

STATE OF INDIANA        )  
                                  ) SS.  
COUNTY OF MARION     )

IN THE MARION SUPERIOR COURT 4  
CAUSE NO. 49D04-2405-MI-020041

STATE OF INDIANA,

*Plaintiff,*

v.

\$42,825.00 in U.S. CURRENCY,  
HENRY MINH,  
PATRICK H.,  
as their interest may appear,

*Defendant(s).*

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HENRY MINH, INC., on behalf of itself  
and all others similarly situated,

*Counterclaim-Plaintiff,*

v.

STATE OF INDIANA; and RYAN MEARS,  
in his official capacity as Marion County  
Prosecutor,

*Counterclaim-Defendants.*

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**ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

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*Counsel for Henry Minh, Inc. and the putative classes*

Defendant and Counterclaim-Plaintiff Henry Minh, Inc. (“Henry Minh, Inc.” or “the Company”), incorrectly named and served as Henry Minh, by counsel, submits the following Answer to Plaintiff’s Complaint for Forfeiture; Affirmative Defenses; and Counterclaim.

**COMPLAINT ALLEGATIONS AND ANSWER**

1. On or about April 26, 2024, law enforcement officers seized \$42,825.00 in the course of serving a search warrant in Marion County, Indiana.

**Answer:** Henry Minh, Inc., admits that \$42,825.00 belonging to the Company was seized at a FedEx facility in Marion County, Indiana. Henry Minh, Inc. admits that a search warrant was issued on April 26, 2024, to search the parcel containing the Company’s currency, and that the search warrant was executed. The Company denies that the currency was initially seized in the course of serving a search warrant; it was seized before the search warrant was issued and later continued to be seized by the execution of the warrant.

2. The seized currency was in a parcel that lists Henry Minh as the sender and Patrick H. as the recipient.

**Answer:** Henry Minh, Inc. admits that the seized currency was in a parcel with the following listed above the return address:

HENRY MINH  
HENRY MINH C/ONLINH G.

Henry Minh, Inc. further admits that the seized currency was in a parcel with the following listed above the destination address:

PATRICK H  
FEDEX HOLD FOR PICK UP

The Company denies the remaining allegations in Paragraph 2.

3. The seized currency was furnished or was intended to be furnished in exchange for a violation of a criminal statute, or is traceable as proceeds of a violation of a criminal statute, in violation of Indiana law, as provided in I.C. 34-24-1-1.

**Answer:** This allegation fails to identify the provision of Indiana criminal law that was allegedly violated and serves as the basis for forfeiture, which impairs the Company's ability to answer it. However, because no violation of a criminal statute supports forfeiture here, Henry Minh, Inc. denies the allegations in Paragraph 3.

4. Henry Minh and Patrick H. are named herein so that they may respond as their interest may appear.

**Answer:** Admitted.

WHEREFORE, Plaintiff demands judgment against HENRY MINH, PATRICK H., and \$42,825.00, and for delivery of said currency upon forfeiture as provided for in I.C. 34-24-1-1, and for all other just and proper relief in the premises.

**Answer:** No response is required as this prayer for relief contains no allegation of fact or law. To the extent the prayer for relief does assert any allegation of fact or law, Henry Minh, Inc. denies those allegations.

## AFFIRMATIVE DEFENSES

1. The Plaintiff's complaint fails to state a claim on which relief can be granted. Ind. Trial Rule 12(B)(6).
2. The Plaintiff's complaint fails to state a claim on which relief can be granted because it does not comply with Indiana's notice-pleading standard by failing to allege what criminal violation purports to serve as the basis for forfeiture. Ind. Trial Rule 8.
3. The Plaintiff's failure to specify the factual and legal basis for forfeiture in its complaint violates the due-course-of-law provision of the Indiana Constitution, art. 1, § 12, and the due-process clause of the Fourteenth Amendment to the Constitution of the United States.
4. The Plaintiff cannot carry its burden of pleading and proving that the seized currency is subject to forfeiture under Indiana's Civil Forfeiture Statute. I.C. §§ 34-24-1-1 *et seq.*
5. The Plaintiff's effort to forfeit the seized currency violates Indiana's Civil Forfeiture Statute, I.C. §§ 34-24-1-1 *et seq.*
6. The Plaintiff's effort to forfeit the seized currency violates the due-course-of-law provision of the Indiana Constitution, art. 1, § 12.
7. The Plaintiff's effort to forfeit the seized currency violates the due-process clause of the Fourteenth Amendment to the Constitution of the United States.
8. The Plaintiff's effort to forfeit the seized currency violates the Tenth Amendment to the Constitution of the United States and principles of horizontal federalism.
9. The Plaintiff lacks jurisdiction to forfeit the seized currency because the Plaintiff cannot allege or show any connection between the seized currency and any alleged crime that the State of Indiana has jurisdiction to prosecute criminally.

10. The requested forfeiture violates the Excessive Fines Clause of the Eighth Amendment to the Constitution of the United States.
11. The initial seizure of the parcel containing the seized currency violated the Fourth Amendment to the Constitution of the United States and Article 1, Section 11 of the Indiana Constitution.
12. The continued seizure of the parcel containing the seized currency violates the Fourth Amendment to the Constitution of the United States and Article 1, Section 11 of the Indiana Constitution because the warrant application contained material misstatements.

## **COUNTERCLAIM ALLEGATIONS**

### **INTRODUCTION**

1. The class-action counterclaim below seeks to vindicate the rights of people who have been (or will be) named as defendants in civil-forfeiture actions brought by the Marion County Prosecutor's Office on behalf of the State of Indiana. As relevant here, the Marion County Prosecutor's Office ("the Prosecutor's Office" or "the Office") maintains two practices that offend various state and federal laws.

2. First, the State and the Prosecutor's Office exploit Indianapolis's location at the Crossroads of America to forfeit millions of dollars in currency being shipped from one side of the nation to the other. Indianapolis is home to the second largest FedEx hub in the United States, processing upwards of 99,000 in-transit parcels an hour. And for their part, state and local law-enforcement agencies profit mightily from this privileged placement. Each year, state and local police seize hundreds of thousands of dollars from in-transit parcels at the FedEx hub—en route from one non-

Indiana state to another. On behalf of the State, the Marion County Prosecutor's Office then sues to forfeit this currency in Indiana state court under Indiana's civil-forfeiture statute. As a matter of policy, the Office's complaints never say what violation of Indiana criminal law is alleged to support these forfeitures. Nor, under the Civil Forfeiture Statute, the Indiana Constitution, and the federal Constitution, *does* any Indiana law validly support these forfeitures. Even so, the forfeitures persist, with Indiana suing to forfeit money belonging to property owners hundreds or (as in this case) thousands of miles away. This puts distant property owners to the burden of lawyering up in Indiana state courts to defend against alleged "violation[s] of a criminal statute" that the State can't be bothered to identify. Since 2022 alone, the Prosecutor's Office has sued to forfeit over \$2.5 million in this way.

3. Second, the policies of the State and the Marion County Prosecutor's Office suffer an additional defect. In suing to forfeit currency (including but not limited to currency seized from the Indianapolis FedEx hub), the Office has a practice of not notifying the property owners of the crime alleged as the legal basis for forfeiture. Nor does the Office notify them of the factual basis either. As a matter of policy, the Office's complaints in these actions allege simply that the currency is linked in some way to "a violation of a criminal statute." In a forfeiture case earlier this year, in fact, the Indiana Supreme Court voiced concern that *even at trial* the Marion County Prosecutor's Office had "neither specifically identified an applicable criminal statute that was violated nor established a substantial connection between that crime and the money." *Smith v. State*, 232 N.E.3d 109, 116–17 (Ind. 2024). At base, the State (through the Prosecutor's Office) takes people's money and then systematically defaults on basic notice requirements needed to ensure that the money's owners can

meaningfully defend their property rights. This policy, too, violates the Civil Forfeiture Statute and the state and federal constitutions.

4. The experience of Counterclaim-Plaintiff Henry Minh, Inc. spotlights both of the injustices detailed above. And its experience is far from unique. Each year, the Office brings dozens of forfeiture cases against in-transit currency. It brings hundreds more using complaints that leave property owners to guess at the alleged crime that serves as the basis for forfeiture. The Civil Forfeiture Statute, the Indiana Constitution, and the federal Constitution all protect against this profoundly unjust state of affairs. The counterclaim counts below thus seek individual and class-wide relief against the State and against Marion County Prosecutor Ryan Mears in his official capacity in the form of declaratory and injunctive relief.

#### **PARTIES**

5. Counterclaim-Plaintiff Henry Minh, Inc. is a California-registered small business and one of the defendants in this action. Its sole owners and employees, Henry Cheng and his wife Minh Cheng, are U.S. citizens and residents of California.

6. Counterclaim-Defendant the State of Indiana is sued as the plaintiff in the civil-forfeiture action asserted against Henry Minh, Inc. and its \$42,825.00. *See generally State v. Young*, 151 N.E.2d 697, 700 (Ind. 1958) (“Where the State is a plaintiff, it is subject to a cross action the same as any other litigant.”).

7. Counterclaim-Defendant Ryan Mears is sued in his official capacity as Marion County Prosecutor. His office prosecutes civil-forfeiture actions on behalf of the State of Indiana against the members of the putative classes identified below. Accordingly, Mears is named here as a counterclaim-defendant in his official capacity under Indiana Trial Rule 13(H).

## FACTUAL ALLEGATIONS

### I. The Marion County Prosecutor's forfeiture policies

8. Indiana has a Civil Forfeiture Statute under which the State can sue to confiscate certain property that is linked in certain ways to certain crimes. I.C. §§ 34-24-1-1 *et seq.*

9. The system is both “punitive and profitable.” *State v. Timbs*, 134 N.E.3d 12, 21 (Ind. 2019). It is “punitive for those whose property is confiscated; and profitable for the government, which takes ownership of the property.” *Id.* It is also vulnerable to abuse. The Indiana Supreme Court, for example, has characterized “the way Indiana carries out civil forfeitures” as “concerning.” *Id.* at 31; *see also id.* at 33 (commenting on “the widened use of aggressive *in rem* forfeiture practices” nationwide). Individual members of that Court likewise have noted “overreach,” likening civil forfeiture to a “law enforcement Weapon[] of Mass Destruction,” *Sargent v. State*, 27 N.E.3d 729, 735 (Ind. 2015) (Massa, J., dissenting); and have voiced “serious concerns with the way Indiana carries out civil forfeitures,” *Horner v. Curry*, 125 N.E.3d 584, 612 (Ind. 2019) (Slaughter, J., concurring in the judgment).

10. Against this backdrop, forfeitures “are not favored, and should be enforced only when within both the letter and spirit of the law.” *Hughley v. State*, 15 N.E.3d 1000, 1005 (Ind. 2014) (citation omitted). In two ways, the forfeiture policies of the State and the Marion County Prosecutor's Office break with the letter and spirit of the Civil Forfeiture Statute and with the state and federal constitutions.



**A. The Marion County Prosecutor sues to forfeit millions of dollars of in-transit currency.**

11. Indianapolis is home to the second largest FedEx hub in the United States.

12. Shipments from across the United States pass along the Indianapolis FedEx hub's conveyor belts en route to their final destinations.

13. The Indianapolis FedEx hub can sort at least 99,000 packages per hour.

14. Officers with the Indianapolis Metropolitan Police Department regularly visit the FedEx facility, view parcels, and pull aside ones they find suspicious based on various factors.

15. "Suspicious" factors often include that the box is new or taped on all its seams.

16. FedEx explicitly advises its customers to "[t]ape all the package seams securely." FedEx, *Fast and easy package drop off*, <https://tinyurl.com/yskx2xaj>.

17. "Suspicious" factors also include that the shipment was paid by "unknown means." Or by credit card. Or "possibly by cash."

18. "Suspicious" factors also often include that no signature is required for receiving the parcel.

19. "Suspicious" factors also include that the parcel's destination is in California—a "source state" (according to officers) that is also by far the most populous state in the nation.

20. Parcels that officers pull aside are then presented to a K-9.

21. If the K-9 alerts to a parcel, the officers seek and secure a warrant to open it.

22. Often the search reveals no narcotics, only currency.

23. For many of those parcels, the Marion County Prosecutor's Office has a practice and policy to sue on behalf of the State of Indiana in Indiana state court to forfeit the currency under Indiana's Civil Forfeiture Statute, I.C. §§ 34-24-1-1 *et seq.*

24. In many instances, the parcel is seized from the Indianapolis FedEx hub while in-transit from a United States jurisdiction that is not Indiana to a different United States jurisdiction that is also not Indiana.

25. The Marion County Prosecutor's Office has a policy and practice of filing and prosecuting actions to forfeit currency found in FedEx parcels that are in-transit from a United States jurisdiction that is not Indiana to a different United States jurisdiction that is also not Indiana.

26. As to this in-transit currency, the policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no allegation and no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to Indiana besides the happenstance of its passing through Indianapolis's FedEx hub.

27. The policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any activity in Indiana besides the happenstance of the in-transit parcel's passing through Indianapolis's FedEx hub.

28. The policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime occurring in Indiana.

29. The policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime occurring outside Indiana and producing detrimental effects within Indiana.

30. The policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime occurring outside Indiana and intended to produce detrimental effects within Indiana.

31. The policy and practice of the Prosecutor's Office is to file and prosecute these forfeiture actions with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has statutory or constitutional jurisdiction to prosecute criminally.

32. In the past two years alone, the Marion County Prosecutor's Office has sued to forfeit currency from FedEx parcels in-transit from one non-Indiana state to another at least 130 times.

33. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state sender knew the parcel would be routed through the Indianapolis FedEx hub.

34. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state sender intended the parcel to be routed through the Indianapolis FedEx hub.

35. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state sender had any control over the flight route of the FedEx airplanes transporting the parcel.

36. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state recipient knew the parcel would be routed through the Indianapolis FedEx hub.

37. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state recipient intended the parcel to be routed through the Indianapolis FedEx hub.

38. In none of these cases (on information and belief) does the Prosecutor's Office have any evidence or any reason to believe that the out-of-state recipient had any control over the flight route of the FedEx airplanes transporting the parcel.

39. Rather, the policy and practice of the Prosecutor's Office is that the happenstance of an in-transit FedEx parcel's being routed through Indianapolis's FedEx hub is a sufficient link to Indiana—standing alone—to support filing and prosecuting an action to forfeit the currency contained in the parcel under Indiana's Civil Forfeiture Statute.

40. Systematically, the Office's complaints in these forfeiture actions never identify what specific violation of Indiana criminal law could support the forfeiture of the seized currency in Indiana state courts under Indiana's Civil Forfeiture Statute.

**B. The Marion County Prosecutor provides property owners with inadequate notice of the factual and legal basis alleged for forfeiture.**

41. The Marion County Prosecutor's Office also maintains a broader policy of providing inadequate notice to property owners of the factual and legal basis for the forfeiture.

42. In actions seeking the forfeiture of currency alone (including but not limited to actions involving currency seized from FedEx parcels), the Office's complaints do not identify facts that amount to an alleged violation of a particular criminal statute that serves as the basis for forfeiture.

43. Nor do the Office's forfeiture complaints even identify what specific criminal statute is alleged to have been violated.

44. When the subject property is currency, the Office has a policy of alleging simply that:

The seized currency was furnished or was intended to be furnished in exchange for a violation of a criminal statute, or is traceable as proceeds of a violation of a criminal statute, in violation of Indiana law, as provided in I.C. 34-24-1-1.

45. Other portions of the complaint do not cure these notice deficiencies.

46. A typical example of a complaint filed by the Office against currency seized at the FedEx hub looks like this:

**COMPLAINT FOR FORFEITURE**

Comes now the Plaintiff, by counsel, and complains of the Defendants, Timothy Murdock and Vermaine Khrye, and for claim for relief, alleges and says:

1. On or about April 29, 2022, law enforcement officers seized \$14,260.00 in the course of serving a search warrant in Marion County, Indiana.
2. The currency was contained in a parcel that lists Vermaine Khyre as the sender and Timothy Murdock as the recipient.
3. Said currency had been furnished or was intended to be furnished in exchange for a violation of a criminal statute, or is traceable as proceeds of a violation of a criminal statute, in violation of Indiana law, as provided in I.C. 34-24-1-1.
4. Timothy Murdock and Vermaine Khrye are named herein so that they may respond as their interest may appear.

WHEREFORE, Plaintiff demands judgment against TIMOTHY MURDOCK, VERMAINE KHRYE, and \$14,260.00, and for delivery of said currency upon forfeiture as provided for in I.C. 34-24-1-1, and for all other just and proper relief in the premises.

47. Likewise, a typical example of a complaint filed by the Office to forfeit currency seized somewhere other than from a FedEx parcel looks like this:

**COMPLAINT FOR FORFEITURE**

Comes now the Plaintiff, by counsel, and complains of Defendants, Frank Smith and Karisa Smith, and for claim for relief, alleges and says:

1. On or about July 14, 2023, law enforcement officers seized \$3,992.00 from Defendants, Frank Smith and Karisa Smith, in the course of serving a search warrant in Marion County, Indiana.
2. The seized currency was furnished or was intended to be furnished in exchange for a violation of a criminal statute, or is traceable as proceeds of a violation of a criminal statute, in violation of Indiana law, as provided in I.C. 34-24-1-1.
3. Frank Smith and Karisa Smith are named herein so that they may respond as their interest may appear.

WHEREFORE, Plaintiff demands judgment against FRANK SMITH, KARISA SMITH and \$3,992.00, and for delivery of said currency upon forfeiture as provided for in I.C. 34-24-1-1, and for all other just and proper relief in the premises.

48. In actions to forfeit currency alone, the policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to initiate the action with a complaint that does not identify by name what crime the State alleges is the basis for the forfeiture action.

49. In actions to forfeit currency alone, the policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to initiate the action with a complaint that does not identify by citation what crime the State alleges is the basis for the forfeiture action.

50. In actions to forfeit currency alone, the policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to initiate the action with a complaint that does not identify in any way what crime the State alleges is the basis for the forfeiture action.

51. In actions to forfeit currency alone, the policy and practice of the Prosecutor’s Office (on behalf of the State of Indiana) is to initiate the action with a complaint that does not identify any operative facts concerning the (unidentified) crime the State alleges is the basis for the forfeiture action.

52. Ultimately, the Office maintains a practice of initiating actions to forfeit currency alone with complaints that notify property owners of neither the factual basis for the sought-after forfeiture nor the crime alleged to support it.

53. Earlier this year, in fact, the Indiana Supreme Court voiced concern that—even after trial—the Marion County Prosecutor’s Office had “neither specifically identified an applicable criminal statute that was violated nor established a substantial connection between that crime and the money.” *Smith v. State*, 232 N.E.3d 109, 116–17 (Ind. 2024).

## **II. Henry Minh, Inc.’s parcel and its seizure**

54. Henry Minh, Inc. is a small wholesale jewelry business located in California and owns the \$42,825.00 the State of Indiana is suing to forfeit in this action.

55. The Company is owned and operated by husband and wife, Henry and Minh Cheng, who are U.S. citizens residing in California. The Company has no other employees.

56. Henry Minh, Inc. sells jewelry—mostly pieces made from Italian gold and diamond jewelry—to dozens of retail jewelers throughout the United States.

57. Within the last five years or so, Henry Minh, Inc. began selling jewelry to a retailer in Falls Church, Virginia: Linh Gems & Jewelry.

58. In January 2024, Henry Minh, Inc. shipped two kinds of Italian gold merchandise to the Falls Church retailer. The total price of the wholesale jewelry was \$42,825.00. A true and correct copy of Henry Minh, Inc.'s invoice for that transaction is reproduced below:

**HENRY-MINH inc.**  
**2437 TYLER Avenue**  
**EL MONTE, CA 91733**  
**(626) 416-8999**

0211087

CUSTOMER NAME		DEPARTMENT		DATE			
EL MONTE, CA 91733				Jan 10, 2024			
NAME LINH GEM, VA.							
ADDRESS							
CITY, STATE, ZIP							
SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT	SHIP DATE
QUANTITY		DESCRIPTION			PRICE	AMOUNT	
1							
2		Italy Chain = 267 <sup>30</sup> g x 65 <sup>50</sup> =			17508		
3							
4		Italy Chain = 361 <sup>68</sup> g x 70 <sup>00</sup> =			25317		
5		Fancy					
6							
7						total = 42825 <sup>00</sup>	
8							
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20							
RECEIVED BY					TAX		
					TOTAL		

KEEP THIS SLIP FOR REFERENCE



59. The retailer received the jewelry but was slow to submit payment for the merchandise. After Henry Minh, Inc. inquired about payment in April, the retailer responded that she could pay promptly with cash.

60. Henry Minh, Inc. agreed to accept payment for the merchandise in cash. The Company obtained a FedEx shipping label through the online platform of its jewelry-shipment insurer, and the label was electronically transmitted to the Falls Church retailer. The label indicated that a direct signature was required (“DSR”) for the parcel upon receipt.

61. Henry Minh, Inc. told the retailer to place the payment in a parcel and mail it through FedEx using the label the Company had provided, and the retailer did as instructed. A copy of the entire FedEx label is attached as **Exhibit 1**.

62. The label showed Henry Minh c/o Linh G. as a sender, with Linh Gems’s store address as the sender address. The name and address listed for the recipient comports with the security best-practices of the online label-creation platform of Henry Minh, Inc.’s shipping insurer.

63. FedEx routed the parcel carrying the \$42,825.00 from Virginia through the FedEx hub in Indianapolis on its way to California.

64. Henry Minh, Inc. did not know that the parcel would be processed through the FedEx hub in Indianapolis.

65. Nor did Henry Minh, Inc. intend for the parcel to be processed through the FedEx hub in Indianapolis.

66. Nor does Henry Minh, Inc. have any control over the flight paths of the FedEx airplanes assigned to transport the parcel.

67. At the FedEx hub in Indianapolis, an officer with the Indianapolis Metropolitan Police Department pulled the parcel aside as “suspicious.” In the warrant application that he later created, the officer identified the following “suspicious” characteristics of the parcel:

- a. “A new and purchased parcel box with all seams secured with tape.”
- b. “The Priority overnight shipment was paid by unknown means at a ship center.”
- c. “The parcel was tendered at a FedEx ship center in Falls Church, VA.”
- d. “The parcel is being shipped to a FedEx ship center for pick up, in a source State (California) and not a residence.”
- e. “There is no signature required to receive the parcel.”
- f. “The listed phone numbers are duplicate numbers for the sender and receiver.”
- g. “The receiver’s name listed, only has a first name and no surname.”

68. Several of those reported characteristics were inaccurate or incomplete:

- a. The officer’s affidavit recounted that “[t]here is no signature required to receive the parcel.” In truth, however, the “DSR” designation on the face of the label stands for “Direct Signature Required,” meaning “[s]omeone at the recipient’s address must sign for the delivery.” See FedEx, *FedEx signature requirements and delivery options*, <https://tinyurl.com/yc4y9tm4>.
- b. The officer’s affidavit described as suspicious the fact that “all seams [were] secured with tape.” But FedEx specifically advises its customers to “[t]ape all the package seams securely.” FedEx, *Fast and easy package drop off*, <https://tinyurl.com/yskx2xaj>.
- c. The officer’s affidavit recounted that “[t]he Priority overnight shipment was paid by unknown means at a ship center.” In fact, however, the label was not paid for at a FedEx

ship center. Nor (on information and belief) do FedEx labels ever display the “means” by which a parcel’s shipment is paid for.

d. The officer’s affidavit recounted that “[t]he parcel was tendered at a FedEx ship center in Falls Church, VA,” a geographic fact of no suspicion or significance.

69. The officer’s affidavit recounted that, having pulled aside the parcel, the officer presented it to a K-9.

70. The officer’s affidavit further recounted that the K-9 alerted to the parcel.

71. The officer then obtained a warrant.

72. The officer then opened the parcel and found the \$42,825.00 in currency.

73. The officer found no drugs or other contraband in the parcel.

74. The Marion County Prosecutor’s Office then filed an action to forfeit the currency in this Court, under Indiana’s Civil Forfeiture Statute.

75. Consistent with the Office’s policy and practice, the complaint does not specify what alleged crime serves as the basis for the forfeiture complaint. Nor did the complaint identify any facts that amount to an alleged violation of a criminal statute.

### **III. Injuries to Henry Minh, Inc. and the classes**

76. For members of the putative Parcel Class, being targeted for a civil-forfeiture action in Indiana comes with real costs.

77. Class members are deprived of the currency targeted for forfeiture for the entire length of the civil-forfeiture action.

78. Class members must either invest significant resources in defending against the civil-forfeiture action or risk losing their currency forever.

79. Many class members (like Henry Minh, Inc.) are located hundreds or thousands of miles away from Indiana.

80. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to Indiana besides the happenstance of its passing through Indianapolis's FedEx hub, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

81. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to any activity in Indiana besides the happenstance of its passing through Indianapolis's FedEx hub, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

82. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to any alleged crime occurring in Indiana, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

83. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to any alleged crime occurring outside Indiana and producing detrimental effects within Indiana, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

84. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to any alleged crime occurring outside Indiana and intended to produce detrimental effects within Indiana, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

85. But for the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against members of the putative Parcel Class with no evidence (and no reason to believe) that currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has the jurisdiction to prosecute criminally, the members of the putative Parcel Class would not be deprived of their property that is targeted in those forfeiture actions.

86. But for the Prosecutor's Office policy and practice to seek forfeiture of in-transit packages from the Indianapolis FedEx hub, Henry Minh, Inc.'s property would not have been targeted for the pending forfeiture action.

87. Because of the Office's policy and practice to seek forfeiture of in-transit packages from the Indianapolis FedEx hub, Henry Minh, Inc. has been deprived—and continues to be deprived—of its property in the amount of \$42,825.00.

88. The Office's complaint also failed to give Henry Minh, Inc. the specific legal and factual reasons Counter-Defendants believe justify forfeiting its property.

89. The Office's complaints in actions to forfeit currency belonging to the members of the putative Notice Class likewise do not notify the class members of the specific legal and factual reasons Counter-Defendants believe justify forfeiting their property.

90. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State's request to forfeit their property, they are injured by being forced to review and try to understand a confusing legal document without key context explaining how that document is connected to them or their property.

91. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State's request to forfeit their property, they are injured by being forced to decide how to respond without any indication of what—if anything—the State of Indiana thinks they did wrong.

92. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State's request to forfeit their property, they are injured by being forced to decide how to respond without being able to understand the true nature of the State of Indiana's proceedings against them and their property.

93. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State's request to forfeit their property, they are injured by being forced to decide how to respond without any indication of what type or amount of evidence, if any, could rebut or explain the State of Indiana's undisclosed legal or factual bases for seizing and forfeiting their property.

94. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State's request to forfeit their property, they are injured by being forced to decide how to respond before the State of Indiana has committed itself to any legal or factual theory for seizing and forfeiting their property, meaning the State could try

to retroactively develop such legal and factual theories from information Henry Minh, Inc. and members of the putative Notice Class submitted to get their property back.

95. Because the complaints do not give Henry Minh, Inc. or the members of the putative Notice Class specific legal or factual reasons for the State’s request to forfeit their property, they are injured by being forced to decide how to respond without being able to fully investigate whether there are any defenses or other legal barriers to the State of Indiana’s undisclosed legal or factual bases for seizing and forfeiting their property.

96. To give just one example, the Civil Forfeiture Statute provides that the limitations period for each forfeiture action is the limitations period “under IC 35-41-4-2 for the offense that is the basis for the seizure.” I.C. § 34-24-1-3(a)(2). Without notice of “the offense that is the basis for the seizure,” members of the putative Notice Class are impaired in determining what the relevant limitations period is and when precisely it accrued.

### **CLASS-ACTION ALLEGATIONS**

97. Henry Minh, Inc. seeks to maintain this action on behalf of itself and all others similarly situated under Indiana Trial Rules 23(A) and (B)(2).

98. Henry Minh, Inc. proposes the following two classes:

- A. **The Parcel Class:** “All persons and entities who are or will be named as defendants in actions brought under Title 34, Article 24, Chapter 1, of the Indiana Code (1) seeking the forfeiture of currency contained in parcels that were (a) in-transit via FedEx from an originating location outside of Indiana to a destination location outside of Indiana and (b) seized at the FedEx Express Indianapolis Hub and (2) in

which the complaint makes no allegation that the currency is connected to Indiana beyond the in-transit parcel's presence in Indiana when it was seized.”

- B. **The Notice Class:** “All persons and entities who are or will be named as defendants in actions brought under Title 34, Article 24, Chapter 1, of the Indiana Code to forfeit currency alone, in which the Marion County Prosecutor’s Office represents the State of Indiana or any other government plaintiff and in which the complaint does not identify the specific predicate crime it alleges supports the forfeiture.”
99. This action meets all the prerequisites under Rules 23(A) for maintaining a class action.
100. **Numerosity under Rule 23(A)(1):** The putative classes are so numerous that joinder of all members is impracticable:
- A. For the **Parcel Class:** Since 2022 alone, the Marion County Prosecutor’s Office has filed at least 130 actions to forfeit currency seized from in-transit FedEx packages en route from one non-Indiana State to another non-Indiana State, without alleging any connection to Indiana beyond the in-transit parcel’s presence in Indiana when it was seized.
  - B. For the **Notice Class:** Since June 2023, the Marion County Prosecutor’s Office initiated at least 240 cases to forfeit currency alone, each with a complaint that does not identify the specific predicate crime it alleges supports the forfeiture.
  - C. These figures do not include future members of the classes.
  - D. For both classes, class members are scattered across the nation.



101. **Commonality under Rule 23(A)(2):** This action presents questions of law and fact common to the putative classes, resolution of which will not require individualized determinations of the circumstances of any particular plaintiff.

A. Questions of fact common to the **Parcel Class** include: (i) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of filing and prosecuting forfeiture actions against the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any activity in Indiana besides the happenstance of the in-transit parcel's passing through Indianapolis's FedEx hub; (ii) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of filing and prosecuting forfeiture actions against the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime occurring in Indiana; (iii) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of filing and prosecuting forfeiture actions against the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime occurring outside Indiana and intended to produce and producing detrimental effects within Indiana.

B. Questions of law common to the **Parcel Class** include: (i) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of filing and prosecuting forfeiture actions against the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any

connection to any alleged crime that the State of Indiana has the jurisdiction to prosecute criminally; and (ii) whether the Prosecutor's Office policy and practice of filing and prosecuting forfeiture actions against the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has the jurisdiction to prosecute criminally violates the Civil Forfeiture Statute; Article 1, Section 12 of the Indiana Constitution; the Tenth and Fourteenth Amendments to the U.S. Constitution; and principles of horizontal federalism.

- C. Questions of fact common to the **Notice Class** include: (i) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of initiating actions to forfeit currency with complaints that do not identify what specific crime the State alleges is the basis for the forfeiture action; and (ii) whether the Marion County Prosecutor's Office (on behalf of the State of Indiana) has a policy and practice of initiating actions to forfeit currency with complaints that do not identify any operative facts concerning the crime the State alleges is the basis for the forfeiture action.
- D. Questions of law common to the **Notice Class** include: whether the Prosecutor's Office policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the crime that is alleged to be the basis for the forfeiture or the operative facts alleged to be the basis for forfeiture violates the Civil Forfeiture Statute; Article 1, Section 12 of the Indiana Constitution; and the Fourteenth Amendment to the U.S. Constitution.

**102. Typicality under Rule 23(A)(3):** Henry Minh, Inc.’s claim is typical of the claims of the putative classes.

A. As to both classes, Henry Minh, Inc.’s claims and the putative class members’ claims arise out of the same policies and practices of the Marion County Prosecutor’s Office (on behalf of the State of Indiana), are based on the same legal theories, and involve the same harms.

B. Henry Minh, Inc. seeks the same class-wide declaratory and injunctive relief for both itself and other members of the putative classes.

**103. Adequacy of Representation under Rule 23(A)(4):** Henry Minh, Inc. and its counsel will adequately represent the classes’ interests:

A. Henry Minh, Inc. does not have claims antagonistic to or conflicting with other members of the class and has a sufficient interest in the outcome to ensure vigorous advocacy. Because Henry Minh, Inc. has suffered from the same policies as the members of each class, Henry Minh, Inc. has sufficient interest in the outcome to ensure vigorous advocacy and there is no conflict between Henry Minh, Inc.’s counterclaim counts and those of the putative class members. Henry Minh, Inc. seeks the same declaratory and injunctive relief for the class as it does for itself.

B. Henry Minh, Inc.’s counsel are competent, experienced, and able to conduct the proposed litigation vigorously. Henry Minh, Inc. and the putative classes are represented by the Institute for Justice, a nonprofit, public-interest law firm that, since its founding in 1991, has litigated constitutional issues nationwide. The firm has litigated class actions in state and federal courts nationwide, including against sixteen

prosecuting attorneys in Indiana<sup>1</sup>; against the City of Philadelphia<sup>2</sup>; against New York City<sup>3</sup>; against the Cities of Indio and Coachella<sup>4</sup>; and against the federal government<sup>5</sup>. The Institute for Justice has particular expertise litigating issues involving civil forfeiture. Marie Miller or her colleague Sam Gedge (who will be seeking temporary admission) have appeared as the arguing counsel in almost every civil-forfeiture-related appeal decided by the Indiana Supreme Court in the past half-decade. *State v. \$2,435*, 220 N.E.3d 542 (Ind. 2023); *Abbott v. State*, 183 N.E.3d 1074 (Ind. 2022); *State v. Timbs*, 169 N.E.3d 361 (Ind. 2021); *State v. Timbs*, 134 N.E.3d 12 (Ind. 2019); *Horner v. Curry*, 125 N.E.3d 584 (Ind. 2019). The Institute for Justice also represented the petitioner before the U.S. Supreme Court in the civil-forfeiture case *Timbs v. Indiana*, 586 U.S. 146 (2019), and at trial in Grant County on remand. They have represented property owners in state- and federal-court civil-forfeiture actions across the nation, including in Nevada, Arizona, Texas, Louisiana, Massachusetts,

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<sup>1</sup> *Sparger-Withers v. Taylor*, 628 F. Supp. 3d 821, 833 (S.D. Ind. 2022) (appointing Institute for Justice attorneys class counsel).

<sup>2</sup> *Sourovelis v. City of Philadelphia*, No. 14-cv-4687, 2021 WL 344598, at \*1 (E.D. Pa. Jan. 28, 2021) (appointing the Institute for Justice as class counsel and approving federal consent decree in challenge to civil-forfeiture procedures).

<sup>3</sup> *Cho v. City of New York*, No. 16-cv-7961 (S.D.N.Y. Oct. 2, 2020) (D. Ct. Doc. 111) (approving systemic-relief settlement of a putative class action relating to coercive property seizures).

<sup>4</sup> *Morales v. City of Indio*, No. RIC1803060 (Cal. Super. Ct. filed Feb. 13, 2018).

<sup>5</sup> *Snitko v. United States*, No. 21-cv-4405 (C.D. Cal. Oct. 12, 2021) (D. Ct. Doc. 78) (certifying class of property owners challenging FBI searches and seizures as unlawful); *see generally Snitko v. United States*, 90 F.4th 1250 (9th Cir. 2024).

and Michigan. The organization's studies on civil-forfeiture abuse have been cited both by the Indiana Supreme Court and by members of the U.S. Supreme Court.<sup>6</sup>

104. This action also meets the requirements of, and is brought in accordance with, Trial Rule 23(B)(2), because Counterclaim-Defendants have acted or refused to act on grounds generally applicable to the classes, making appropriate final injunctive relief or corresponding declaratory relief with respect to each class as a whole.

### COUNTERCLAIM COUNTS

#### COUNT 1

#### (Civil Forfeiture Statute, I.C. §§ 34-24-1-1 et seq.):

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Parcel Class against both Counterclaim-Defendants under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 et seq. and Trial Rule 57**

105. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

106. The Marion County Prosecutor's Office maintains a policy and practice of seeking forfeiture of currency contained within in-transit parcels that have no connection to Indiana apart from the fact that FedEx routed the parcel through its Indianapolis hub.

107. Indiana's Civil Forfeiture Statute, I.C. §§ 34-24-1-1 et seq., authorizes the forfeiture of property only if that property is sufficiently linked to a predicate violation of Indiana criminal law.

108. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no

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<sup>6</sup> *Serrano v. State*, 946 N.E.2d 1139, 1141 (Ind. 2011) (citing IJ's *Policing for Profit: The Abuse of Civil Asset Forfeiture*); *Culley v. Marshall*, 601 U.S. 377, 395, 396 (2024) (Gorsuch, J., concurring) (same); *Leonard v. Texas*, 580 U.S. 1178 (2017) (statement of Thomas, J., respecting the denial of certiorari) (same).

reason to believe) that the currency targeted for forfeiture has any connection to Indiana besides the happenstance of its parcel's being routed through Indianapolis's FedEx hub.

109. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has the jurisdiction to prosecute criminally.

110. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to a predicate violation of Indiana criminal law.

111. This policy and practice violates Indiana's Civil Forfeiture Statute, and Henry Minh, Inc. and the Parcel Class are entitled to declaratory and injunctive relief.

**COUNT 2**  
**(Indiana Constitution, art. 1, § 12):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Parcel Class  
against both Counterclaim-Defendants  
under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57**

112. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

113. The Indiana Constitution, art. 1, § 12 provides, "every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law."

114. Under Article 1, Section 12 of the Indiana Constitution, the State of Indiana cannot constitutionally prosecute alleged crimes that are committed outside Indiana's jurisdiction and that are not intended to produce and do not produce detrimental effects within Indiana.

115. Nor, in turn, can the State of Indiana constitutionally forfeit property based on alleged crimes that it cannot criminally prosecute consistent with Article 1, Section 12 of the Indiana Constitution.

116. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to Indiana besides the happenstance of its parcel's being routed through Indianapolis's FedEx hub.

117. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to a predicate violation of Indiana criminal law.

118. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally.

119. This policy and practice violates Article 1, Section 12 of the Indiana Constitution, and Henry Minh, Inc. and the Parcel Class are entitled to declaratory and injunctive relief.

**COUNT 3**  
**(Fourteenth Amendment to the U.S. Constitution):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Parcel Class  
against the State of Indiana under the Uniform Declaratory Judgment Act,  
I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57; and  
against Ryan Mears in his official capacity as Marion County Prosecutor  
under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.*, Trial Rule 57,  
and 42 U.S.C. § 1983.**

120. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

121. The Fourteenth Amendment to the Constitution of the United States provides, in relevant part, “nor shall any State deprive any person of life, liberty, or property, without due process of law.”

122. Under the Fourteenth Amendment’s Due Process Clause, the State of Indiana cannot constitutionally prosecute alleged crimes that are committed outside Indiana’s jurisdiction and that are not intended to produce and do not produce detrimental effects within Indiana.

123. Nor, under the Due Process Clause, can the State of Indiana constitutionally forfeit property based on alleged crimes that, if committed at all, are committed outside Indiana’s jurisdiction and are not intended to produce and do not produce detrimental effects within Indiana.

124. The policy and practice of the Prosecutor’s Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to Indiana besides the happenstance of its parcel’s being routed through Indianapolis’s FedEx hub.

125. The policy and practice of the Prosecutor’s Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no



reason to believe) that the currency targeted for forfeiture has any connection to a predicate violation of Indiana criminal law.

126. The policy and practice of the Prosecutor's Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally consistent with the Fourteenth Amendment's Due Process Clause.

127. This policy and practice violates the Due Process Clause of the Fourteenth Amendment, and Henry Minh, Inc. and the Parcel Class are entitled to declaratory and injunctive relief.

#### **COUNT 4**

#### **(Tenth Amendment to the U.S. Constitution and Principles of Horizontal Federalism):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Parcel Class against the State of Indiana under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57; and against Ryan Mears in his official capacity as Marion County Prosecutor under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.*, Trial Rule 57, and 42 U.S.C. § 1983.**

128. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

129. The Tenth Amendment to the United States Constitution provides, "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

130. Under the Tenth Amendment and principles of horizontal federalism, the State of Indiana cannot constitutionally prosecute alleged crimes that are committed in states that are not Indiana and that are not intended to produce and do not produce detrimental effects within Indiana.

131. Nor, under the Tenth Amendment and principles of horizontal federalism, can the State of Indiana constitutionally forfeit property based on alleged crimes that, if committed at all, are committed in states that are not Indiana and that are not intended to produce and do not produce detrimental effects within Indiana.

132. The policy and practice of the Prosecutor’s Office (on behalf of the State of Indiana) is to file and prosecute forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally consistent with the Tenth Amendment and principles of horizontal federalism. This policy and practice violates the Tenth Amendment and principles of horizontal federalism, and Henry Minh, Inc. and the Parcel Class are entitled to declaratory and injunctive relief.

**COUNT 5**  
**(Civil Forfeiture Statute, Ind. Code §§ 34-24-1-1 *et seq.*):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Notice Class  
against both Counterclaim-Defendants  
under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57**

133. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

134. Indiana Code § 34-24-1-3(a) provides in part that “[t]he prosecuting attorney for the county in which the seizure [of property] occurs may . . . cause an action for forfeiture to be brought by filing a complaint in the circuit or superior court in the jurisdiction where the seizure occurred.”

135. Because “forfeitures are not favored in the law,” the “statutes authorizing forfeitures are strictly construed.” *Chan v. State*, 969 N.E.2d 619, 621 (Ind. Ct. App. 2012) (Shepard, J.).

136. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the specific crime that is alleged to be the basis for the forfeiture.

137. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the operative facts alleged to be the basis for the forfeiture.

138. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that systematically do not meet the requirements for a “complaint” under Indiana law. This policy and practice contravenes the Civil Forfeiture Statute’s mandate that the Office initiate its forfeiture cases “by filing a complaint,” and Henry Minh, Inc. and the Notice Class are entitled to declaratory and injunctive relief.

**COUNT 6**  
**(Indiana Constitution, art. 1, § 12):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Notice Class  
against both Counterclaim-Defendants  
under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57**

139. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

140. The Indiana Constitution, art. 1, § 12 provides, in relevant part, “every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law.” In furtherance of this guarantee, the government’s complaints in actions to forfeit currency must notify the property owners of the specific factual and legal basis alleged for forfeiture.

141. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the specific crime that is alleged to be the basis for the forfeiture.

142. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the operative facts alleged to be the basis for the forfeiture.

143. As to the Notice Class, the Marion County Prosecutor’s Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the specific factual and legal basis alleged for forfeiture. This policy and practice violates Article 1, Section 12 of the Indiana Constitution, and Henry Minh, Inc. and the Notice Class are entitled to declaratory and injunctive relief.

**COUNT 7**  
**(Fourteenth Amendment to the U.S. Constitution):**

**Asserted by Henry Minh, Inc. on behalf of itself and the putative Notice Class  
against the State of Indiana under the Uniform Declaratory Judgment Act,  
I.C. §§ 34-14-1-1 *et seq.* and Trial Rule 57; and  
against Ryan Mears in his official capacity as Marion County Prosecutor  
under the Uniform Declaratory Judgment Act, I.C. §§ 34-14-1-1 *et seq.*, Trial Rule 57,  
and 42 U.S.C. § 1983.**

144. Henry Minh, Inc. incorporates the allegations in paragraphs 1 through 104 above.

145. The Fourteenth Amendment to the Constitution of the United States provides, in relevant part, “nor shall any State deprive any person of life, liberty, or property, without due process of law.”

146. The Fourteenth Amendment protects Henry Minh, Inc.'s and the Notice Class's due-process rights to notice and an opportunity to respond meaningfully and effectively to government attempts to deprive them of liberty or property interests.

147. The Fourteenth Amendment therefore protects each member of the Notice Class's due-process right to be informed of the government's specific legal and factual reasons for seizing and trying to forfeit their property, and to be so informed at the critical time when they receive the complaint and must decide how to respond.

148. As to the Notice Class, the Marion County Prosecutor's Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the crime that is alleged to be the basis for the forfeiture.

149. As to the Notice Class, the Marion County Prosecutor's Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the operative facts alleged to be the basis for the forfeiture.

150. As to the Notice Class, the Marion County Prosecutor's Office (on behalf of the State of Indiana) maintains a policy and practice of initiating civil-forfeiture actions with complaints that do not notify the property owners of the specific factual and legal basis alleged for forfeiture. This policy and practice violates the Fourteenth Amendment to the U.S. Constitution, and Henry Minh, Inc. and the Notice Class are entitled to declaratory and injunctive relief.

## PRAYER FOR RELIEF

Henry Minh, Inc. respectfully requests that this Court:

- A. Certify this case as a class action under Indiana Trial Rule 23(A) and (B)(2) on behalf of the following two classes:
  - a. for Counts 1, 2, 3, and 4, all persons and entities who are or will be named as defendants in actions brought under Title 34, Article 24, Chapter 1, of the Indiana Code (1) seeking the forfeiture of currency contained in parcels that were (a) in-transit via FedEx from an originating location outside of Indiana to a destination location outside of Indiana and (b) seized at the FedEx Express Indianapolis Hub and (2) in which the complaint makes no allegation that the currency is connected to Indiana beyond the in-transit parcel's presence in Indiana when it was seized;
  - b. for Counts 5, 6, and 7, all persons and entities who are or will be named as defendants in actions seeking the forfeiture of currency alone under Title 34, Article 24, Chapter 1, of the Indiana Code, in which the Marion County Prosecutor's Office represents the State of Indiana or any other government plaintiff and in which the complaint does not identify the specific predicate crime it alleges supports the forfeiture;
- B. Designate Henry Minh, Inc. as Class Representative for the proposed classes;
- C. Designate Henry Minh, Inc.'s counsel of record as Class Counsel for the proposed classes;
- D. Issue class-wide declaratory judgments in favor of the Parcel Class declaring that:
  - a. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of filing and prosecuting forfeiture actions against members of the Parcel

- Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any violation of Indiana criminal law violates the Civil Forfeiture Statute;
- b. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of filing and prosecuting forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally violates the due-course-of-law provision of the Indiana Constitution, Ind. Const. art. 1, § 12;
  - c. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of filing and prosecuting forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally violates the due-process clause of the Fourteenth Amendment, U.S. Const. amend. XIV;
  - d. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of filing and prosecuting forfeiture actions against members of the Parcel Class with no evidence (and no reason to believe) that the currency targeted for forfeiture has any connection to any alleged crime that the State of Indiana has jurisdiction to prosecute criminally violates the Tenth Amendment, U.S. Const. amend. X, and principles of horizontal federalism.
- E. Issue class-wide declaratory judgments in favor of the Notice Class declaring that:

- a. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of initiating actions to forfeit currency with filings that do not notify the property owner of the crime that is alleged to be the basis for the forfeiture and the operative facts alleged to be the basis for the forfeiture violates the Civil Forfeiture Statute, I.C. § 34-24-1-3(a);
  - b. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of initiating actions to forfeit currency with filings that do not notify the property owner of the specific crime that is alleged to be the basis for the forfeiture and factual basis for the forfeiture violates the due-course-of-law provision of the Indiana Constitution, Ind. Const. art. 1, § 12;
  - c. the policy and practice of the Marion County Prosecutor's Office (on behalf of the State of Indiana) of initiating actions to forfeit currency with filings that do not notify the property owner of the specific crime that is alleged to be the basis for the forfeiture and the factual basis for the forfeiture violates the due-process clause of the Fourteenth Amendment, U.S. Const. amend. XIV;
- F. Issue permanent injunctions in favor of Henry Minh, Inc. and the Notice Class enjoining the State of Indiana and Ryan Mears in his official capacity as Marion County Prosecutor from initiating and maintaining civil-forfeiture actions with complaints that fail to identify the factual basis and the provision of Indiana criminal law that serve as the basis for the sought-after forfeiture;
- G. Issue permanent injunctions in favor of Henry Minh, Inc. and the Parcel Class enjoining the State of Indiana and Ryan Mears in his official capacity as Marion County Prosecutor



from initiating and maintaining actions to forfeit currency seized at the FedEx Express Indianapolis Hub when the parcel containing it was in-transit from an originating location outside of Indiana to a destination location outside of Indiana and the prosecutor has no evidence or reason to believe the currency is connected to a crime that has occurred in Indiana or a crime that has occurred outside Indiana and that was intended to produce and produced detrimental effects within Indiana;

H. Issue a declaratory judgment in favor of Counterclaim-Plaintiff Henry Minh, Inc. declaring that:

- a. the Marion County Prosecutor's Office's initiation of an action to forfeit Henry Minh, Inc.'s \$42,825.00 using a filing that fails to provide the factual and legal basis for the sought-after forfeiture violates Indiana Code § 34-24-1-3(a); the due-course-of-law provision of the Indiana Constitution, Ind. Const. art. 1, § 12; and the due-process clause of the Fourteenth Amendment, U.S. Const. amend. XIV;
- b. the Marion County Prosecutor's Office's initiation and maintenance of an action (*State v. \$42,825.00*, No. 49D04-2405-MI-020041) to forfeit Henry Minh, Inc.'s \$42,825.00 seized at the FedEx Express Indianapolis Hub while in-transit from an originating location outside of Indiana to a destination location outside of Indiana violates the Civil Forfeiture Statute; the due-course-of-law provision of the Indiana Constitution, Ind. Const. art. 1, § 12; the due-process clause of the Fourteenth Amendment, U.S. Const. amend. XIV; the Tenth Amendment, U.S. Const. amend. X; and principles of horizontal federalism;

- I. Award Henry Minh, Inc. attorneys' fees, costs, and expenses under 42 U.S.C. § 1988 (as against the Marion County Prosecutor, in connection with counts 3, 4, and 7) and under any other applicable statute or rule, or in equity; and
- J. Award any further legal and equitable relief the Court may deem just and proper.

Dated: August 6, 2024.

Respectfully submitted,

/s/ Marie Miller

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of August 2024, a copy of the foregoing (along with the accompanying exhibit) was served upon the following by the Indiana E-Filing system:

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A copy of the foregoing (along with the accompanying exhibit) will also be served upon the following by personal service and U.S. Mail, postage pre-paid:

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/s/ Marie Miller  
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