sup>th</sup> Court en banc meeting and became effective immediately.

Wallace Squibb presented the committee with the text of Rule 4.2 for discussion. (A copy of that text is attached to these minutes.) The underscored portion of section five was retained for consideration while the underscored portion of section seven was removed. The text was then recommended for approval by the

Missouri Supreme Court with no time frame given for that approval. The Committee discussed what their involvement should be in the discussion of this rule but agreed by consensus to wait for the action by the Missouri Supreme Court before taking a position.

The next meeting was set for Wednesday, April 21, 2004 at 12 Noon at the Whittaker Courthouse in Kansas City. It will be a joint meeting with the Judges of the Western Missouri bench and Pat Brune will make the arrangements.

The meeting adjourned at 1:00 PM.

## CIVIL DIVISIONAL VENUE

### **(A) Divisions within the Western District of Missouri.**

The United States District Court for the Western District of Missouri comprises the following divisions:

#### **(1) To Be Heard in Federal Court in Kansas City, Missouri:**

**(a) Western Division:** The Western Division comprises the counties of Clay, Ray, Carroll, Saline, Lafayette, Jackson, Cass, Johnson, Henry, Bates, and St. Clair.

**(b) St. Joseph Division:** The St. Joseph Division comprises the counties of Atchison, Nodaway, Worth, Gentry, Harrison, Mercer, Putnam, Sullivan, Grundy, Livingston, Daviess, Caldwell, DeKalb, Clinton, Platte, Buchanan, Holt, Andrew.

#### **(2) To Be Heard in Federal Court in Jefferson City, Missouri:**

**Central Division:** The Central Division comprises the counties of Pettis, Benton, Hickory, Howard, Cooper, Morgan, Camden, Boone, Monteau, Miller, Callaway, Cole, and Osage.

#### **(3) To Be Heard in Federal Court in Springfield, Missouri:**

**(a) Southern Division:** The Southern Division comprises the counties of Cedar, Dade, Polk, Greene, Christian, Taney, Dallas, Webster, Douglas, Ozark, Laclede, Wright, Pulaski, Texas, Howell, and Oregon.

**(b) Southwestern Division:** The Southwestern Division comprises the counties of Vernon, Barton, Jasper, Newton, McDonald, Lawrence, Barry, and Stone.

### **(B) Divisional Venue.**

**(1) Single defendant.** All actions brought against a single defendant who is a resident of this district must be brought in a division where the defendant resides, or where the claim for relief arose.

**(2) Multiple defendants.** All actions brought against multiple defendants all of whom reside in the same division must be brought in that division, or in the division where the claim for relief arose. If at least two of the defendants reside in different divisions, such action shall be filed in any division in which one or more of the defendants, reside, or where the claim for relief arose.

**(3) Non-resident defendant.** If none of the defendants is a resident of the Western District

of Missouri, the action shall be filed in the division where at least one plaintiff resides, or where the claim for relief arose.

**(C) Location of Proceedings.**

In all cases, the Court retains discretion to fix the location where any courtroom proceedings shall be held.

**(D) Other Venue Statutes.**

This Local Rule shall be construed consistently with the text and definitions contained in 28 U.S.C. §§ 1391(c), (d), (e) and (f), 1392, 1446(a), 1404(a) and 1406(a) and (b).

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

Administrative Directive  
No. 13

**Assignment of Certain Civil Cases Naming the  
State of Missouri or Any of Its Agencies as a Defendant**

The Clerk shall create in the Automated Case Assignment System a random judge draw which shall contain the name of each district judge with official station in the Western District of Missouri. From time to time the Court en banc shall determine the number of draws for each district judge and communicate this information to the Clerk. This random judge draw system shall be used to assign a district judge to any civil case which names the State of Missouri or any of its agencies as a defendant if the complaint seeks a declaratory judgment that a state law, regulation or rule is unconstitutional on its face or seeks to enjoin the enforcement of a state law, rule or regulation as to all persons because it is unconstitutional on its face. Upon the filing of the first document in such a civil case, a deputy clerk shall assign a district judge to the case by entering the Case Assignment Menu and selecting a district judge pursuant to the random judge draw system. This administrative directive shall not apply to those cases that only allege the State of Missouri or any of its agencies acted unconstitutionally, or to petitions or complaints filed by persons confined in federal, state, county or municipal penal institutions, jails or mental institutions, as provided for in Administrative Directive No. 9.

For purposes of this directive, any constitutional office (such as the Missouri Secretary of State), any department or division of state government (such as the Division of Family Services, the Department of Corrections, or the Department of Conservation), any Missouri prison (such as Jefferson City Correctional Center or Cross Roads Correctional Center), any four-year public college or University (such as Northwest Missouri State or Southwest Missouri State), and the Board of Curators of the University of Missouri shall be considered agencies of the State of Missouri. "Agencies of the State of Missouri" will not include political subdivisions such as cities or counties, public power, water or sewer districts and similar entities.

Every civil cover sheet shall contain a place for a plaintiff to designate that the case seeks a declaratory judgment that a Missouri statute, rule or regulation is unconstitutional on its face or seeks to enjoin the enforcement of a Missouri statute, rule or regulation as to all persons because it is unconstitutional on its face. The cover sheet shall also contain the following language: Do not include cases that only allege that the State of Missouri or any of its agencies have acted unconstitutionally or petitions or complaints filed by persons confined in federal, state, county or

municipal penal institutions, jails or mental institutions, as provided for in Administrative Directive No. 9. It shall be the responsibility of the Clerk and the judge assigned to the case to verify that the case has been drawn as required by this directive. If the directive is applicable and the case has not been drawn as required, the case shall be placed back in the random judge draw system and redrawn as required by this directive. If there is not agreement between the Clerk and the judge assigned to the case concerning application of the directive, the Clerk shall seek the guidance of the Court en banc.

# CIVIL COVER SHEET

**I. (a) PLAINTIFFS**

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

**DEFENDANTS**

County of Residence of First Listed \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

(d) Does this case seek a declaratory judgment that a Missouri statute, rule or regulation is unconstitutional on its face or seek to enjoin the enforcement of a Missouri statute, rule or regulation as to all persons because it is unconstitutional on its face. **9 Yes**

**NOTE: Do not include cases that only allege that the State of Missouri or any of its agencies have acted unconstitutionally or petitions or complaints filed by persons confined in federal, state, county or municipal penal institutions, jail or mental institutions.**

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

G 1 U.S. Government Plaintiff  
G 3 Federal Question (U.S. Government Not a Party)

G 2 U.S. Government Defendant  
G 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

		<b>DEF</b>			<b>DEF</b>
Citizen of This State	G 1	G 1	Incorporated <i>or</i> Principal Place of Business In This State	G 4	G 4
Citizen of Another State	G 2	G 2	Incorporated <i>and</i> Principal of Business In Another State	G 5	G 5
Citizen or Subject of a Foreign Country	G 3	G 3	Foreign Nation	G 6	G 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
G 110 Insurance G 120 Marine G 130 Miller Act G 140 Negotiable Instrument G 150 Recovery of Overpayment & Enforcement of Judgment G 151 Medicare Act G 152 Recovery of Defaulted Student Loans (Excl. Veterans) G 153 Recovery of Overpayment of Veteran's Benefits G 160 Stockholders' Suits G 190 Other Contract G 195 Contract Product Liability	<p><b>PERSONAL INJURY</b></p> <p>G 310 Airplane G 315 Airplane Product Liability G 320 Assault, Libel &amp; Slander G 330 Federal Employers' Liability G 340 Marine G 345 Marine Product Liability G 350 Motor Vehicle G 355 Motor Vehicle Product Liability G 360 Other Personal Injury</p> <p><b>PERSONAL INJURY</b></p> <p>G 362 Personal Injury—Med. Malpractice G 365 Personal Injury — Product Liability G 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> G 370 Other Fraud G 371 Truth in Lending G 380 Other Personal Property Damage G 385 Property Damage Product Liability</p>	G 610 Agriculture G 620 Other Food & Drug G 625 Drug Related Seizure of Property 21 USC 881 G 630 Liquor Laws G 640 R.R. & Truck G 650 Airline Regs. G 660 Occupational Safety/Health G 690 Other	G 422 Appeal 28 USC 158  G 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> G 820 Copyrights G 830 Patent G 840 Trademark  <b>SOCIAL SECURITY</b> G 861 HIA (1395ff) G 862 Black Lung (923) G 863 DIWC/DIWW (405(g)) G 864 SSID Title XVI G 865 RSI (405(g))	G 400 State Reapportionment G 410 Antitrust G 430 Banks and Banking G 450 Commerce/ICC Rates/etc. G 460 Deportation G 470 Racketeer Influenced and Corrupt Organizations G 810 Selective Service G 850 Securities/Commodities/Exchange G 875 Customer Challenge 12 USC 3410 G 891 Agricultural Acts G 892 Economic Stabilization Act G 893 Environmental Matters G 894 Energy Allocation Act G 895 Freedom of Information Act G 900 Appeal of Fee Determination Under Equal Access to Justice G 950 Constitutionality of State Statutes G 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<b>FEDERAL TAX SUITS</b>	
G 210 Land Condemnation G 220 Foreclosure G 230 Rent Lease & Ejectment G 240 Torts to Land G 245 Tort Product Liability G 290 All Other Real Property	G 441 Voting G 442 Employment G 443 Housing/Accommodations G 444 Welfare G 440 Other Civil Rights	G 710 Fair Labor Standards Act G 720 Labor/Mgmt. Relations G 730 Labor/Mgmt. Reporting & Disclosure Act G 740 Railway Labor Act G 790 Other Labor Litigation G 791 Empl. Ret. Inc. Security Act	G 870 Taxes (U.S. Plaintiff or Defendant) G 871 IRS—Third Party 26 USC 7609	
	<b>PRISONER PETITIONS</b>			
	G 510 Motions to Vacate Sentence Habeas Corpus: G 530 General G 535 Death Penalty G 540 Mandamus & Other G 550 Civil Rights G 555 Prison Condition			

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

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

**VI. CAUSE OF ACTION**

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

**VII. REQUESTED IN COMPLAINT:**

G CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23    DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**    G Yes    G No

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

(See instructions): JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

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 BELOW.)

## 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.)

©) 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 IV 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.

**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.