

**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  
Sacramento, CA 95814-2322  
(916) 930-4000

1130 "O" Street  
Fresno, CA 93721-2201  
(559) 498-7483

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

Rev. 12/09

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 from the Clerk's Office and can be accessed 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 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 (see Attachment No.1).

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 of the complaint, along with sufficient copies for each defendant to be served. 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 that 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 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 - (Attachment 2)
2. If you are making service by SUMMONS, a completed SUMMONS for each defendant - (Attachment 3) Please refer to Step 3 for service.
3. A \$400.00 file fee for a civil case (the filing fee for a petition for writ of habeas corpus is \$5.00)

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 - (Attachment 4) and send it to the Court with the COMPLAINT, Cover Sheet, service copies for each defendant and, if appropriate, completed Summons forms. 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 (summons if applicable) 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, 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 must 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” - Form AO 398 (Attachment 5) 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- Form AO 399 (Attachment 6) 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. The summons must contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff’s attorney, if any, otherwise the plaintiff’s address and the time within which the rules require the defendant to answer the complaint.

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.

You must complete a summons for each defendant and present each summons to the Clerk who will sign and place the Court Seal on each summons. 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: Service of the COMPLAINT on the defendant 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 ABOUT**

The ANSWER is the formal written statement by the defendant 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 230.

## 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 7) 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 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 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.

1 Your Name  
2 Address  
3 City, State, Zip Code  
4 Telephone Number

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA

8 Your Name,  
9 Plaintiff,

10 vs. No.

11 Defendants in the Complaint,

12 Defendant(s).

**COMPLAINT**

13 \_\_\_\_\_ /

14 A civil complaint can be typed or printed by hand. Your complaint must be  
15 legible and clearly stated, so that it is easily understood. Clearly set out your grievance,  
16 against whom and what you would like the court to do to correct the situation. The  
17 format of a civil complaint is clearly outlined in the Federal Rules of Civil Procedure.  
18 You may add additional pages on numbered pleading paper as necessary. Please refer  
19 to Federal Rule of Civil Procedure 10.

20 You must sign your complaint.

21  
22 Sample Format for Pro Se Litigants  
23  
24  
25  
26

# 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 THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b></p> <p><b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p style="text-align: center;"><b>DEFENDANTS</b></p> <p style="text-align: center;">County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p style="text-align: center;">NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p style="text-align: center;">Attorneys (If Known) _____</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"></td> <td style="width: 10%; text-align: center;"><b>PTF</b></td> <td style="width: 10%; text-align: center;"><b>DEF</b></td> <td style="width: 40%;"></td> <td style="width: 10%; text-align: center;"><b>PTF</b></td> <td style="width: 10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<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 <i>or</i> 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 <i>and</i> 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
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
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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 (Excl. 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	<p><b>PERSONAL INJURY</b></p> <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 <p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p style="text-align: center;"><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p style="text-align: center;"><b>SOCIAL SECURITY</b></p> <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)) <p style="text-align: center;"><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<p style="text-align: center;"><b>REAL PROPERTY</b></p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p style="text-align: center;"><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p style="text-align: center;"><b>PRISONER PETITIONS</b></p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p style="text-align: center;"><b>Habeas Corpus:</b></p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<p style="text-align: center;"><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p style="text-align: center;"><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

**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  
  7 Appeal to District Judge from Magistrate Judgment

**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 F.R.C.P. 23      DEMAND \$ \_\_\_\_\_      CHECK YES only if demanded in complaint: **JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):      JUDGE \_\_\_\_\_      DOCKET NUMBER \_\_\_\_\_

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.C.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; 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 clerks 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 seven 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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**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 dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**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**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
<i>Plaintiff</i>	)	
	)	
v.	)	Civil Action No.
	)	
_____	)	
<i>Defendant</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_  
\_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____ )	
Plaintiff )	
v. )	Civil Action No.
_____ )	
Defendant )	

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

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

1. *If incarcerated.* I am being held at: \_\_\_\_\_ .  
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ \_\_\_\_\_ , and my take-home pay or wages are: \$ \_\_\_\_\_ per  
(specify pay period) \_\_\_\_\_ .

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (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) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's 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 you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ \_\_\_\_\_ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_)
Plaintiff
v.
\_\_\_\_\_) Civil Action No.
Defendant

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: \_\_\_\_\_
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within \_\_\_\_\_ days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: \_\_\_\_\_

\_\_\_\_\_)
Signature of the attorney or unrepresented party

\_\_\_\_\_)
Printed name

\_\_\_\_\_)
Address

\_\_\_\_\_)
E-mail address

\_\_\_\_\_)
Telephone number

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____ )	
<i>Plaintiff</i> )	
v. )	Civil Action No.
_____ )	
<i>Defendant</i> )	

## WAIVER OF THE SERVICE OF SUMMONS

To: \_\_\_\_\_  
*(Name of the plaintiff's attorney or unrepresented plaintiff)*

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from \_\_\_\_\_, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*

\_\_\_\_\_  
*Printed name of party waiving service of summons*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*E-mail address*

\_\_\_\_\_  
*Telephone number*

### Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

1 Your Name  
2 Address  
3 City, State, Zip Code  
4 Telephone Number

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA

8 Your Name,  
9 Plaintiff,

10 vs. No.

11 Defendant(s),

12 Defendant(s).

**PROOF OF SERVICE**

13 \_\_\_\_\_ /

14 I, the undersigned, hereby certify that I am over the age of eighteen years and  
15 on \_\_\_\_\_, 20\_\_\_\_\_, I served a copy of

16 \_\_\_\_\_,

17 by placing a copy in a postage paid envelope addressed to the person hereinafter listed  
18 by depositing said envelope in the United States Mail:

19

20 **(List All Defendants and Addresses Served)**

21

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

23

24

\_\_\_\_\_

25

(Signed)

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