

## PRO SE PACKAGE

### A SIMPLE GUIDE TO FILING A CIVIL ACTION



UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Office of the Clerk of Court

501 "I" Street  
Suite 4-200  
Sacramento, CA 95814-2322  
(916) 930-4000

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Office Hours are 9:00 to 4:00 p.m., Monday through Friday

revised 01/2016

The following instructions have been compiled to assist any person wishing to file a complaint in this court. We have attempted to simplify procedures; however, **we cannot and will not act as lawyers nor give advice as counsel.** We do not anticipate that these simple procedures will satisfy all needs, and the Local Rules of Practice for the U.S. District Court are available for more specific guidance. You should use the Local Rules along with the Federal Rules of Civil Procedures. The Federal Rules are available at a public library and the Local Rules are available on our web site at [www.caed.uscourts.gov](http://www.caed.uscourts.gov).

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If you believe that you have been injured or wronged by someone, some individual, corporation or government agency and you also believe you should be compensated for the harm you have suffered, you may decide to file a civil suit in the United States District Court, without the help of an attorney.

### FUNDAMENTAL INFORMATION

First, there are a few simple concepts you must get to know and understand.

The PLAINTIFF is the person who files the lawsuit.

The DEFENDANT is the person who is being sued.

If you are representing yourself without the benefit of an attorney, you are known as a PRO SE LITIGANT. "Pro Se" is a Latin term meaning "for yourself."

As a pro se litigant, you enjoy every right entitled to you under the law. You need not worry if you have had little or no experience with the courts before. However, pro se litigants are expected to follow/abide by the rules that govern the practice of law in the Federal Courts. Pro Se Litigants should be familiar with the Federal Rules of Civil Procedure and the Local Rules of this Court.

### FEDERAL COURT vs STATE COURT

There is a difference between State (Superior) Court and Federal Court. The difference being in what types of cases (law suits) they can decide. This is called JURISDICTION. State Court has general/broad jurisdiction and Federal Court has limited/specific jurisdiction. Under Federal Court jurisdiction, the two main types of cases are Federal Question Cases and Diversity Cases.

FEDERAL QUESTION CASES: are cases where the issue involves violation of Federal Law.

DIVERSITY CASES: are cases where the plaintiff and defendant are citizens of different states and the amount in controversy exceeds the sum or value of \$75,000. exclusive of interest and costs.

## STEP ONE: WRITE YOUR COMPLAINT

All cases are comprised of documents prepared and filed by litigants. The most common documents are the complaint, answer and motions. The first document that you must write/file is called a COMPLAINT.

The function of the COMPLAINT is to tell the Court and the defendant the reason for filing the lawsuit and what relief you desire. You must provide an original and one copy of the complaint, if you would like a copy for your records. The COMPLAINT must state:

1. The NAME AND ADDRESS of the plaintiff in the upper left hand corner of the complaint. The names of all the plaintiffs and defendants must be stated in the caption. The Court will provide the case number.
2. The JURISDICTION or reason your case is being filed in Federal Court. See 28 U.S.C. § 1331et seq.
3. The ALLEGATIONS or claims that you are making against the defendant(s). Place each allegation in a short clearly-written paragraph. See Rule 10 Federal Rules of Civil Procedure.
4. The RELIEF you are seeking from the Court. This can be money or something you want the Judge to make the defendant do or stop doing. This information is usually written in the last paragraph of the COMPLAINT.

If you believe that you are entitled to a trial by jury, you must indicate in a paragraph following the relief requested that you claim trial by jury. See Rule 38(b) of the Federal Rules of Civil Procedure.

Do not worry if your COMPLAINT is not professionally written. It should be typed if possible. The Court will take into consideration that you are a PRO SE litigant and untrained in drafting legal documents. You should, however, make every effort to state your case in clear, concise terms. See Rules 8 and 10 of the Federal Rules of Civil Procedure. YOU MUST SIGN AND DATE YOUR COMPLAINT.

Forms for filing a petition under Title 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody or a motion under Title 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in Federal custody are available from the Clerk's Office.

All pleadings submitted to this Court must be on 8 ½ x 11" paper. See Rule 130 of the Local Rules.

## STEP TWO: FILE YOUR COMPLAINT

Your next step is to file the COMPLAINT with the Court. In addition to filing the COMPLAINT, the following forms will have to be completed and submitted with the complaint:

1. A Civil Cover Sheet
2. A \$400.00 filing fee for a civil case

The filing fee may be waived if you cannot afford to pay it. For more information, see below. All checks or money orders should be made payable to: "CLERK, UNITED STATES DISTRICT COURT".

IF YOU CANNOT AFFORD TO PAY THE FILING FEE you may be allowed to have the filing fee waived if you fill out an APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and send it to the Court with the COMPLAINT and Cover Sheet. The Financial Affidavit is required to be completed so that the selected Judge can make a determination of your inability to pay the filing fee.

When you file the COMPLAINT, Cover Sheet and Application for Leave to Proceed in Forma Pauperis, each of these will be reviewed and forwarded to a Judge for consideration. If your Application is approved, the filing fee will be waived and your case will proceed. If your Application is not approved, you must pay the filing fee to have your case proceed.

If your In Forma Pauperis Application is granted, you will receive an order from the Court with instructions on how to proceed. The Court will direct the U.S. Marshal to serve your summons and complaint upon the defendants. In order for the Marshal to effectuate service on all defendants, you will be ordered to provide service copies of the complaint for each defendant and complete a Marshal's 285 form for each defendant. You are responsible for the movement of your case once it is filed.

## CONSENT FORMS

When you file your complaint you will be given forms called: NOTICE OF RIGHT TO CONSENT TO THE EXERCISE OF CIVIL JURISDICTION BY A MAGISTRATE JUDGE AND APPEAL OPTION and

CONSENT TO PROCEED BEFORE UNITED MAGISTRATE JUDGE, which you will need to serve on the parties in your case. Upon the voluntary consent of ALL parties (who must file the consent form with the Court), a Magistrate Judge may conduct any and all proceedings in your civil case, including a jury or non-jury trial, and the entry of final judgment, in accordance with the provisions of Title 28, U.S.C. § 636(c) and Local Rule 305.

### STEP THREE: SERVICE OF PROCESS

If you are NOT proceeding In Forma Pauperis, your next step is to SERVE (inform) each of the defendants that he or she is being sued. This may be done in two ways:

1. NOTICE AND REQUEST FOR WAIVER OF SERVICE

If you are suing the United States (and its agencies, corporations, or officers) or a state, local or foreign government, you CANNOT use this method and you MUST arrange for Service of Process (described below at number 2).

You may notify non-government defendant(s) of the commencement of the lawsuit by sending a “NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS” along with a copy of the complaint by first-class mail or other reliable means. You must also include a copy of the WAIVER OF SERVICE OF SUMMONS and a self-addressed return envelope. See Rule 4(d) of the Federal Rules of Civil Procedure. If service is waived by the defendant, the Waiver of Service form is returned to the plaintiff for filing with the Court and the action shall proceed. If the defendant does not waive service, the plaintiff must proceed with service of process.

2. SERVICE OF PROCESS

Making “service of process” involves serving a copy of the complaint upon each of the defendants.

A SUMMONS is a writ used to notify the person named as the defendant of the commencement of the civil action and the requirement to appear and answer.

If a defendant has not “waived service of summons” OR you are suing a government (federal, state, local, foreign) you MUST arrange to have a copy of an original Summons and a copy of the complaint served upon each defendant.

The court will issue a Summons for all defendants and a copy of the Summons must be served upon each defendant with a copy of the complaint. The original Summons is for the use of the person making service.

You can make service of process by having a “disinterested” (non-party) person who is over the age of eighteen deliver copies of the SUMMONS and COMPLAINT to each of the defendants. When using this method of making service of process, have the server fill out the back of the original SUMMONS and send it to the Court. See Rule 4, Federal Rules of Civil Procedure.

NOTE: If the filing fee was paid, service of the COMPLAINT on the defendant(s) must be made within 120 days from the date the complaint was filed or the case will be subject to dismissal. See Rule 4(m), Federal Rules of Civil Procedure.

### THINGS YOU SHOULD KNOW

The ANSWER is the formal written statement by the defendant(s) responding to a complaint setting forth any defenses and objections to the claims by the plaintiff.

A MOTION is an application or request made to the court for the purpose of obtaining a ruling or order directing some act to be done in favor of the applicant. See Rule 7(b), Federal Rules of Civil Procedure and Local Rule 7.1.

### AFTER THE ANSWER

In most cases, the Court will issue a SCHEDULING ORDER which sets forth a timetable with deadlines the litigants must follow.

The DISCOVERY PERIOD is the time frame allowed by the Court for both plaintiff and defendant to discover facts, research the law, and gather evidence to be presented at trial to prove the litigant’s position/case. The discovery period always comes after the filing of the answer by the defendant and before the first day of the trial.

### COMPLAINT/ANSWER/DISCOVERY PERIOD/TRIAL

Whenever you file any document with the Court, you must always:

1. Send a copy to each of the parties who are involved in the case, or their lawyers, and indicate on a Proof of Service form (see attachment 6) at the end of the document that you have done so in accordance with Federal Rule of Civil Procedure 5.
2. Provide the correct civil action number of your case on ALL documents and correspondence and have it readily available whenever you call the Court for information.

3. Sign and date all documents you file with the Court. Place the words “PRO SE” after your name. Place your address and telephone number on all documents and inform the Court in writing of any changes, in accordance with Local Rule 182(d), as soon as possible to ensure proper service of Court issued orders. It is very important that you provide a telephone number in the event it is necessary to obtain further information or clarification or advise you of any changes in hearing schedules. In addition, you must comply with the Local Rule 131, regarding counsel identification.

If you do not know an attorney, perhaps you should contact the Lawyer Referral Service of your local county Bar Association.

If you cannot afford an attorney, perhaps you should contact the Neighborhood Legal Services or Legal Aid in your area.

## About These Forms

- 1. In General.** This and the other pleading forms available from the [www.uscourts.gov](http://www.uscourts.gov) website illustrate some types of information that are useful to have in complaints and some other pleadings. The forms do not try to cover every type of case. They are limited to types of cases often filed in federal courts by those who represent themselves or who may not have much experience in federal courts.
- 2. Not Legal Advice.** No form provides legal advice. No form substitutes for having or consulting a lawyer. If you are not a lawyer and are suing or have been sued, it is best to have or consult a lawyer if possible.
- 3. No Guarantee.** Following a form does not guarantee that any pleading is legally or factually correct or sufficient.
- 4. Variations Possible.** A form may call for more or less information than a particular court requires. The fact that a form asks for certain information does not mean that every court or a particular court requires it. And if the form does not ask for certain information, a particular court might still require it. Consult the rules and caselaw that govern in the court where you are filing the pleading.
- 5. Examples Only.** The forms do not try to address or cover all the different types of claims or defenses, or how specific facts might affect a particular claim or defense. Some of the forms, such as the form for a generic complaint, apply to different types of cases. Others apply only to specific types of cases. Be careful to use the form that fits your case and the type of pleading you want to file. Be careful to change the information the form asks for to fit the facts and circumstances of your case.
- 6. No Guidance on Timing or Parties.** The forms do not give any guidance on when certain kinds of pleadings or claims or defenses have to be raised, or who has to be sued. Some pleadings, claims, or defenses have to be raised at a certain point in the case or within a certain period of time. And there are limits on who can be named as a party in a case and when they have to be added. Lawyers and people representing themselves must know the Federal Rules of Civil Procedure and the caselaw setting out these and other requirements. The current Federal Rules of Civil Procedure are available, for free, at [www.uscourts.gov](http://www.uscourts.gov).
- 7. Privacy Requirements.** Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns over public access to electronic court files. Under this rule, papers filed with the court should not contain anyone's full social-security number or full birth date; the name of a person known to be a minor; or a complete financial-account number. A filing may include only the last four digits of a social-security number and taxpayer identification number; the year of someone's birth; a minor's initials; and the last four digits of a financial-account number.



Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**-against-**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)*

**Complaint for a Civil Case**

Case No. \_\_\_\_\_  
*(to be filled in by the Clerk's Office)*

Jury Trial:     Yes     No  
*(check one)*

**I. The Parties to This Complaint**

**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	_____
Street Address	_____
City and County	_____
State and Zip Code	_____
Telephone Number	_____

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	_____
Job or Title (if known)	_____
Street Address	_____
City and County	_____
State and Zip Code	_____
Telephone Number	_____

Defendant No. 2

Name	_____
Job or Title (if known)	_____
Street Address	_____
City and County	_____
State and Zip Code	_____
Telephone Number	_____

Defendant No. 3

Name \_\_\_\_\_  
Job or Title \_\_\_\_\_  
(if known)  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

Defendant No. 4

Name \_\_\_\_\_  
Job or Title \_\_\_\_\_  
(if known)  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

**II. Basis for Jurisdiction**

Federal Courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in Federal Court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same state as any plaintiff.

What is the basis for Federal Court jurisdiction? (*check all that apply*)

Federal question

Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

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**B. If the Basis for Jurisdiction Is Diversity of Citizenship**

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, (*name*) \_\_\_\_\_, is a citizen of the State of (*name*) \_\_\_\_\_.

b. If the plaintiff is a corporation

The plaintiff, (*name*) \_\_\_\_\_, is incorporated under the laws of the State of (*name*) \_\_\_\_\_, and has its principal place of business in the State of (*name*) \_\_\_\_\_.

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (*name*) \_\_\_\_\_, is a citizen of the State of (*name*) \_\_\_\_\_. *Or* is a citizen of (*foreign nation*) \_\_\_\_\_.

b. If the defendant is a corporation

The defendant, *(name)* \_\_\_\_\_, is incorporated under the laws of the State of *(name)* \_\_\_\_\_, and has its principal place of business in the State of *(name)* \_\_\_\_\_. Or is incorporated under the laws of *(foreign nation)* \_\_\_\_\_, and has its principal place of business in *(name)* \_\_\_\_\_.

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

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**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff’s rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

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**IV. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

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**V. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk’s Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk’s Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_, 20\_\_.

Signature of Plaintiff \_\_\_\_\_

Printed Name of Plaintiff \_\_\_\_\_

# 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

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

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

## DEFENDANTS

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)

## 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

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

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

### FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT  
Eastern District of California

Plaintiff,

v.

Defendant.

**APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF  
FEES AND AFFIDAVIT**

CASE NUMBER:

I, \_\_\_\_\_, declare that I am the (check appropriate box)  
 petitioner/plaintiff/movant       other

in the above-entitled proceeding: that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?       Yes       No      (If "No," go to Part 2)

If "Yes," state the place of your incarceration \_\_\_\_\_

Are you employed at the institution? \_\_\_\_\_ Do you receive any payment from the institution? \_\_\_\_\_

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed?       Yes       No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| a. Business, profession or other self-employment  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Rent payments, interest or dividends           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Disability or workers compensation payments    | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. Gifts or inheritances                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

4. Do you have any cash or checking or savings accounts?     Yes                     No

If "Yes," state the total amount. \_\_\_\_\_

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value?                     Yes                     No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature of Applicant

**NOTICE TO PRISONER:** A prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.