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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

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S.p.A.

7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10

11 GUARISCO INDUSTRIA  
TESSILE, S.p.A., an Italian  
12 Corporation,

13 Plaintiff,

14 vs.

15 FOREVER 21, INC., a California  
Corporation; DO & BE CLOTHING,  
16 INC., a California Corporation; CHA  
CHA FABRIC, INC., a California  
17 Corporation; LONDON EYES  
CORPORATION, a California  
18 Corporation; GLAM, an entity of an  
unknown form; and DOES 1-10,  
19 inclusive,

20 Defendants.

Case No. **CV08-00805 CAS**

**COMPLAINT FOR: (1)  
COPYRIGHT INFRINGEMENT;  
AND (2) CONTRIBUTORY  
COPYRIGHT INFRINGEMENT;  
DEMAND FOR JURY TRIAL**

VBK

21

22 Guarisco Industria Tessile, S.p.A. ("Plaintiff" or "Guarisco") hereby alleges  
23 as follows:

24

25

**PARTIES**

26

27

28

1. Plaintiff Guarisco is an Italian corporation organized and existing under  
the laws of Italy with its principal place of business located at 66 Via Strada dei  
Giovi 22070 Grandate, Italy.

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1           2.     Guarisco is informed and believes and thereon alleges that Defendant  
2 Forever 21, Inc. (“F21”) is a corporation organized and existing under the laws of  
3 the State of California with its principal place of business located at 2001 S.  
4 Alameda Street, Los Angeles, CA 90058.

5           3.     Guarisco is informed and believes and thereon alleges that Defendant  
6 Do & Be Clothing, Inc. (“Do & Be”) is a corporation organized and existing under  
7 the laws of the State of California with its principal place of business located at  
8 1100 S. San Pedro St., Los Angeles, CA 90015.

9           4.     Guarisco is informed and believes and thereon alleges that Defendant  
10 Cha Cha Fabric, Inc. (“Cha Cha”) is a corporation organized and existing under the  
11 laws of the State of California with its principal place of business located at 1100 E.  
12 14<sup>th</sup> Place, Los Angeles, California 90021.

13          5.     Guarisco is informed and believes and thereon alleges that Defendant  
14 London Eyes Corporation (“London Eyes”) is a corporation organized and existing  
15 under the laws of the State of California with its principal place of business located  
16 at 335 W. 31<sup>st</sup> Street, Los Angeles, California 90007.

17          6.     Guarisco is informed and believes and thereon alleges that Defendant  
18 Glam (“Glam”) is a entity of an unknown form, with its principal place of business  
19 located at 1015 South Croker Street, Los Angeles, California 90021.

20          7.     Plaintiff is informed and believes, and based thereon alleges, that  
21 defendants DOES 1-5, inclusive, are manufacturers and/or vendors of garments to  
22 F21, and who have manufactured and/or supplied and are manufacturing and/or  
23 supplying garments comprised of fabric printed with Plaintiff’s copyrighted design  
24 (as defined in Paragraph 14, *infra*) without Plaintiff’s knowledge or consent or have  
25 contributed to said infringement. The true names of DOES 1-5, inclusive, are  
26 presently unknown to Plaintiff, which therefore sues said defendants by such  
27 fictitious names and will seek leave to amend this complaint to show their true  
28 names and capacities when same have been ascertained.

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1 8. Plaintiff is informed and believes, and based thereon alleges, that  
2 defendants DOES 6-10, inclusive, are manufacturers, printers, and/or vendors of  
3 fabric who have manufactured, printed, and/or supplied and are manufacturing,  
4 printing and/or supplying fabric printed with Plaintiff’s copyrighted design (as  
5 defined in Paragraph 14, *infra*) without Plaintiff’s knowledge or consent or have  
6 contributed to said infringement. The true names of DOES 6-10, inclusive, are  
7 presently unknown to Plaintiff, which therefore sues said defendants by such  
8 fictitious names and will seek leave to amend this complaint to show their true  
9 names and capacities when same have been ascertained.

10 9. Hereinafter, defendants F21, Do & Be, Cha Cha, London Eyes, Glam,  
11 and DOES 1-10, inclusive, shall be referred to as “Defendants.”

12  
13 **JURISDICTION AND VENUE**

14 10. This action arises under the Copyright Act of 1976, Title 17 U.S.C. §  
15 101 *et seq.*

16 11. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
17 § 1338(a).

18 12. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c).

19  
20 **FIRST CLAIM FOR RELIEF**

21 **(Copyright Infringement – Against All Defendants)**

22 13. Guarisco repeats and realleges the allegations contained in paragraphs 1  
23 through 6, hereinabove, and incorporates them by reference as if fully set forth  
24 herein.

25 14. Guarisco is the author of, and copyright holder in, an original print  
26 design which it has internally designated DIS 17279c (the “Design”).

27 15. On February 26, 2007, Guarisco obtained a Certificate of Registration  
28 for the Design from the United States Copyright Office, bearing registration number

1 VA 1-406-087. Attached hereto as Exhibit "1" is a true and correct copy of the  
2 Certificate of Registration.

3 16. As set forth therein, the Design was created in 2004, and first offered  
4 for sale on March 15, 2005.

5 17. Within the last three years, Defendants sold fabric and garments (the  
6 "Infringing Garments") containing the Design without authorization from Guarisco.  
7 The Infringing Garments include, but are not limited to, those garments sold by F21  
8 under Item Codes 30883255, 32993179, and 29960260, with corresponding Style  
9 Codes of FD0177CKB, T1512-2, and D1775.

10 18. On September 11, 2006, Defendant F21 was sent, via facsimile and  
11 certified mail, a cease and desist letter in which it was put on notice that it was  
12 selling garments bearing the Design which infringed upon Guarisco's intellectual  
13 property rights.

14 19. Notwithstanding the foregoing, F21 continued selling and offering for  
15 sale Infringing Garments.

16 20. Defendants have sold and offered for sale the Infringing Garments to  
17 customers throughout the United States, including this judicial district.

18 21. By Defendants' unauthorized offering for sale and sale of the  
19 Infringing Garment, Defendants have infringed on Guarisco's Copyright in the  
20 Design.

21 22. Guarisco is without adequate remedy at law to prevent the wrongful  
22 acts of Defendants herein set forth, and said acts of Defendants have resulted and  
23 will result in irreparable damage to Guarisco unless Defendants' acts of  
24 infringement are enjoined by this Court.

25 23. Defendants' infringing activities have continued and will continue to  
26 the detriment of Guarisco and loss and injury to Guarisco's business in an amount  
27 not presently ascertainable, and threaten to increase such loss and injury unless such  
28 activities are enjoined by this Court and Defendants are required to recall and

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1 destroy all Infringing Garments.

2 24. By reason of the acts of Defendants alleged herein, Guarisco has  
3 suffered actual damages in an amount subject to proof at trial.

4 25. Due to Defendants' acts of copyright infringement, Defendants, and  
5 each of them, have obtained profits they would not otherwise have realized but for  
6 their infringement of the Design. Pursuant to the Copyright Act, Plaintiff is entitled  
7 to disgorgement of Defendant's profits attributable to Defendants' infringement of  
8 the Design in an amount subject to proof at trial.

9 26. Guarisco is informed and believes and based thereon alleges that  
10 Defendants' acts of infringement as alleged herein were willful and deliberate.  
11 Accordingly, in the event that Guarisco elects statutory damages, Defendants, and  
12 each of them, are subject to liability for statutory damages under Section 504(c)(2)  
13 of the Copyright Act in the sum of up to one hundred fifty thousand dollars  
14 (\$150,000).

15  
16 **SECOND CLAIM FOR RELIEF**

17 **(Contributory Copyright Infringement – Against All Defendants)**

18 27. Guarisco repeats and realleges the allegations contained in paragraphs 1  
19 through 18, hereinabove, and incorporates them by reference as if fully set forth  
20 herein.

21 28. Plaintiff is informed and believes, and based thereon alleges, that  
22 Defendants, and each of them, knowingly induced, participated in, aided in, and  
23 profited from the illegal reproduction of plaintiffs' Design and/or subsequent sale of  
24 the Infringing Garments, as alleged above.

25 29. By Defendants' unauthorized duplication of the Design, and by their  
26 offering and accepting for sale and sale of the Infringing Garments, Defendants, and  
27 each of them, have infringed Plaintiff's Copyright in the Design.

28 30. Plaintiff is informed and believes and based thereon alleges that

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1 Defendants' acts of infringement as alleged herein were willful and deliberate.

2 31. By reason of the Defendants' acts of contributory copyright  
3 infringement as alleged herein, Plaintiff is without adequate remedy at law to  
4 prevent the wrongful acts of Defendants herein set forth, and said acts of Defendants  
5 have resulted and will result in irreparable damage to the Plaintiff unless  
6 Defendants' acts of infringement are enjoined by this Court.

7 32. Defendants' infringing activities have continued and will continue to  
8 the detriment of Plaintiff and loss and injury to Plaintiff's business in an amount not  
9 presently ascertainable, and threaten to increase such loss and injury unless such  
10 activities are enjoined by this Court and Defendants are required to recall and  
11 destroy all infringing garments and designs.

12 33. By reason of the acts of Defendants alleged herein, Guarisco has  
13 suffered actual damages in an amount subject to proof at trial.

14 34. Due to Defendants' acts of contributory copyright infringement,  
15 Defendants, and each of them, have obtained profits they would not otherwise have  
16 realized but for their infringement of the Design. As such, Plaintiff is entitled to  
17 disgorgement of Defendant's profits attributable to Defendants' infringement of the  
18 Design in an amount subject to proof at trial.

19 35. Guarisco is informed and believes and based thereon alleges that  
20 Defendants' acts of infringement as alleged herein were willful and deliberate.  
21 Accordingly, in the event that Guarisco elects statutory damages, Defendants, and  
22 each of them, are subject to liability for statutory damages under Section 504(c)(2)  
23 of the Copyright Act in the sum of up to one hundred fifty thousand dollars  
24 (\$150,000).

25 WHEREFORE, Plaintiff prays for relief against Defendants, and each of  
26 them, as follows:

27 1. For a preliminary injunction and a permanent injunction, restraining  
28 Defendants and their agents, servants, employees, and all persons acting under, in

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1 concert with, or for them from using Guarisco's Design for any purpose, including  
2 but not limited to, use of the Design in attempting to sell and/or selling garments,  
3 and an order requiring the recall and destruction of all garments infringing upon the  
4 Design.

5 2. Actual damages, plus Defendants' profits attributable to Defendants'  
6 infringement of the Design, in an amount subject to proof at trial; or if elected,  
7 statutory damages as available under the Copyright Act.

8 3. For attorneys' fees where allowed by law.

9 4. For such further and other relief as the Court deems just and proper.

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Dated: February 6, 2008

Respectfully submitted,

RESCH POLSTER ALPERT & BERGER LLP



By: \_\_\_\_\_  
ANDREW V. JABLON  
Attorneys for Plaintiff Guarisco Industria  
Tessile, S.p.A.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury in this action.

Dated: February 6, 2008

Respectfully submitted,

RESCH POLSTER ALPERT & BERGER LLP



By: \_\_\_\_\_  
ANDREW V. JABLON  
Attorneys for Plaintiff Guarisco Industria  
Tessile, S.p.A.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

**CV08- 805 CAS (VBKx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself) GUARISCO INDUSTRIA TESSILE, S.p.A., an Italian Corporation

DEFENDANTS Forever 21, Inc., a California Corp.; Do & Be Clothing, Inc., a California Corp., et al.

(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):

County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):

(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Michael C. Baum (SBN 65158) Andrew V. Jablon (SBN 199083) Resch Polster & Berger LLP 9200 Sunset Boulevard, Ninth Floor Los Angeles, California 90069-3604 (310) 277-8300

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

- Citizen of This State 1 2 Citizen of Another State 2 Citizen or Subject of a Foreign Country 3 3 PTF DEF PTF DEF 4 4 5 5 6 6

IV. 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 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$ 150,000.00 +

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

Copyright Infringement and Contributory Copyright Infringement (17 USC Section 101, et al.)

VII. NATURE OF SUIT (Place an X in one box only.)

Table with columns: OTHER STATUTES, CONTRACT, REAL PROPERTY, TORTS PERSONAL INJURY, TORTS PERSONAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FOREFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS. Includes various legal categories like 400 State Reapportionment, 110 Insurance, 310 Airplane, etc.

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? No Yes If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number:

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

Check here if the U.S. government, its agencies or employees is a named plaintiff.

Grandate, Italy

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

Check here if the U.S. government, its agencies or employees is a named defendant.

Los Angeles

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

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

Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date 2/6/08

**Notice to Counsel/Parties:** The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM**  
 Authority for Civil Cover Sheet

The CV-71 (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. 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 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"). Refer to Local Rules 83-2.7 and 41-6 for further information regarding change of attorney name, address, firm association, phone number, fax number or e-mail address, and dismissal of action for failure of pro se plaintiff to keep Court apprised of current address.
- II. **JURISDICTION.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdiction 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 is 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, and 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 take 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 CV-71 (JS-44) is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **ORIGIN.** Place an "X" in one of the seven boxes:
- (1) Original Proceedings. Cases which originate in the United States District Courts.
- (2) Removed from State Court. 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.
- (3) Remanded from Appellate court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- (5) Transferred from Another District. For cases transferred under Title 28 U.S.C. Section 1404(a). DO NOT use this for within-district transfers or multidistrict litigation transfers. When this box is checked, DO NOT check (6) below.
- (6) Multidistrict Litigation. 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.
- (7) Appeal to District Judge from Magistrate Judge Judgment. Check this box for an appeal from a magistrate judge's decision.
- V. **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.
- VI. **CAUSE OF ACTION.** Report the civil statute directly related to the cause of action and give a brief description of the cause of action. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553  
 Brief Description: Unauthorized reception of cable service
- VII. **NATURE OF SUIT.** Place an "X" in the appropriate box. MARK ONE BOX ONLY. If the cause of action fits more than one nature of suit, select the one that best describes your cause of action.
- VIII(a) **IDENTICAL CASES.** Indicate if an identical action has previously been filed and dismissed, remanded or closed. Insert the docket number and judge's name, if applicable.
- VIII(b) **RELATED CASES.** This section of the CV-71 (JS-44) is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge's name for each case. Check all boxes that apply.
- IX. **VENUE.** This section of the CV-71 (JS-44) is used to identify the correct division in which the case will be filed. Please remember to indicate the residence of EACH plaintiff and defendant and the county or state in which each claim arose.
- If the United States government or an agency thereof is a plaintiff or defendant, place an "X" in the appropriate box. Indicate the residence of other parties, if any.
- In each category: for each party and claim, indicate the county, if in California. If other than California, you need only to list the state or country.
- X. Attorney or party appearing pro per must sign and date this form.