

JS 44 CAND (Rev. 12/11)

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.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Handwritten circled 'M'

(c) Attorneys (Firm Name, Address, and Telephone Number)

David B. Countryman, AUSA 415 436-7303
United States Attorneys Office
450 Golden Gate Ave., Box 36055, San Francisco, CA 94102

DEFENDANTS

131,760 Articles of Clothing, More or Less

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.

Attorneys (If Known)

Handwritten: 12-2176 JSC

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

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

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Cite the U.S. Civil Statute under which you are filing Title 19, United States Code, Section 1595a (Do not cite jurisdictional statutes unless diversity):

Brief description of cause: Importation forfeiture

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

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE 5/11/12

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature

ORIGINAL

17  
No Summons  
issued  
2012 MAY  
FILED  
E-filing  
2:46  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
Issued  
warrant  
of arrest

1 MELINDA HAAG (CSBN 132612)  
United States Attorney  
2  
3 MIRANDA KANE (CSBN 150630)  
Chief, Criminal Division  
4 DAVID COUNTRYMAN (CSBN 226995)  
Assistant United States Attorney  
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8 Attorneys for United States of America  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

JSC

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 131,760 ARTICLES OF CLOTHING, )  
MORE OR LESS, )  
17 Defendant. )  
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CV No. 12 2176

COMPLAINT FOR FORFEITURE

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20 NATURE OF THE ACTION

21 1. This is a judicial forfeiture action, as authorized by 19 U.S.C. § 1595a, involving  
22 the seizure of 131,760 articles of clothing, more or less, which was seized as merchandise  
23 introduced or attempted to be introduced into the United States contrary to law

24 JURISDICTION AND VENUE

25 2. This Court has jurisdiction under 28 U.S.C. §§ 1345 and 1355(a).  
26 3. This action is timely filed in accordance with 19 U.S.C. § 1621.  
27 4. Venue in this Court is proper because defendant property was seized in the  
28 Northern District of California and is currently in the possession of the U.S. Customs

1 and Border Protection ("CBP") in this district. 28 U.S.C. §§ 1355(b) and 1395.

2 **PARTIES**

3 5. Plaintiff is the United States of America.

4 6. Defendant 131,760 articles of clothing is 131,760 articles of clothing, more or  
5 less, CBP Seizure Number 2008-2809-000085-01 ("defendant 131,760 articles of clothing").

6 **BACKGROUND**

7 7. Importers of textiles into the United States must comply with quota and visa  
8 requirements. Certain textiles imported from China are subject to quantity limits established in  
9 bilateral agreements between the United States and China. The amount of each category of a  
10 specific textile which can be imported is referred to as a quota. In order to import textiles into  
11 the United States from China, the exporter is required to obtain a visa from the Chinese  
12 government. Such a visa allocates to the exporter a portion of the overall quota of that category  
13 of a specific textile that may be imported into the United States from China for a specified time  
14 period. Without an appropriate visa, the U.S. will not allow importation of certain goods from  
15 China that are subject to the quota restrictions. The cost for obtaining such a visa is substantial.

16 8. All merchandise imported into the United States is classified according to the  
17 Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS classification is  
18 determined by the description of the good and determines the applicable duty rate for goods  
19 entering the commerce of the United States. Because of the protection afforded to the remaining  
20 U.S. textile industry, textiles imported from China typically are assessed much higher duties than  
21 other imported commodities.

22 **BASIS FOR FORFEITURE**

23 **A. Seizure of 131,760 Articles of clothing**

24 9. On January 12, 2008, a shipment of 131,760 boys' briefs and t-shirts departed  
25 Xiamen, China; it arrived in Oakland, California, on February 2, 2008 (the "shipment" which  
26 contained the "defendant 131,760 articles of clothing").

27 10. On February 6, 2008, the importer, Paramount Enterprises (the "Importer" ), filed  
28 the entry for the shipment as the importer of record. The entry documents provided by the

1 importer to accompany the entry indicated a total of 12,000 boys' briefs and t-shirts. The total  
2 entered value was listed as \$7,570.00.

3 11. The Importer provided export visas authorizing shipment of 12,000 boys' briefs  
4 and t-shirts.

5 12. On February 12, 2008, CBP examined the shipment and found additional  
6 merchandise that was not listed on the invoice or the entry and detained the merchandise and  
7 issued the importer a detention letter.

8 13. On February 28, 2008, after CBP informed the Importer that it had found  
9 additional unmanifested items in the shipment, the Importer submitted an apology letter with  
10 revised entry documentation reflecting 60,000 boys briefs and t-shirts, with an entered value of  
11 \$37,850.00. Additionally, the Importer also submitted an additional export visa for 48,000 boys  
12 briefs and t-shirts, for a total of 60,000 boys briefs and t-shirts.

13 14. On March 24, 2008, CBP conducted a full inventory, finding: 95,760 briefs and  
14 36,000 t-shirts, for a total of 131,760 articles of clothing. CBP appraised the domestic value of  
15 the shipment at \$560,815.00.

16 15. The 131,760 items found in the shipment were more than 10 times the total  
17 number of items originally declared and more than double the total number of items listed in the  
18 second invoice.

19 16. The Importer has not provided export visas for the 71,760 briefs and t-shirts not  
20 disclosed in the second invoice.

21 17. On April 4, 2008, CBP seized the merchandise pursuant to 19 U.S.C. §  
22 1595a(c)(1)(A).

### 23 **FORFEITURE OF THE DEFENDANT CLOTHING**

24 18. The United States incorporates by reference the allegations in paragraphs one  
25 through 17 as though fully set forth herein.

26 19. Merchandise which is introduced or attempted to be introduced into the United  
27 States contrary to law is subject to seizure and forfeiture in accordance with 19 U.S.C. § 1595a.  
28 Specifically, 19 U.S.C. § 1595a(c)(1)(A) provides that merchandise shall be seized and forfeited

1 if it is stolen, smuggled, or clandestinely imported or introduced into the United States.

2 20. Based on all of the above, there is probable cause to believe that the defendant  
3 apparel was smuggled or clandestinely imported or introduced into the United States contrary to  
4 law, in violation of one or more of the following provisions of law and their implementing  
5 regulations (if any), and such portions of the defendant apparel are therefore subject to forfeiture  
6 pursuant to 19 U.S.C. § 1595a(c)(1)(A):

7 a. 18 U.S.C. § 542 (unlawful to make any false statement in any declaration without  
8 reasonable cause to believe the truth of such statement);

9 b. 18 U.S.C. § 545 (unlawful to knowingly and willfully, with intent to defraud the  
10 United States, smuggle or clandestinely introduce or attempt to introduce into the United States  
11 any merchandise which should have been invoiced; knowingly and willfully, with intent to  
12 defraud the United States, present to CBP any false or fraudulent invoice or other document or  
13 paper; and/or fraudulently or knowingly import or bring into the United States any merchandise  
14 contrary to law);

15 c. 19 U.S.C. § 1481(a)(3) and (c) (invoices for merchandise to be imported must set  
16 forth detailed descriptions of the merchandise);

17 d. 19 U.S.C. § 1484(a) and (d)(1) (requiring, inter alia, entry of merchandise to be  
18 imported, and provision of specific information about the merchandise to CBP);

19 e. 19 U.S.C. § 1485 (declaration under oath must accompany entry of merchandise,  
20 affirming that all statements in the invoice or other documents filed with the entry, or in the entry  
21 itself, are true and correct)

22 21. Based upon all of the above, there is probable cause to believe that the defendant  
23 apparel, to the extent it consists of products other than the merchandise indicated on the  
24 importation documentation, was smuggled or clandestinely imported or introduced into the  
25 United States contrary to law. Such portions of the defendants are therefore subject to forfeiture  
26 pursuant to 19 U.S.C. § 1595a(c)(1)(A).

27 WHEREFORE, plaintiff United States of America requests that due process issue to  
28 enforce the forfeiture of the defendant clothing; that notice be given to all interested parties to

1 appear and show cause why forfeiture should not be decreed; that judgment of forfeiture be  
2 entered; that the Court enter judgment forfeiting the defendant clothing; and that the United  
3 States be awarded such other relief as may be proper and just.

4  
5 Respectfully submitted,

6 MELINDA HAAG  
7 United States Attorney



8 DAVID COUNTRYMAN  
9 Assistant United States Attorney

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Dated: 4/30/12

VERIFICATION

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I, John Gerber, state as follows:

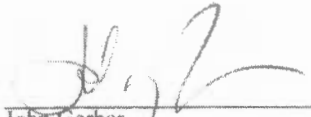
1. I am a Supervisory Import Specialist with U.S. Customs and Border Protection, United States Department of Homeland Security, and I am assigned to this case. As such, I am familiar with the facts, and the investigation leading to the filing of this Complaint for Forfeiture.

2. I have read the Complaint and believe the allegations contained in it to be true.

\* \* \* \* \*

I declare under penalty of perjury that the foregoing is true and correct. Executed this

27 day of April, 2012 in San Francisco,  
California.

  
\_\_\_\_\_  
John Gerber  
Supervisory Import Specialist  
U.S. Customs and Border Protection