

ORIGINAL

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MAY 20 2008

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

BURLEN CORPORATION,  
Plaintiff,

v.

LANE BRYANT, INC.  
Defendant.

1:08-CV-1806  
Civil Action No. *JOF*

TRIAL BY JURY DEMAND

**COMPLAINT**

COMES NOW Plaintiff Burlen Corporation ("Burlen") and for its  
Complaint against Defendant Lane Bryant, Inc. ("Defendant"), respectfully states  
as follows:

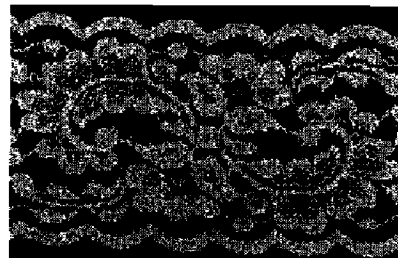
**INTRODUCTION**

1. This is an action by Burlen against Lane Bryant for infringement of  
Burlen's registered copyright in its lace design. A side-by-side comparison of  
Burlen's copyrighted lace design and Lane Bryant's infringing lace design is  
below:

**Burlen's Copyrighted Lace Design**



**Lane Bryant's Infringing Lace Design**



2. Burlen designs and manufactures ladies' lingerie and undergarments. Defendant is a national retail store that specializes in selling women's clothing. Burlen sold ladies' undergarments to Defendant which included a copyrighted lace design on the waistbands. Defendant recently discontinued purchasing the undergarments from Burlen and, without Burlen's authorization, engaged another manufacturer to copy and produce replicas of the same undergarments that include Burlen's copyrighted lace design. Defendant is now marketing and selling, in its retail stores and online, those undergarments containing the infringing waistband lace design.

3. Accordingly, Burlen files this lawsuit pursuant to Section 501 of the Copyright Act of 1976, 17 U.S.C. § 501, to protect its rights against Defendant's infringement of Burlen's copyright in its lace design. Burlen seeks: (1) equitable relief, including preliminary and injunctive relief, and impoundment and destruction of any infringing articles, to prevent further violation of Burlen's rights under federal copyright law; (2) damages and a disgorgement of Defendant's profits, or at Burlen's election, statutory damages; and (3) an award of attorneys' fees and costs.

### **PARTIES**

4. Burlen is a corporation that is incorporated under the laws of the State of Georgia, and has a place of business located at 1904 McCormick Drive, Tifton, Georgia 31793.

5. Defendant, upon information and belief, is a corporation that is incorporated under the laws of the State of Delaware, having its principal place of business located at either 3344 Morse Crossing, Columbus, OH, 43219 or 3750 State Road, Bensalem, Pennsylvania 19020-5903. Defendant is registered to do business in the State of Georgia, and service may be made upon Defendant's registered agent, Corporation Service Company, at 40 Technology Parkway South, #300, Norcross, Georgia 30092.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over the Defendant because the Defendant is registered to do business in the State of Georgia, operates retail stores within the State of Georgia and regularly conducts business within the State of Georgia.

8. Venue is proper in the Northern District of Georgia pursuant to 28 U.S.C. § 1391 because Defendant resides in this judicial district and a substantial part of the events giving rise to Burlen's claim occurred in this district.

### **FACTUAL BACKGROUND**

#### **A. Burlen's Copyright in its Lace Fabric Design**

9. Burlen is in the business of designing and manufacturing ladies' private-label lingerie and undergarments. Burlen's collections are sold through large and specialty retailers throughout the United States.

10. Among the many fabric designs created and owned by Burlen is an original lace design known as "Pattern # 40451" (hereinafter referred to as the "Copyrighted Work"). A copy of the Copyrighted Work is attached hereto as Exhibit A.

11. The Copyrighted Work is a lace design used on the waistband of certain ladies' undergarments designed and manufactured by Burlen.

12. Burlen is the sole owner of the Copyrighted Work, and the Copyrighted Work constitutes original material that is copyrightable under federal law.

13. Burlen has registered its copyright in the Copyrighted Work with the United States Copyright Office, as evidenced by Certificate of Registration VA 1-

383-749. A true and correct copy of this Certificate of Registration is attached as Exhibit B.

B. Burlen's Prior Sales of Undergarments Including the Copyrighted Work to Defendant

14. Defendant is a national retail store that specializes in women's clothing; in particular, plus-size clothing and lingerie.

15. Starting in or about the fall of 2004, Burlen began producing ladies' lingerie and undergarments for Defendant to retail to the public. In 2006, Burlen began producing two styles of ladies' undergarments for Defendant that used the Copyrighted Work on the undergarments' waistbands.

16. From 2006 to March 2008, Burlen's sales to Defendant of undergarments that used the Copyrighted Work on the undergarments' waistbands totaled over \$1.5 million.

C. Defendant's Infringement of the Copyrighted Work

17. In March of 2008, Defendant discontinued purchasing from Burlen the undergarments that included the Copyrighted Work.

18. Burlen recently discovered that Defendant was marketing and selling, in its retail stores and online, undergarments which were not manufactured by Burlen, but which are virtual replicas of the two styles of undergarments which Burlen used to manufacture for Defendant, and which include the Copyrighted Work on the waistbands. Defendant's use of the Copyrighted Work on these

undergarments shall be referred to as the “Infringing Lace Design.” A copy of the Infringing Lace Design is attached hereto as Exhibit C.

19. The Infringing Lace Design is strikingly and substantially similar to the Copyrighted Work. In fact, it is an identical or virtually identical copy of the Copyrighted Work. A side by side comparison of the Copyrighted Work and the Infringing Lace Design is attached hereto as Exhibit D.

20. Upon information and belief, Defendant, without Burlen’s authorization, directed and authorized another manufacturer to copy Burlen’s undergarments that included the Copyrighted Work, and to produce virtually identical undergarments with the Infringing Lace Design on the undergarments’ waistbands.

21. Upon information and belief, Defendant created and/or directed and authorized the creation of the Infringing Lace Design.

22. The Infringing Lace Design violates Burlen’s rights to reproduce the Copyrighted Work, to prepare derivative works based on the Copyrighted Work, and to distribute and sell products containing the Copyrighted Work.

23. The Defendant does not have permission to use the Copyrighted Work for the Infringing Lace Design.

24. The Defendant did not seek to obtain permission from Burlen to use the Copyrighted Work for the Infringing Lace Design. At no time did Burlen ever grant such permission.

**COUNT I**  
**(Copyright Infringement in Violation of 17 U.S.C. § 101 *et seq.*)**

25. Burlen restates and incorporates its allegations in the preceding paragraphs as if set forth fully herein.

26. The aforesaid actions of Defendant in creating or directing and authorizing the creation of the Infringing Lace Design, distributing the Infringing Lace Design, and marketing and selling of the Infringing Lace Design, without Burlen's authorization, constitutes an infringement of Burlen's copyright in the Copyrighted Work in violation of Section 501 of the Copyright Act of 1976 as amended, 17 U.S.C. § 501.

27. Defendant acted knowingly and willfully in infringing the Copyrighted Work.

28. Unless temporarily, preliminarily, and permanently enjoined, Defendant's conduct will cause Burlen irreparable harm for which there exists no adequate remedy at law.

29. Defendant's willful and deliberate infringement of Burlen's copyright in the Copyrighted Work entitle Burlen not only to monetary relief—including actual damages Burlen has and may later sustain due to Defendant's improper

conduct, a disgorgement of Defendant's profits from its improper conduct, or statutory damages of up to \$150,000, in an amount to be proven at trial pursuant to 17 U.S.C. § 504—but also to an award of attorneys' fees pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Burlen respectfully requests that this Court grant the following relief:

1. That the Court grant judgment in favor of Burlen and against the Defendant;
2. That the Court enter a preliminary and permanent injunction pursuant to 17 U.S.C. § 502, prohibiting and restraining Defendant, its officers, directors, principals, agents, employees, licensees, successors, and assigns, and all those acting for, with, by through, and under any of them, from: (i) manufacturing, producing, distributing, selling or marketing any products bearing the Infringing Lace Design; (ii) imitating, copying, or making any unauthorized use of Burlen's Copyrighted Work in any manner, and from producing, distributing, selling, marketing, publishing or otherwise disposing of any copies of Burlen's Copyrighted Work; and (iii) manufacturing, producing, designing, distributing, circulating, selling, advertising, promoting, or displaying any product bearing any



simulation, reproduction, counterfeit, copy, or colorable imitation of Burlen's registered copyrights, including Burlen's Copyrighted Work;

3. That, during the pendency of this action, the Court order Defendant to deliver up all copies of Burlen's Copyrighted Work in Defendant's possession, custody, or control, including all undergarments with the Infringing Lace Design, for impounding pursuant to 17 U.S.C. § 503(a); and, as a part of a final judgment, that the court order the destruction or other reasonable disposition of all copies of Burlen's Copyrighted Work, including the Infringing Lace Design, in Defendant's possession, custody, or control pursuant to 17 U.S.C. § 503(b);

4. That the Court enter judgment, ordering Defendant to pay Burlen such actual damages as the jury determines Burlen has sustained in consequence of Defendant's infringement of Burlen's copyrights, and to account for all gains, profits, and advantages derived by Defendant by its infringement of Burlen's copyright pursuant to 17 U.S.C. § 504(b), or, alternatively at Burlen's election, statutory damages of up to \$150,000 for infringement of each copyrighted work due to Defendant's willful actions pursuant to 17 U.S.C. § 504(c);

5. That Burlen recover from the Defendant its reasonable attorneys' fees pursuant to 17 U.S.C. § 505;

6. That the Court order such other and further relief as is deemed just, equitable, and proper.

**DEMAND FOR JURY**

Burlen hereby demands a trial by jury.

Submitted this 20<sup>th</sup> day of May, 2008.

TROUTMAN SANDERS LLP



Mark S. VanderBroek

Georgia Bar No. 724440

mark.vanderbroek@troutmansanders.com

Jennifer M. D'Angelo

Georgia Bar No. 101306

Jennifer.dangelo@troutmansanders.com

***Counsel for Plaintiff Burlen Corporation***

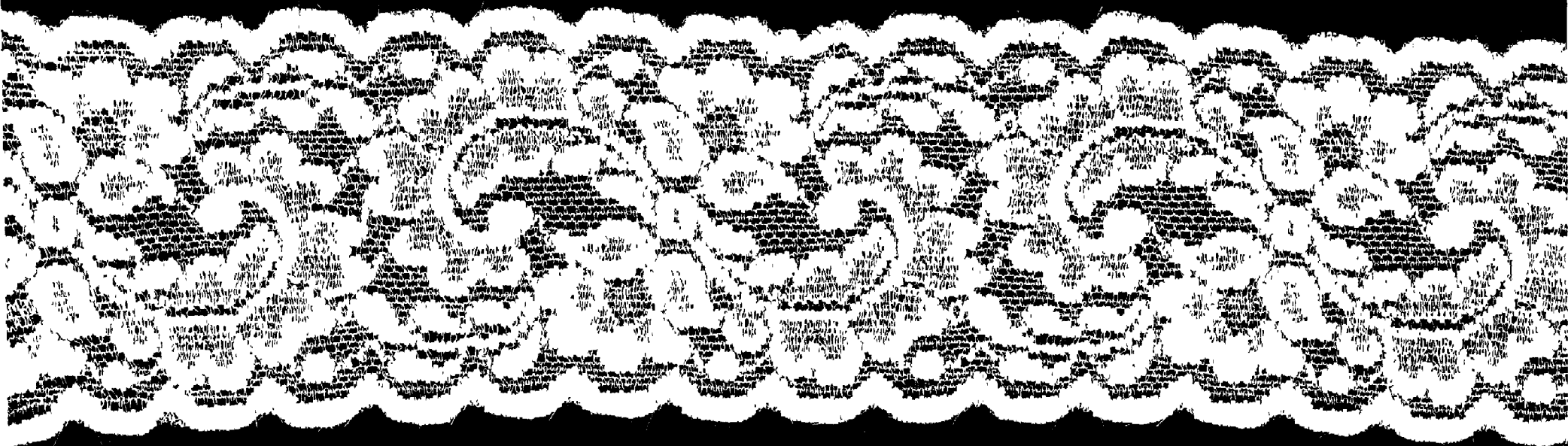
Bank of America Plaza  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, Georgia 30308-2216  
Tel: 404-885-3000  
Fax: 404-885-3900

**Certification of Counsel**

Pursuant to N.D. Ga. Local Rule 7.1 (D), I hereby certify that this Complaint is submitted in Times New Roman 14 point type as required by N.D. Ga. Local Rule 5.1(C).



Jennifer M. D'Angelo



# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America



## Form VA

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

REI

VA 1-383-749



EFFECTIVE DATE OF REGISTRATION

**SEP 18 2006**

Month Day Year

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

**1**

Title of This Work ▼

Pattern # 40451

NATURE OF THIS WORK ▼ See Instructions

Fabric Design

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

**2**

## NOTE

Under the law the author of a "work made for hire" is generally the employer not the employee (see instructions). For any part of this work that was made for hire check "Yes" in the space provided give the employer (or other person for whom the work was prepared) as Author of that part and leave the space for dates of birth and death blank.

NAME OF AUTHOR ▼

a Metrick

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes

☐ No

Author's Nationality or Domicile

Name of Country

USA

OR

Citizen of

Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" see detailed instructions.

Nature of Authorship Check appropriate box(es) See Instructions

☐ 3 Dimensional sculpture

☐ Map

☐ Technical drawing

☒ 2 Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

Name of Author ▼

b

Dates of Birth and Death

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes

☐ No

Author's Nationality or Domicile

Name of Country

OR

Citizen of

Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" see detailed instructions.

Nature of Authorship Check appropriate box(es) See Instructions

☐ 3 Dimensional sculpture

☐ Map

☐ Technical drawing

☐ 2 Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

**3**

Year in Which Creation of This Work Was Completed

2006

This information must be given in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month September

Day 1

Year 2006

USA

Nation

**4**

See instructions before completing this space

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

Burien Corporation  
6 East 32nd Street, 10th Floor  
New York NY 10016

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2 give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

Assignment

APPLICATION RECEIVED

SEP 18 2006

ONE DEPOSIT RECEIVED

SEP 18 2006

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ►

Complete all applicable spaces (numbers 5-8) on the reverse side of this page. See detailed instructions. Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of \_\_\_\_\_ pages

EXAMINED BY

*M. H. [unclear]*

FORM VA

CHECKED BY

CORRESPONDENCE

☐ YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

**PREVIOUS REGISTRATION** Has registration for this work or for an earlier version of this work already been made in the Copyright Office?☐ Yes ☒ No If your answer is Yes why is another registration being sought? (Check appropriate box) ▼a ☐ This is the first published edition of a work previously registered in unpublished formb ☐ This is the first application submitted by this author as copyright claimantc ☐ This is a changed version of the work as shown by space 6 on this application

If your answer is Yes give Previous Registration Number ▼

Year of Registration ▼

5

**DERIVATIVE WORK OR COMPILATION** Complete both space 6a and 6b for a derivative work complete only 6b for a compilationa. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates ▼

a

6

See instructions  
before completing  
this spaceb. **Material Added to This Work** Give a brief general statement of the material that has been added to this work and in which copyright is claimed ▼

b

**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office give name and number of Account.

Name ▼

Account Number ▼

a

7

**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

b

Anne E Yates Esq Troutman Sanders LLP  
600 Peachtree Street NE Suite 5200  
Atlanta GA 30308 2216

Area code and daytime telephone number (404) 885 3697

Fax number (404) 962 6836

Email trademarks@troutmansanders.com

**CERTIFICATION\*** I, the undersigned hereby certify that I am the

check only one ►

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Burlen Corporation

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3 do not sign and submit it before that date

Anne E Yates Esq

Date 9-12-06

Handwritten signature (s) ▼

X

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address

Name ▼

Anne E Yates Esq

Number/Street/Apt ▼

Troutman Sanders LLP 600 Peachtree Street NE Suite 5200

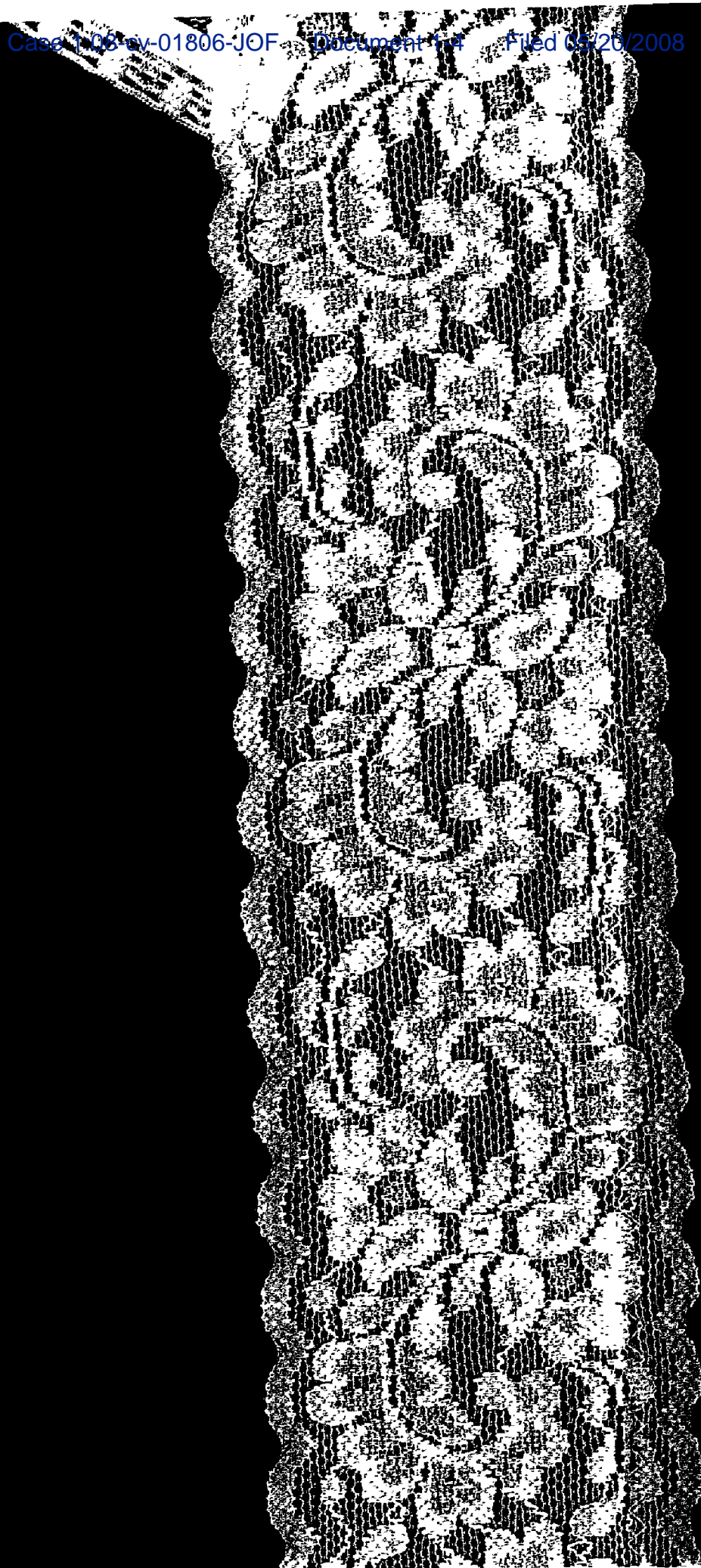
City/State/ZIP ▼

Atlanta GA 30308 2216

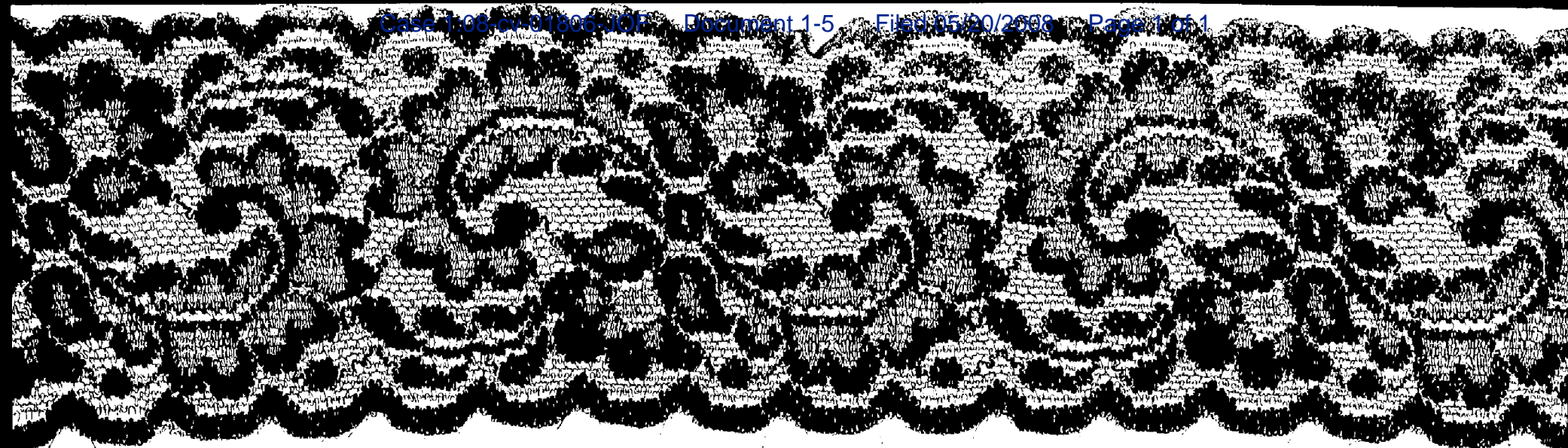
Complete all necessary spaces  
Sign your application in space 81. Application form  
2. Nonrefundable filing fee in check or money  
order payable to Register of Copyrights  
3. Deposit materialLibrary of Congress  
Copyright Office  
101 Independence Avenue SE  
Washington DC 20540-8000

9

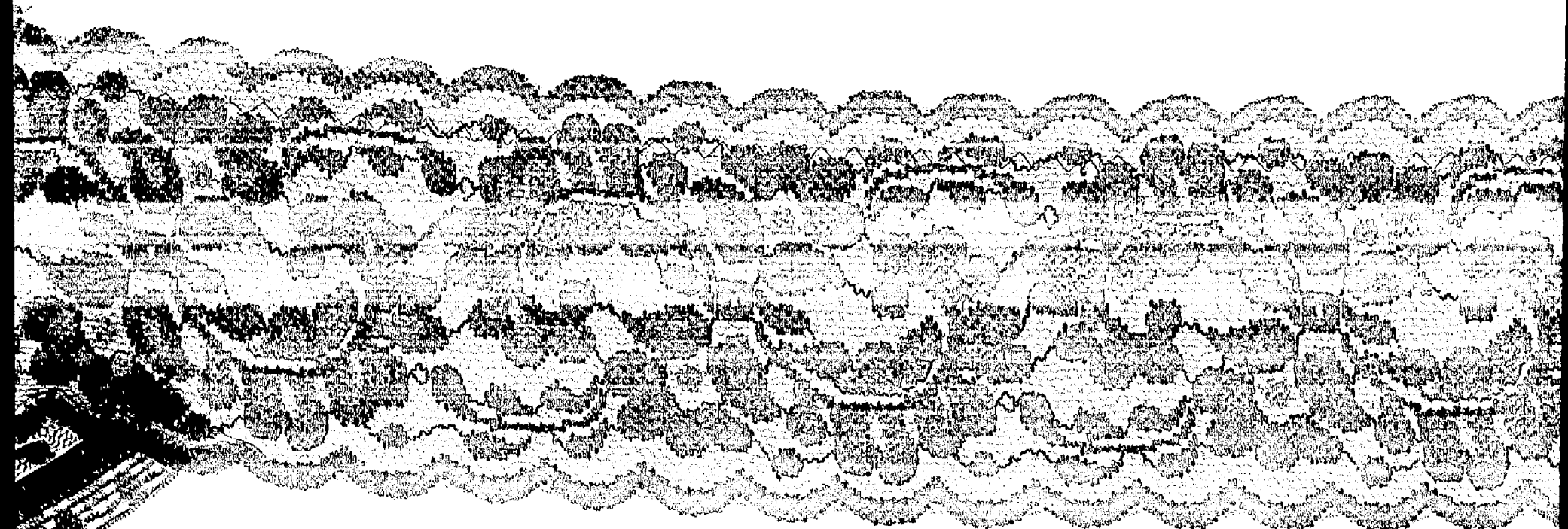
17 USC §508(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408 or in any written statement filed in connection with the application shall be fined not more than \$2,500







Copyrighted Work



Infringing Lace Design



ORIGINAL

# United States District Court

NORTHERN

DISTRICT OF

GEORGIA

## SUMMONS IN A CIVIL CASE

BURLEN CORPORATION

CASE NUMBER

V

LANE BRYANT, INC

1:08-CV-1806

TO (Name and address of defendant)

Lane Bryant, Inc.  
c/o Corporation Service Company, Registered Agent  
40 Technology Parkway South, #300  
Norcross, Georgia 30092

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

**Mark S. VanderBroek**  
**Troutman Sanders LLP**  
**600 Peachtree Street, N.E., Suite 5200**  
**Atlanta, Georgia 30308**  
**(404) 885-3000**

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must file your answer with the Clerk of this Court within a reasonable period of time after service.

JAMES N. HATTEN

CLERK

20 MAY 2008

DATE

  
(BY) DEPUTY CLERK

AO 440 (Rev 10/83) Summons in a Civil Action

**RETURN OF SERVICE**

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE
NAME OF SERVER ( <i>PRINT</i> )	TITLE

*Check one box below to indicate appropriate method of service*

- ☐ Served personally upon the defendant. Place where served \_\_\_\_\_
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein  
Name of person with whom the summons and complaint were left \_\_\_\_\_
- ☐ Returned unexecuted \_\_\_\_\_
- ☐ Other (*specify*) \_\_\_\_\_

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL
--------	----------	-------

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct

Executed on \_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature of Server*

\_\_\_\_\_  
*Address of Server*

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

The JS44 civil cover sheet and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purposes of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

1. (a) PLAINTIFF(S)  
 Burlen Corporation

DEFENDANT(S)  
 Lane Bryant, Inc.

ORIGINAL JOF

(b) COUNTY OF RESIDENCE OF FIRST LISTED  
 PLAINTIFF TIFT COUNTY, GEORGIA  
 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED  
 DEFENDANT \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)  
 MARK S. VANDERBROEK, TROUTMAN SANDERS, LLP  
 600 PEACHTREE STREET, N.E., SUITE 5200  
 ATLANTA, GEORGIA 30303  
 (404) 885-3000  
 (MARK.VANDERBROEK@TROUTMANSANDERS.COM)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION  
 (PLACE AN "X" IN 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  
 (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)  
 (FOR DIVERSITY CASES ONLY)

- |   |   |
|---|---|
| PLF DEF   | PLF DEF   |
| <input type="checkbox"/> 1 <input type="checkbox"/> 1 CITIZEN OF THIS STATE                   | <input type="checkbox"/> 4 <input type="checkbox"/> 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE     |
| <input type="checkbox"/> 2 <input type="checkbox"/> 2 CITIZEN OF ANOTHER STATE                | <input type="checkbox"/> 5 <input type="checkbox"/> 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 <input type="checkbox"/> 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 <input type="checkbox"/> 6 FOREIGN NATION  |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- |   |   |  |   |  |   |   |
|---|---|--|---|--|---|---|
| <input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING | <input type="checkbox"/> 2 REMOVED FROM STATE COURT | <input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT | <input type="checkbox"/> 4 REINSTATED OR REOPENED | TRANSFERRED FROM<br><input type="checkbox"/> 5 ANOTHER DISTRICT (SPECIFY DISTRICT) | <input type="checkbox"/> 6 MULTIDISTRICT LITIGATION | APPEAL TO DISTRICT<br><input type="checkbox"/> 7 JUDGE FROM MAGISTRATE JUDGE JUDGMENT |
|---|---|--|---|--|---|---|

V. 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)

BURLEN FILES THIS LAWSUIT PURSUANT TO SECTION 501 OF THE COPYRIGHT ACT OF 1976, 17 U.S.C. SECTION 501, TO PROTECT ITS RIGHTS AGAINST DEFENDANT'S INFRINGEMENT OF BURLEN'S COPYRIGHT IN ITS LACE DESIGN.

(IF COMPLEX, CHECK REASON BELOW)

- |   |   |
|---|---|
| <input type="checkbox"/> 1 Unusually large number of parties            | <input type="checkbox"/> 6 Problems locating or preserving evidence                 |
| <input type="checkbox"/> 2 Unusually large number of claims or defenses | <input type="checkbox"/> 7 Pending parallel investigations or actions by government |
| <input type="checkbox"/> 3 Factual issues are exceptionally complex     | <input type="checkbox"/> 8 Multiple use of experts                                  |
| <input type="checkbox"/> 4 Greater than normal volume of evidence       | <input type="checkbox"/> 9 Need for discovery outside United States boundaries      |
| <input type="checkbox"/> 5 Extended discovery period is needed          | <input type="checkbox"/> 10 Existence of highly technical issues and proof          |

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \$ \_\_\_\_\_ APPLYING IF P \_\_\_\_\_ MAG. JUDGE (IF P) \_\_\_\_\_  
 JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_ NATURE OF SUIT \_\_\_\_\_ CAUSE OF ACTION \_\_\_\_\_  
 (Referral)

Jof 820 17:0501

**VI. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**

**CONTRACT - "0" MONTHS DISCOVERY**

**TRACK**

- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT  
☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)  
☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

**CONTRACT - "4" MONTHS DISCOVERY**

**TRACK**

- ☐ 110 INSURANCE  
☐ 120 MARINE  
☐ 130 MILLER ACT  
☐ 140 NEGOTIABLE INSTRUMENT  
☐ 151 MEDICARE ACT  
☐ 160 STOCKHOLDERS' SUITS  
☐ 190 OTHER CONTRACT  
☐ 195 CONTRACT PRODUCT LIABILITY  
☐ 196 FRANCHISE

**REAL PROPERTY - "4" MONTHS DISCOVERY**

**TRACK**

- ☐ 210 LAND CONDEMNATION  
☐ 220 FORECLOSURE  
☐ 230 RENT LEASE & EJECTMENT  
☐ 240 TORTS TO LAND  
☐ 245 TORT PRODUCT LIABILITY  
☐ 290 ALL OTHER REAL PROPERTY

**TORTS - PERSONAL INJURY - "4" MONTHS**

**DISCOVERY TRACK**

- ☐ 310 AIRPLANE  
☐ 315 AIRPLANE PRODUCT LIABILITY  
☐ 320 ASSAULT, LIBEL & SLANDER  
☐ 330 FEDERAL EMPLOYERS' LIABILITY  
☐ 340 MARINE  
☐ 345 MARINE PRODUCT LIABILITY  
☐ 350 MOTOR VEHICLE  
☐ 355 MOTOR VEHICLE PRODUCT LIABILITY  
☐ 360 OTHER PERSONAL INJURY  
☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE  
☐ 365 PERSONAL INJURY - PRODUCT LIABILITY  
☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

**TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK**

- ☐ 370 OTHER FRAUD  
☐ 371 TRUTH IN LENDING  
☐ 380 OTHER PERSONAL PROPERTY DAMAGE  
☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

**BANKRUPTCY - "0" MONTHS DISCOVERY**

**TRACK**

- ☐ 422 APPEAL 28 USC 158  
☐ 423 WITHDRAWAL 28 USC 157

**CIVIL RIGHTS - "4" MONTHS DISCOVERY**

**TRACK**

- ☐ 441 VOTING  
☐ 442 EMPLOYMENT  
☐ 443 HOUSING / ACCOMMODATIONS  
☐ 444 WELFARE  
☐ 440 OTHER CIVIL RIGHTS  
☐ 445 AMERICANS with DISABILITIES - Employment  
☐ 446 AMERICANS with DISABILITIES - Other

**PRISONER PETITIONS - "0" MONTHS**

**DISCOVERY TRACK**

- ☐ 510 MOTIONS TO VACATE SENTENCE  
☐ 530 HABEAS CORPUS  
☐ 535 HABEAS CORPUS DEATH PENALTY  
☐ 540 MANDAMUS & OTHER  
☐ 550 CIVIL RIGHTS (Filed Pro se)  
☐ 555 PRISON CONDITION(S) (Filed Pro se)

**PRISONER PETITIONS - "4" MONTHS DISCOVERY**

**TRACK**

- ☐ 550 CIVIL RIGHTS (Filed by Counsel)  
☐ 555 PRISON CONDITION(S) (Filed by Counsel)

**FORFEITURE/PENALTY - "4" MONTHS**

**DISCOVERY TRACK**

- ☐ 610 AGRICULTURE  
☐ 620 FOOD & DRUG  
☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881  
☐ 630 LIQUOR LAWS  
☐ 640 R R & TRUCK  
☐ 650 AIRLINE REGS  
☐ 660 OCCUPATIONAL SAFETY/HEALTH  
☐ 690 OTHER

**LABOR - "4" MONTHS DISCOVERY TRACK**

- ☐ 710 FAIR LABOR STANDARDS ACT  
☐ 720 LABOR/MGMT RELATIONS  
☐ 730 LABOR/MGMT REPORTING & DISCLOSURE ACT  
☐ 740 RAILWAY LABOR ACT  
☐ 790 OTHER LABOR LITIGATION  
☐ 791 EMPL RET INC SECURITY ACT

**PROPERTY RIGHTS - "4" MONTHS**

**DISCOVERY TRACK**

- ☒ 820 COPYRIGHTS  
☐ 840 TRADEMARK

**PROPERTY RIGHTS - "8" MONTHS**

**DISCOVERY TRACK**

- ☐ 830 PATENT

**SOCIAL SECURITY - "0" MONTHS**

**DISCOVERY TRACK**

- ☐ 861 HIA (1395f)  
☐ 862 BLACK LUNG (923)  
☐ 863 DIWC (405(g))  
☐ 863 DIWW (405(g))  
☐ 864 SSID TITLE XVI  
☐ 865 RSI (405(g))

**FEDERAL TAX SUITS - "4" MONTHS**

**DISCOVERY TRACK**

- ☐ 870 TAXES (U S PLAINTIFF OR DEFENDANT)  
☐ 871 IRS - THIRD PARTY 26 USC 7609

**OTHER STATUTES - "4" MONTHS DISCOVERY**

**TRACK**

- ☐ 400 STATE REAPPORTIONMENT  
☐ 430 BANKS AND BANKING  
☐ 450 COMMERCE/ICC RATES/ETC  
☐ 460 DEPORTATION  
☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS  
☐ 480 CONSUMER CREDIT  
☐ 490 CABLE/SATELLITE TV  
☐ 810 SELECTIVE SERVICE  
☐ 875 CUSTOMER CHALLENGE 12 USC 3410  
☐ 891 AGRICULTURAL ACTS  
☐ 892 ECONOMIC STABILIZATION ACT  
☐ 893 ENVIRONMENTAL MATTERS  
☐ 894 ENERGY ALLOCATION ACT  
☐ 895 FREEDOM OF INFORMATION ACT  
☐ 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE  
☐ 950 CONSTITUTIONALITY OF STATE STATUTES  
☐ 890 OTHER STATUTORY ACTIONS

**OTHER STATUTES - "8" MONTHS DISCOVERY**

**TRACK**

- ☐ 410 ANTITRUST  
☐ 850 SECURITIES / COMMODITIES / EXCHANGE

**OTHER STATUTES - "0" MONTHS**

**DISCOVERY TRACK**

- ☐ ARBITRATION (CONFIRM/VACATE/ORDER/MODIFY)

((Note: Please mark underlying Nature of Suit as well))

**\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS A CLASS ACTION UNDER F R Civ P 23 DEMAND \$ \_\_\_\_\_

JURY DEMAND ☒ YES ☐ NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

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

JUDGE \_\_\_\_\_

DOCKET NO. \_\_\_\_\_

**CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)**

- ☐ 1 PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT  
☐ 2 SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT  
☐ 3 VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERING PENDING SUIT  
☐ 4 APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE  
☐ 5 REPETITIVE CASES FILED BY PRO SE LITIGANTS  
☐ 6 COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S))  
☐ 7 EITHER SOME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO \_\_\_\_\_, WHICH WAS DISMISSED  
THIS CASE ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE

*Mark Zander Beach*  
SIGNATURE OF ATTORNEY OF RECORD

*May 20, 2008*  
DATE