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Of Attorneys for Mr. Griffith

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DONALD GRIFFITH,

individually and on
behalf of all others,

Plaintiff,

v.

PEACEHEALTH,

Defendant.

Case No. 3:18-cv-1882

**CLASS ACTION
COMPLAINT**

Financial Abuse of a
Vulnerable Person

Demand for Jury Trial

1.

ABOUT THIS CLASS ACTION

In order to increase profits, PeaceHealth secretly overbills Oregon Medicare patients after car accident settlements, in direct violation of the federal Medicare rules. On November 30, 2015, Mr. Griffith was injured in a car accident. On October 18, 2017, PeaceHealth overbilled Mr. Griffith \$14,574 after he settled his car accident claim. On March 7, 2018, Mr. Griffith disputed that PeaceHealth was entitled to the funds, and provided legal authority as to why it was not entitled to those funds. PeaceHealth, however, refused to correct its billings, and continued to maintain that Mr. Griffith owed \$14,574. On April 23, 2018, Mr. Griffith paid the bill under protest. PeaceHealth wrongfully took money from Mr. Griffith, leaving him no choice but to file this case. Mr. Griffith decided to file his case as a class action to stop PeaceHealth's overbilling practices once and for all, and to take back the millions of dollars PeaceHealth has wrongfully collected from injured Oregon Medicare patients over the past seven years.

2.

Oregon Medicare patients who have settled an injury claim in the past seven years can visit www.MedicareClassAction.com to learn more about their legal options at no cost.

3.

SPECIAL RULES FOR OREGON

Except in Oregon liability cases, federal regulations allow Medicare providers like PeaceHealth to elect not to bill Medicare for a patient's injury-related pre-settlement Medicare covered services. Instead, Medicare providers may elect to directly bill the liability injury settlement.

4.

Oregon is the only state that is different. In liability cases, 42 C.F.R. § 411.54(d)(2), "Special Rules for Oregon" allow Oregon Medicare providers to bill an injury settlement only under limited circumstances.

5.

Based upon *Oregon Ass'n of Hospitals v. Bowen*, 708 F. Supp. 1135 (D. Or. 1989), Oregon Medicare providers may elect to bill a liability insurer or place a lien against the liability settlement only if the liability insurer pays within 120 days after the earlier of (A) the date of filing a claim with the insurer or placing a lien against the liability settlement, or (B) the date the services were provided or the date of inpatient discharge. The term "overbill" refers to PeaceHealth's ongoing practice of billing liability settlements for covered services provided to Oregon Medicare beneficiaries after an injury, in violation of 42 C.F.R. § 411.54(d)(2).

6.

JURISDICTION AND THE PARTIES

This Court has jurisdiction under 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$5 million including compensation and penalties.

7.

Plaintiff Donald Griffith is a citizen of the state of Oregon. Mr. Griffith is a disabled Oregon Medicare patient and a “vulnerable person” as defined under Oregon’s Elderly Persons and Persons with Disabilities Abuse Prevention Act.

8.

Defendant PeaceHealth is a citizen of the state of Washington. PeaceHealth is a billion-dollar legal entity and a “provider” as defined under 42 C.F.R. § 420.301, and a person subject to an action under ORS 124 *et seq.*

9.

FACTUAL ALLEGATIONS

Mr. Griffith suffered bodily injuries in a motor vehicle accident on November 30, 2015 near Eugene, Oregon. At the time he was, and continues to remain, a Medicare beneficiary. Mr. Griffith received Medicare covered injury related medical services from PeaceHealth between November 30, 2015 and July 6, 2016 at Sacred Heart Medical Center, Eugene, Oregon. PeaceHealth elected not to bill Medicare for Mr. Griffith's injury related medical care, knowing of his Medicare eligibility status and a possible bodily injury claim. As a Medicare eligible, liability claimant whose release and settlement agreement waived further payment of past or future injury medicals, Medicare Secondary Payer (MSP) compliance by all parties is mandated by 42 U.S.C. § 1395y(b)(2).

10.

As a Medicare eligible, liability claimant whose release and settlement agreement waived further payment of past or future injury medicals, Medicare Secondary Payer (MSP) compliance by all parties is mandated by 42 U.S.C. § 1395y(b)(2).

11.

As a Medicare provider, PeaceHealth must follow MSP compliance authority. 42 U.S.C. § 1395y(b)(2)(B)(ii) requires the Centers for Medicare and Medicaid Services (CMS) to recover all pre-settlement injury related “conditional payments” made by Medicare upon settlement of Worker’s Compensation and liability bodily injury cases. Failure to repay CMS may result in double damages against any party who receives remuneration from a settlement.

12.

As required by CMS, Mr. Griffith’s injury case was initially reported to CMS by his counsel on August 4, 2017. Mr. Griffith’s injury action against a third party was settled by counsel on September 14, 2017. As required by CMS, counsel submitted a “Final Settlement Detail Document” to CMS on October 20, 2017 regarding Mr. Griffith’s liability coverage. On November 1, 2017, CMS responded that Medicare had made no conditional payments. United Services Automobile Association (USAA), the tortfeasor’s liability insurer, issued a check dated February 8, 2018 in the amount of \$98,691. The check was deposited into counsel’s client trust account on February 14, 2018. On October 18, 2017, PeaceHealth demanded payment of \$14,574.83 from Mr. Griffith’s settlement for Medicare covered injury related medical services provided no later than July 6, 2016.

13.

42 CFR 411.54(2)(i) permits an Oregon Medicare provider, PeaceHealth, to bill a liability insurer or place a lien against the beneficiary's liability settlement only if the liability insurer pays within 120 days after the earlier of (A) the date of filing a claim with the insurer or placing a lien against the liability settlement, or (B) the date the services were provided or the date of inpatient discharge.

14.

PeaceHealth did not file a claim with USAA at any time.

15.

PeaceHealth did not file a lien against Mr. Griffith's settlement at any time.

16.

USAA did not pay Mr. Griffith's injury claim within 120 days of July 6, 2016, the last date PeaceHealth provided injury related Medicare covered services. As a result, 42 C.F.R. § 411.54(2)(A) mandates PeaceHealth to withdraw its lien against Mr. Griffith's liability settlement. PeaceHealth refused counsel's demand to withdraw its demand for payment. 42 C.F.R. § 411.54(2)(B) requires PeaceHealth to only bill Medicare for Mr. Griffith's injury related Medicare covered services.

17.

PeaceHealth refused counsel's demand to bill Medicare for Mr. Griffith's injury related Medicare covered services. 42 C.F.R. § 411.54(2)(C) limits PeaceHealth's recovery only to applicable Medicare deductible and co-insurance amounts.

18.

PeaceHealth demanded full payment of Mr. Griffith's injury related Medicare covered services. On April 23, 2018, counsel submitted payment of \$14,574.83 to PeaceHealth. The Oregon case law referenced in the applicable regulations was not overturned on appeal or by a statutory clarification.

19.

42 C.F.R. § 411.54(2) as amended, is clarified by the U.S. Department of Health and Human Services in 42 FR 143, 43940-43942, (July 2003) and further codified by 42 C.F.R. § 489.20(j) and the Medicare Secondary Payer Manual, Chapter 2, §40.2 B. PeaceHealth's recovery from Mr. Griffith's injury settlement violates 42 C.F.R. § 411.54(2), 42 C.F.R. § 489.20(j) and the Medicare Secondary Payer Manual § 40.2 B.

20.

CLASS ACTION ALLEGATIONS

This complaint's allegations are based on personal knowledge as to Mr. Griffith's behavior and made on information and belief as to the behavior of others. Under FRCP 23, Mr. Griffith brings this action on behalf of himself and all other similarly situated individual Oregon Medicare patients. The class is initially defined as:

- a) individual Medicare patients,
- b) who entered an agreement with PeaceHealth,
- c) for services in Oregon,
- d) who in the seven years prior to the filing of this complaint, PeaceHealth then overbilled by collecting money from the patient's liability settlement in excess of the amount allowed by 42 C.F.R. § 411.54(d)(2).

21.

A class action is proper under FRCP 23(a) because based on Oregon Medicare patient enrollment statistics and court records, the class consists of hundreds of individuals, and joinder of all members is impracticable. Each class member is easily identifiable based on PeaceHealth's own records. Excluded from the class are all attorneys for the class, officers and directors of PeaceHealth, any judge who sits on the case, and all jurors and alternate jurors who sit on the case.

22.

This action can be maintained as a class action under FRCP 23(a) and (b) because there are questions of law and fact common to the class members, which predominate over any questions relating to individual class members, including but not limited to:

- a) Whether PeaceHealth's behavior as alleged in this complaint violated 42 C.F.R. § 411.54(d)(2),
- b) Whether PeaceHealth's behavior as alleged in this complaint constituted unjust enrichment,
- c) Whether PeaceHealth's behavior as alleged in this complaint constituted a violation of ORS 124.100 by financially abusing vulnerable people.

23.

Mr. Griffith's claims are typical of the claims of the class members, as they are based on the same factual circumstances, common collection scheme, and legal theories. Mr. Griffith has no interests adverse to the class members.

24.

Mr. Griffith will fairly and adequately represent and protect the interests of the members of the class. Mr. Griffith has retained nationally known and locally respected counsel experienced in class action consumer litigation and federal Medicare rules to further ensure such representation and protection of the class. Mr. Griffith and his counsel intend to prosecute this action vigorously and have the resources necessary to successfully try this case to judgment.

25.

A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Absent class-wide adjudication, members of the class are without effective recourse. Absent class treatment, PeaceHealth's alleged wrongdoing would go unabated, and no class member would be afforded the opportunity to seek judicial relief, whether for themselves or for the public good generally.

26.

A class action is appropriate under FRCP 23(b)(3) because the questions of law and fact regarding the nature and legality of PeaceHealth's practices as alleged in this complaint predominate over any questions affecting only individual class members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy, for the following reasons:

- a) The prosecution of separate actions creates a risk of inconsistent or varying rulings,
- b) The common questions of law and fact described above predominate over questions affecting only individual members,
- c) Individual class members would have little interest in controlling the prosecution of separate actions because the amount of each individual claim is relatively small compared to the complexities of the issues and the expenses of litigation,
- d) This is a desirable forum because this Court has significant experience managing class actions,
- e) A class action will be an efficient method of adjudicating the claims of the class members.

27.

CLAIMS FOR RELIEF

– Claim 1 for the Putative Class –

**Breach of Contract and Breach of Duty of
Good Faith and Fair Dealings**

As alleged in this complaint, PeaceHealth's agreement with Mr. Griffith and the putative class members to provide services in exchange for payment did not permit PeaceHealth to collect amounts prohibited by federal Medicare rules, and contained an implied duty of good faith and fair dealings. Mr. Griffith and the putative class members performed their obligations in full, then PeaceHealth materially breached its agreement by wrongfully and unfairly collecting an amount from Mr. Griffith and the putative class members in violation of 42 C.F.R. § 411.54(d)(2), causing them economic losses. As a result, Mr. Griffith and the putative class members are entitled to fair compensation for their losses in amounts to be determined at trial, and reimbursed fees and costs.

28.

– Claim 2 for the Putative Class –

Unjust Enrichment

As alleged in this complaint, PeaceHealth violated federal Medicare rules in a common scheme to unlawfully profit from the injury settlements of its Oregon Medicare patients. As a matter of justice and equity, PeaceHealth should not be able to retain the excessive amounts it wrongfully collected from Mr. Griffith and the putative class. Mr. Griffith and the putative class members are entitled to restitution based on PeaceHealth's unjust enrichment as alleged in this complaint.

29.

– Claim 3 for the Putative Class –

ORS 124.100

As alleged in this complaint, PeaceHealth violated Oregon’s Elderly Persons and Persons with Disabilities Abuse Prevention Act by wrongfully taking money of vulnerable people in violation of the federal Medicare rules, causing financial losses. As a result, under ORS 124.100, Mr. Griffith and the putative Vulnerable Person subclass members are entitled to fair compensation in an amount equal to three times their economic losses or \$500 statutory damages per individual, whichever is greater, and reimbursed fees and costs.

30.

Mr. Griffith reserves the right and may intend to seek amendment of this complaint to add additional defendants and additional claims as information is learned throughout the case, including claims for punitive damages.

31.

Demand for jury trial.

32.

PRAYER FOR RELIEF

Mr. Griffith seeks relief as follows:

- A. An order that this case may proceed as a class action and an order that PeaceHealth violated the federal Medicare rules,
- B. An order and judgment in favor of Mr. Griffith and the class against PeaceHealth for fair compensation, maximum statutory damages and penalties, and reimbursed fees and costs,
- C. An order and judgment in favor of Mr. Griffith and the class against PeaceHealth for maximum pre-judgment and post-judgment interest, and
- D. For any other relief this Court may determine is fair and proper.

October 26, 2018

RESPECTFULLY FILED,

s/ Michael Fuller

Michael Fuller, OSB No. 09357

Lead Trial Attorney for Mr. Griffith

OlsenDaines

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Shannon Conley, OSB No. 133327
shannon@naylaw.com
Phone 503-245-0894

PROOF OF MAILING

I declare and certify that on the date below I caused a copy of this complaint to be mailed to the following:

Ellen Rosenblum
Oregon Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096

October 26, 2018

s/ Michael Fuller
Michael Fuller, OSB No. 09357
Lead Trial Attorney for Mr. Griffith
OlsenDaines
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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 NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS DONALD GRIFFITH</p> <p>(b) County of Residence of First Listed Plaintiff <u>Multnomah</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Michael Fuller, US Bancorp Tower, 111 SW 5th Ave., Suite 3150 Portland, Oregon 97204, 503-201-4570</p>	<p>DEFENDANTS PEACEHEALTH</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></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 <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" 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 checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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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 <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			PROPERTY RIGHTS	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			LABOR	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
			SOCIAL SECURITY	<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))
			FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<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"/> 560 Civil Detainee - Conditions of Confinement		

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

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district *(specify)*
 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
28 U.S.C. § 1332

Brief description of cause:
Financial Abuse of a Vulnerable Person

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: 10/26/2018 SIGNATURE OF ATTORNEY OF RECORD: s/ Michael Fuller

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.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Oregon

DONALD GRIFFITH

Plaintiff

v.

PEACEHEALTH

Defendant

Civil Action No. 3:18-cv-1882

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

PeaceHealth
c/o registered agent SW&W Registered Agents Lane, Inc.
800 Willamette St. Ste 600
Eugene, Oregon 97401

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Donald Griffith
c/o attorney Michael Fuller
US Bancorp Tower
111 SW 5th Ave., Suite 3150
Portland, Oregon 97204

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk