

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF NORTH CAROLINA



PRO SE GUIDE AND FORMS

December 2015

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## Introduction

### A. Who This Guide is Designed to Assist

This guide is intended to provide basic information to a person who wants to file a civil case in the United States District Court for the Middle District (“the Middle District”) of North Carolina without an attorney. This guide is not intended for prisoner litigation.

### B. How This Guide May Help

A person who represents herself or himself in a lawsuit is often referred to as a pro se party or pro se litigant. This guide provides procedural information on the initial basic steps in a civil case and identifies more specific legal resources you can consult to assist in your legal representation. In addition, the guide contains sample forms with notations and blank forms you can use as appendixes.

### C. Limitations on the Guide

This guide does not answer all your potential questions or cover all the procedures you need to follow to file a case. This guide does not contain legal advice and does not substitute for an attorney. Court staff can only answer general questions about procedures or refer you to our website ([www.ncmd.uscourts.gov](http://www.ncmd.uscourts.gov)). The website has links for the Federal Rules of Civil Procedure, the Local Rules and other information so you can conduct your own research and make your own decisions. Court staff is not allowed to fill out any forms for you or to show you how to fill out a document. If you are required to file copies of documents, they can make copies for you, but must charge the proscribed page rate, which is currently \$.50 per page. More importantly, the Clerk’s Office staff cannot give legal advice.

1. **Employees of the Clerk’s Office can do the following**
  - a) Provide basic instructions on how to execute a task (e.g., number of copies, sample forms, etc.);
  - b) Provide information where Court’s policies can be found; and
  - c) Provide information that can be found on a case docket.
2. **Employees of the Clerk’s Office cannot do any of the following**
  - a) Make recommendations on legal actions or suggest ways to aid in your case;
  - b) Advise or predict how a judge may decide an issue or case;
  - c) Explain the meaning of a judicial order or advise you how to respond;

- d) Interpret a law or rule(s);
- e) Calculate deadlines; or
- f) Perform legal research for you.

#### D. **A Word of Caution**

The legal rules and procedures in a federal case may be complex and difficult to understand. It is strongly recommended that you seek the professional assistance of an attorney to represent you in federal court. If you decide to represent yourself, you are responsible for interpreting and adhering to the Federal Rules of Civil Procedure, Local Rules and all applicable laws. The Court generally expects you to follow the rules and laws even if you are not an attorney.

Self-representation carries certain responsibilities and risks. The Court urges you to carefully review those risks and their potential consequences. Some of the risks involved include but are not limited to:

- 1. Missing deadlines;
- 2. Failure to object or move;
- 3. Failing to present all evidence;
- 4. Failing to identify legal issues on both sides of case;
- 5. Presenting arguments in a convincing fashion; and
- 6. Failing to research all applicable rules and laws.

Remember, although you can represent yourself, you cannot represent another person or a company.

**Warning:** Federal Rule of Civil Procedure 11 prohibits the filing of law suits that are clearly frivolous or filed merely to harass someone. If, after reviewing your complaint, the Court determines that you have filed a lawsuit for an improper or clearly unnecessary purpose, it may impose sanctions against you, including ordering you to pay a fine to the Court or pay the legal fees of the person or company you sue.

#### E. **Resource Guide**

##### 1. **Clerk's Office Address**

**Clerk of Court  
U.S. District Court  
324 W. Market Street  
Greensboro, NC 27401-2544**

##### 2. **Clerk's Office Website**

**[www.ncmd.uscourts.gov](http://www.ncmd.uscourts.gov)**

3. **Clerk's Office Telephone Number**

**336.332.6000**

4. **Clerk's Office Business Hours**

**Monday through Friday, 8:00 am through 5:00 pm**

5. **Legal Resource Materials**

Below are articles on the internet that may be beneficial to you in determining whether to pursue a lawsuit in state court or federal court, explaining how the federal court system works and where to find the Federal Rules of Civil Procedure, the Local Rules and the United States Code which govern lawsuits in Federal Court.

- [Cases in Federal and State Court](http://www.uscourts.gov/educational-resources/get-informed/federal-court-basics/cases-federal-state-courts.aspx)  
(<http://www.uscourts.gov/educational-resources/get-informed/federal-court-basics/cases-federal-state-courts.aspx>)
- [Inside the Federal Courts](http://www.fjc.gov/federal/courts.nsf)  
(<http://www.fjc.gov/federal/courts.nsf>)
- [How Cases Move Through Federal Courts](http://www.fjc.gov/federal/courts.nsf/autoframe?OpenForm&nav=5menu4&page=/federal/courts.nsf/page/5074A7FC2DA7043E852568270078DCB1?opendocument)  
(<http://www.fjc.gov/federal/courts.nsf/autoframe?OpenForm&nav=5menu4&page=/federal/courts.nsf/page/5074A7FC2DA7043E852568270078DCB1?opendocument>)
- [Understanding the Federal Courts](http://www.uscourts.gov/educational-resources/get-informed/federal-court-basics/understanding-federal-courts.aspx)  
(<http://www.uscourts.gov/educational-resources/get-informed/federal-court-basics/understanding-federal-courts.aspx>)
- [Federal Rules of Civil Procedure](http://www.uscourts.gov/uscourts/rules/civil-procedure.pdf)  
(<http://www.uscourts.gov/uscourts/rules/civil-procedure.pdf>)
- [Local Civil Rules](http://www.ncmd.uscourts.gov/sites/default/files/CIV_LR.pdf)  
([http://www.ncmd.uscourts.gov/sites/default/files/CIV\\_LR.pdf](http://www.ncmd.uscourts.gov/sites/default/files/CIV_LR.pdf))
- [United States Code](http://www.law.cornell.edu/uscode/text)  
(<http://www.law.cornell.edu/uscode/text>)

**F. Bringing Your Lawsuit: Initial Steps in a Civil Case**

If you decide to bring a lawsuit, there are certain steps you must follow and certain criteria you must meet. The filing party must have proper standing (legal interest to sue), the court must have jurisdiction (authority to hear the matter), and time frames (deadlines) etc. must be met. Be advised that persons who are involved in law suits must follow strict guidelines and procedures or their cases may be dismissed. Here are the basic steps in filing a civil action in federal court:

1. Complaint filed;
2. Civil Cover sheet filed;
3. Filing fee paid or waived by the Court; and
4. Summons issued and served.

Each of these steps is discussed below in detail. You must comply with the filing requirements of each step. Generally, self-represented persons are held to the same standards of professional responsibility as licensed attorneys. It is your responsibility to become familiar with and comply with the Federal Rules of Civil Procedure and the Local Rules of the U.S. District Court for the Middle District of North Carolina. These can be viewed at [www.ncmd.uscourts.gov](http://www.ncmd.uscourts.gov).

## **G. Filing a Complaint in Federal Court: The Basics**

All suits in federal court begin with the filing of a complaint. The complaint explains the reason for your lawsuit and what relief is desired. The Federal Rules of Civil Procedure, in Rules 8, 10 and 11, and the Local Rules of the Middle District of North Carolina, particularly Rule 7.1 provide specific guidance. The Local Rules are available on the Court's website. The Federal Rules of Civil Procedure are available on various public websites, including the Court's.

The district provides sample and blank forms with printed versions of this guide and on our website. You are not required to use these forms but may find them helpful.

You are encouraged to type your documents, but if handwritten, they must be legible and able to be scanned electronically.

Court staff will fill in a case number after you file your complaint. You should include this case number on all subsequent documents you file.

You may file your documents by delivering or mailing them to the Clerk's Office at the address found in this packet. If you provide an additional copy and a self-addressed stamped envelope with your mailed original and copy for the defendant, we will return a file stamped copy to you for your records. You may also open a PACER (Public Access to Court Electronic Records) account ([www.pacer.gov](http://www.pacer.gov)) on your computer or use the public terminal located in the Clerk's Office to check on the status of your filings.

You may not file any documents by facsimile, e-mail or electronically without approval of the Court. Once the Clerk's Office receives your documents, they will be scanned and entered into the case management and electronic filing system.

If you submit the necessary forms, a case will be opened by the Clerk's Office on the electronic case system. A case number and a judge will be assigned. Your case will be sent to the assigned judge for review. Only after the assigned judge has reviewed the case, determined that all the required forms have been submitted, and found the case to have a legal and factual basis will the case be allowed to proceed and summons(es) be issued.

## **H. Sections in the Pro Se Civil Complaint Form**

### **1. Case Caption**

This is the heading of the case where you list the names of the party (your name) filing the case (known as plaintiff), the names of all the persons or companies who you are suing (defendant), and the title U.S. District Court for the Middle District of North Carolina. It is important that you initially name all parties to the action, adding parties later can be a complicated process.

### **2. Jurisdiction**

You must state why you are bringing this action in federal court and not another court, such as a North Carolina state court. The Middle District must have jurisdiction of over both the subject matter of the controversy and the person or entities involved. A federal court is authorized to only hear disputes that fall into the following categories:

- a) Questions involving the United States Constitution;
- b) Questions arising under federal law (as opposed to state law);
- c) Disputes where the United States is a party; and
- d) Disputes between residents of different states (known as diversity of citizenship) where the amount in controversy is more than \$75,000.

### **3. Parties**

As the person who is initiating the suit, you must be listed as the plaintiff. You must list both the names and addresses of all defendants in your case. You may not use “et al” to describe additional defendants.

### **4. Previous Lawsuits**

If you have filed a lawsuit in any federal or state court that deals with the same facts that are involved in this action you should respond to the question at the bottom of the form regarding any administrative action you may have taken.

### **5. Statement of Claim**

You must clearly state the basis of and the facts of your claim against each of defendant. Names, locations, dates and events should be described accurately and briefly. You should explain to the Court what happened by specifically describing the defendant’s actions. You must be specific about (i) the particulars of the event, and (ii) each defendant’s misconduct. Where your complaint includes more than one incident, you should clearly distinguish between them. You are not required to cite other cases or to make legal arguments. Number and set forth each separate claim in a separate paragraph.

## 6. Request for Relief

Describe for the Court the result or relief you seek from your lawsuit. The relief must be related specifically to the injury or loss you have suffered.

## 7. Jury Demand:

If you are requesting a jury trial, mark the appropriate box.

## 8. Signature/Date/Address/Telephone Number

The complaint must be signed with the original signature and dated by the plaintiff, who must be the party actually filing the suit. Photocopies of signatures, electronic signature (/s/), and signature stamps are not allowed by pro se parties. You must also include your mailing address, e-mail address, and phone number.

## I. Declaration under Penalty of Perjury

When you sign and file your complaint, you are making a declaration under law to the Court that everything in your complaint is true. Frivolous lawsuits, lawsuits without merit, or lawsuits containing false or misleading information may be dismissed or sanctions may be imposed against you. Sanctions may include dismissing your case, assessing fines, assessing attorney costs for the opposing party, or limiting your filing privileges in federal court.

**Warning:** If you intentionally make false statements in a document you file with the Clerk, you may be charged with criminal lying, or perjury, an offense with potentially serious consequences.

## J. Protection of Personal Identifying Information

Federal Rule of Civil Procedure 5.2 restricts the inclusion of certain personal information, unless otherwise ordered by the Court. Filers often reference medical records, employment history, EEOC documentation, and financial information in the documents they submit. It is important that you carefully review these types of records to make sure that the following personal data information has been excluded or redacted (i.e. blacked out).

1. SOCIAL SECURITY NUMBERS AND TAXPAYER IDENTIFICATION NUMBERS. If an individual's social security number or taxpayer identification number must be included in a document, only the last four digits of that number shall be used. (Example: XXX-XX-9999).
2. NAMES OF MINOR CHILDREN. Reference to the name of a minor child should only be made using the initials of the child. This includes using the minor's name in the case caption. (Example: John G. Smith should be stated as J.G.S.).

3. FINANCIAL ACCOUNT NUMBERS. If financial account numbers are relevant in the complaint, only use the last four digits of an account numbers. (Example: XXXXXXXX9999).

For more information on privacy protection for filings made with the court, please refer to Rule 5.2 of the Federal Rules of Civil Procedure.

**WARNING:** It is your personal responsibility to exclude or redact all protected personal information. Do not rely on the Clerk's Office to do so.

#### **K.     Payment of Fees**

Effective December 1, 2023, the cost for filing a federal lawsuit is \$405.00. If paying by check or money order, the payee should be the "Clerk, U.S. District Court." Credit card payments are only accepted in person at the Clerk's Office in Greensboro, North Carolina.

#### **L.     Request for Waiver of Filing Costs**

If you are unable to pay the filing fee, you may file an Application to Proceed without Prepayment of Fees and Affidavit. This form is also referred to as an Application to Proceed In Forma Pauperis or an IFP application. An Application for Leave to Proceed In Forma Pauperis and Affidavit/Declaration in Support is available on the Court's website. Here is a link to the form: [IFP Application](#)

If you file an IFP application with your complaint, you will not be required to pay the filing fee at that time. You will receive an order informing you of the Court's decision on your application. If your IFP is denied, the Court will provide you with a deadline to pay your filing fee and you will be required to pay the filing fee in full before being allowed to proceed with your lawsuit.

When completing this form, it is important that you answer **all** questions relating to your income, assets and liabilities (i.e. bills). You must fill in all sections, including dollar amounts. If you fail to provide complete and accurate information, your request may be denied. If, during the course of the lawsuit, the Court discovers the Application was not truthful, complete, or, if your financial position changes, the Court may withdraw the permission to proceed IFP and require payment. The Clerk's Office will not issue a summons until the Court has screened the complaint under 28 U.S.C. §1915 (e)(2) and ruled on the Application to proceed *In Forma Pauperis*.

#### **M.     Civil Cover Sheet**

The plaintiff is required to file a Civil Cover Sheet ([JS 044](#)) with the complaint that provides general, statistical information about your case. Below are the sections that will need to be completed.

## CIVIL COVER SHEET

The JS 44 civil coversheet 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.)

|   |   |
|---|---|
| <b>I. (a) PLAINTIFFS</b><br>Insert your name and county of residence<br><br><b>(b) County of Residence of First Listed Plaintiff</b><br>(EXCEPT IN U.S. PLAINTIFF CASES)<br><br><br><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> | <b>DEFENDANTS</b><br>Insert Person or Company you are suing and county of residence<br><br><b>County of Residence of First Listed Defendant</b><br>(IN U.S. PLAINTIFF CASES ONLY)<br><br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.<br><br><b>Attorneys (If Known)</b> |
|---|---|

| <b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)<br><div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> 1 U.S. Government Plaintiff<br/> <input type="checkbox"/> 2 U.S. Government Defendant         </div> <div style="width: 45%;"> <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br/> <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)         </div> </div> | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)<br>(For Diversity Cases Only) <table style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> </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 or 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 and 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> |                            | PTF   | DEF                        |                            | PTF | DEF | 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 |
|---|---|----------------------------|---|----------------------------|----------------------------|-----|-----|-----------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
|   | PTF   | DEF                        |   | PTF                        | DEF                        |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| 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 |     |     |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |

## Instructions

1. **Plaintiffs** – Fill in your name as the plaintiff and the county where you reside.
2. **Defendants** – Fill out the names of the defendant(s) and county where they reside.
3. **Basis of Jurisdiction** – Mark the appropriate basis of jurisdiction that allows your case to be filed in federal court.

| IV. NATURE OF SUIT (Place an "X" in One Box Only)   |   |   |  |   |   |
|---|---|---|--|---|---|
| <b>CONTRACT</b><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>TORTS</b><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <b>FORFEITURE/PENALTY</b><br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)<br><input type="checkbox"/> 465 Other Immigration Actions | <b>BANKRUPTCY</b><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <b>OTHER STATUTES</b><br><input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes | <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property<br><br><b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education<br><br><b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement |

| V. ORIGIN (Place an "X" in One Box Only)       |   |  |   |  |   |
|--|---|--|---|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |

## Instructions

1. **Nature of Suit** – Although there may be more than one nature of suit category that could describe your case, choose one nature of suit that best fits your case.
2. **Origin** – Select the origin of your case. A new case filed in this court is an original proceeding. If the case is being removed from state court to federal court, has been remanded, transferred or reinstated from another court, then chose the appropriate box instead of original proceeding.

|   |   |  |   |  |   |
|---|---|--|---|--|---|
| <b>V. ORIGIN</b> (Place an "X" in One Box Only)   |   |  |   |  |   |
| <input type="checkbox"/> 1 Original Proceeding  | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court                   | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify)   | <input type="checkbox"/> 6 Multidistrict Litigation |
| <b>VI. CAUSE OF ACTION</b> Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity).<br>Brief description of cause: |   |  |   |  |   |
| <b>VII. REQUESTED IN COMPLAINT:</b>   |   | <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | <b>DEMAND \$</b>                                  | CHECK YES only if demanded in complaint:<br><b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No |   |
| <b>VIII. RELATED CASE(S) IF ANY</b> (See instructions):   |   | JUDGE  | DOCKET NUMBER                                     |  |   |
| DATE  |   | SIGNATURE OF ATTORNEY OF RECORD  |   |  |   |
| FOR OFFICE USE ONLY   |   |  |   |  |   |

## Instructions

1. **Cause of Action** –Cite the statute under which you are bringing your case to federal court and give a brief description of the cause.
2. **Jury Demand** –Mark Yes or No if you are requesting a jury trial.
3. **Date and Signature** – You must date and sign with your original signature

## N. How to Notify the Party You are Suing: Use of a Summons

After filing your complaint, you must notify the defendant in your case of the action you have filed against them by serving a notice of the lawsuit and a copy of the complaint you filed. The document that provides that notice is called a summons (Form [AO 440](#)). A summons form is available in this packet and on the Court's web site. You must prepare a separate summons for each named defendant in your case, plus two copies. Rule 4 of the Federal Rules of Civil Procedure explains the steps and time limits for securing proper service.

The summons is directed to the defendant and contains the name of the Court and the parties and lists your name and address as the self-represented plaintiff. It also includes the number of days within which the defendant must respond to your complaint and the consequences if the defendant does not timely respond. Federal Rule of Civil Procedure 12 details the times for responsive pleadings to be filed.

After you complete the summons form from the Clerk's Office and pay or receive permission to have the filing fee waived, the Clerk's Office will sign, stamp and issue the summons for service on the defendant.

## **O.     Filling Out a Summons: Helpful Hints**

Illustrated below is an example of a completed summons (Form [AO 440](#)). For each case that is filed with our Court, the plaintiff is responsible for properly completing all summons information. You must fill out one summons for **each** defendant you have listed in your complaint.

### **1.     Essential sections to fill out**

- a) Case Caption;
- b) Case Number;
- c) Defendant's Name and Address;
- d) Proof of Service (page two of summons form, Form [AO 440](#)).

### **2.     Important Notes**

- a) Each defendant named in the complaint must receive a summons.
- b) Please refer to [FRCP4](#) for information on how to make service. There are specific requirements for serving individuals, corporations and government agencies, or contact an attorney for information on how to make service.

**Note:** If the Defendant is a company that does business in this state, one of the easiest ways to serve a business is through the use of its registered agent. The registered agent is a person or company with a North Carolina address who is authorized to accept service on behalf of the company. You can identify a registered agent for a company by contacting the office of the North Carolina Secretary of State and searching on-line at [www.secretary.state.nc.us](http://www.secretary.state.nc.us) for business filings or calling 919.807.2225. If you are suing the U.S. Government, Rule 4 of the Federal Rules of Civil Procedure will include a list of the parties who you should serve.

# SUMMONS – EXAMPLE FORM AO 440

AO 440 (Rev. 12/09) Summons in a Civil Action

|   |   |
|---|---|
| UNITED STATES DISTRICT COURT                |   |
| for the                                     |   |
| Middle District of North Carolina           |   |
| YOUR NAME                                   | ) |
| Plaintiff                                   | ) |
| v.  | ) |
| PERSON OR BUSINESS YOU ARE SUING            | ) |
| Defendant                                   | ) |
| Civil Action No. CLERK'S OFFICE ISSUES THIS |   |
| SUMMONS IN A CIVIL ACTION                   |   |
| To: (Defendant's name and address)          |   |
| A lawsuit has been filed against you.       |   |

**Instructions:** In the case caption section, you must enter out your name on the Plaintiff line, the Defendant's name(s) on the Defendant line, the location where you are filing the case; in this instance, the Middle District of North Carolina. The Clerk's Office will assign a case number to your lawsuit.

|                                       |   |
|---------------------------------------|---|
| UNITED STATES DISTRICT COURT          |   |
| for the                               |   |
| Middle District of North Carolina     |   |
|                                       | ) |
| Plaintiff                             | ) |
| v.                                    | ) |
|                                       | ) |
| Defendant                             | ) |
| Civil Action No.                      |   |
| SUMMONS IN A CIVIL ACTION             |   |
| To: (Defendant's name and address)    |   |
| A lawsuit has been filed against you. |   |

**Instructions:** In the circled section above, you must enter the name and address of the defendant you are serving with this summons.

| SUMMONS IN A CIVIL ACTION   |  |
|---|--|
| To: <i>(Defendant's name and address)</i>   |  |
| 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.  |  |

**Instructions:** In the section highlighted above, you will enter your name and address showing where the defendant's answer or a motion under Rule 12 is to be served on you as the plaintiff. It also notifies the defendant of the response requirement, the timeframe and consequences for failure to respond.

## **P.     Serving the Summons and Complaint: Service of Process**

The plaintiff is responsible for ensuring that the summons and complaint are served on the defendant **within 90 days** of the filing of the complaint. This is called Service of Process. Detailed instruction on how to actually serve, or deliver the summons, can be found in Rule 4 of the Federal Rule of Civil Procedure. You should carefully review the rule to make sure that you are familiar with those requirements.

### **1.     If you have paid your filing fee you must serve the defendant**

A deputy clerk will sign, stamp and issue an original summons and one copy for each defendant. The original summons will be returned to you for service along with a copy of the complaint. You are responsible for making additional copies of the summons and complaint for service. You must serve the summons and a copy of the complaint on the defendants. It is your responsibility to serve each defendant properly. Improper service may result in the dismissal of your case. You may not serve the summons yourself. The service of process requirement can be satisfied in a number of ways. Please consult Rule 4 of the Federal Rule of Civil Procedure for instructions: You may arrange on your own to have the U.S. Marshal

Service serve the defendant on your behalf. The Marshal Service will charge you a fee to do so. Contact the U.S. Marshal Service for additional information at 336.332.8700.

## 2. If the court grants your IFP application, you must prepare the summons

The Court will enter an order directing you to fill out and submit proper forms for each defendant to the Clerk. You are responsible to provide complete and accurate information and the required number of copies. A deputy clerk will issue the summons that you prepared and submitted. The Court usually will direct the U.S. Marshal to serve the summons and complaint on the defendant.

## Q. Return of Service

### 1. Proof of Service

The person who actually serves the summons and complaint on the defendant must file a document with the Court entitled “Proof of Service”. This can be found on page two of the summons form (Form [AO 440](#)). The Proof of Service is a statement, made under oath, explaining when and how service on the defendant was made. In the alternative, if service was not made, an explanation as to why it was not served must be provided.

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. Insert case number here

#### 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)* See instruction a) below  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* See instruction b) below  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
See instruction c) below, 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)* See instruction d) below, 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 See instruction e) below; or

☐ Other *(specify)*: See instruction f) below

## Instructions for filing out Proof of Service

- a) Insert the name of the defendant and the date you, the plaintiff, received the summons from the court;
- b) Insert the defendant's address and the date the complaint and summons were delivered; or
- c) Insert name of person that received the complaint and summons and the date; or
- d) Insert the name of person who received the complaint and summons and the name of the company you are suing and the date; or
- e) Insert the reason the complaint and summons were not delivered to the defendant;
- f) List any other important information, such as how many times service was attempted on the defendant.

### 2. **Affidavit of Service**

The person who services the summons on a defendant may prefer to prepare and file an affidavit instead of filling out the proof of service on the second page of the Form AO 440. The affidavit must include:

- a) Name of defendant, and date the person serving the summons received the summons;
- b) Address where the summons was personally served;
- c) Name of person summons was left with and date mailed to individuals' last known address;
- d) Name of registered agent and company's name;
- e) Reason summons was returned unexecuted;
- f) Any other pertinent information, such as how many times service was attempted;
- g) Fee information as to how much it cost to serve the Defendant.

### R. **Waiver of Service**

As an alternative to serving the defendant, you can request the defendant to accept service under Rule 4(d) of the Federal Rules of Civil Procedure by sending a copy of the complaint, a Notice of Lawsuit ([Form AO 398](#)), Request to Waive Service of a Summons ([Form AO 399](#)), and a Waiver of Service of Summons to each defendant. Both the Notice and Waiver forms can be found on the court's website. The United States and some other parties cannot waive service. Please consult Rule 4(d) of the Federal Rules of Civil Procedure for the complete list of requirements regarding waiver of service.

### S. **Checklist for Proper Summons Process**

Listed below are questions to assist filers in reviewing some elements of the summons process. These questions and answers address the most common errors. This is not a

complete list of requirements. You should consult legal reference materials or an attorney for advice.

**1. Before a summons has been issued**

- a) Have you prepared a separate summons for each defendant?
- b) Have you checked the addresses to make sure they are correct?  
Note: if you don't have the correct address, the summons may not be able to be served and your case will not proceed.
- c) Have you listed the name and address of the person serving the summons?
- d) If you are suing a company, have you checked with the North Carolina Secretary of State's Office for the name and address of the company's registered agent?
- e) Has the summons you are sending been issued by the Clerk's Office? (i.e. was it stamped with court seal, signed by a Deputy Clerk and returned to you or the designated process server, to be served?)
- f) If you are suing the U.S. Government or an agency, have you prepared three duplicate originals of the summons and the complaint?

**2. After a summons has been issued**

- a) Has the Proof of Service or Affidavit of Service been accurately and completely filled out and returned by the person who made service?
- b) Have you used a permissible form of service?  
(see [FRCP4](#))
- c) Has service been perfected within required deadlines?  
See Rule 4(m) of the Federal Rules of Civil Procedure.

**T. Frequently Asked Questions for Pro Se Filing**

**1. What is the cost of filing a civil case?**

The fee for filing a complaint and opening a civil case is \$405.00. This may be paid by cash, check, or money order. If you pay by credit card, you must do so in person.

**2. What if I can't afford to pay due to my financial status?**

You may file a motion and the court may enter an order allowing you to proceed without payment of the filing fee. The specific order will instruct you on how to proceed. If you are unable to pay the filing fee, you may apply for permission to precede In Forma Pauperis. Information on filing In Forma Pauperis is located in this packet. Completed applications are filed and reviewed by the Magistrate Judge. Waiver of the filing fee by the Court does not automatically waive all other costs associated with pursuing your case (i.e. document copies, etc.).

3. **Do I need to file a Civil Cover Sheet?**

Yes, one copy must be signed, dated, and then filed.

4. **How many copies of the complaint do I need to file?**

You must file an original for the court, one for each defendant and a copy for your file. If you would like a copy of your filed stamp complaint returned to you, you must include a self-addressed stamped envelope with your mailing.

5. **How many copies of the each summons do I need to file?**

You must file three copies for each defendant: one for the court, one to serve with the complaint and a copy for your records. Generally, if you are suing the United States Government, you must serve an original summons and a copy of the complaint on three separate parties:

- a) the head of the federal agency you are suing
- b) the United States Attorney for the district
- c) the United States Attorney General in Washington, D.C

6. **How long does the defendant have to respond?**

The time to respond runs from the date of service, not the date the complaint was filed or the summons was issued

7. **How do you obtain information about the status or progress of your case?**

- a) The Clerk's Office maintains an automated record or case docket for every case. This docket is a chronological summary of all significant events in the history of the case. For example, each time you file a pleading or appear for a hearing, an entry summarizing the event is added to the case docket.

You may review the docket on the public access terminal located in the Clerk's office, or if you have a personal computer with access to the internet you can review your case docket using a program called PACER (Public Access to Court Electronic Records) at [www.pacer.gov](http://www.pacer.gov). Use of the public access terminal is free and our printing fee is \$.10 per page. PACER charges a fee for research and a separate fee for printing. Paper copies of any documents can also be ordered by mail when accompanied by the copy fee payment.

- b) Clerk's staff is prohibited from providing legal advice as they are not attorneys. Court staff cannot interpret or advise you on a Judge's decision, on the length of time it will take for an order to be entered on an outstanding motion, or when your case will be resolved.

8. **Is it possible for you to speak directly to a judge about your case?**

As a party in a case, you are prohibited from all private or ex parte communication with the judge. Ex parte communication occurs when one of the parties to a lawsuit exchanges information with the assigned judge (1) without the opposing party being present or (2) without the knowledge and consent of the opposing party. With few exceptions, because of this prohibition, a judge will decline to speak or otherwise communicate with any party to a case.

9. **If you plan to represent yourself, where can you go to review this Court's Rules of Procedure and applicable Federal Laws?**

a) As a pro se party, you should be familiar with the appropriate sets of federal rules of procedure. These rules set forth the general procedural requirements for processing cases in all federal courts. As a pro se litigant in a civil case, you should be familiar with the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. Federal laws are located in the United States Code with is abbreviated as "U.S.C." (See on Page 3 of this Guide for website addresses and hyperlinks to those addresses).

b) As a pro se party, you should also be familiar with the Local Rules of Civil Procedure for the Middle District of North Carolina, also listed on Page 3.

c) Our website, [www.ncmd.uscourts.gov](http://www.ncmd.uscourts.gov), has links to the Local Rules of Civil Procedure for the Middle District as well as to the Federal Rules of Civil Procedure. If you do not have access to a personal computer you can go to any local library, law library or come to the Clerk's Office and use the public terminals.

10. **What documents do I need to file initially?**

a) An original of the complaint, and copies for each defendant, the Court, and a copy for your file.

b) The \$405.00 filing fee or the Application to Proceed in Forma Pauperis form;

c) Three copies of each summons: one for the court, one to serve with the complaint and one for your record.

d) A civil cover sheet.

11. **What court fees and costs are you required to pay?**

The fee for filing a complaint and opening a civil case is \$405.00. This may be paid by cash, check, or money order. If you pay by credit card, you must do so in person. A list of other fees charged by the court for various

services and materials are located on our website:

<http://www.ncmd.uscourts.gov/?q=court-fees>.

**12. How do you submit other documents to the Court?**

a) Filing and serving the complaint is the first step in a lawsuit. After your case has been opened, if you want the Court to take a specific action you must file a document referred as a motion or pleading. All motions or pleadings must be in writing and comply with the Federal Rules of Civil Procedure and Local Rules. Most motions must be accompanied by a written memorandum supporting the motion. In addition, an affidavit or declaration may be required.

b) The Court requires pro se parties to submit or file an original of each pleading with the Clerk of Court. Clerk's staff will file stamp, scan the document, and electronically file the document on the court's electronic case docket. Pro se parties may file pleadings with the court in person or by mail. You should submit the original, one copy for the Court and a copy for each defendant in the case. When you file a document you also must mail a copy of the pleading to the defendant or defendant's attorney who has made an appearance. For each pleading you must file a Certificate of Service.

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
**Pro se [Non-prisoner] Complaint Form**

|               |   |                               |
|---------------|---|-------------------------------|
| (Your Name)   | ) |                               |
|               | ) |                               |
| Plaintiff,    | ) |                               |
|               | ) |                               |
|               | ) |                               |
| v.            | ) | Civil Action No. _____        |
|               | ) | (to be assigned by the Clerk) |
|               | ) |                               |
|               | ) |                               |
|               | ) |                               |
|               | ) |                               |
| Defendant(s). | ) |                               |

COMPLAINT

I. JURISDICTION

\_\_\_\_\_

II. PARTIES

A. Plaintiff

Name of Plaintiff: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

B. Defendant(s) (**Notice:** A person must be identified in subsections B and C in order to be considered as a defendant.)

Name of Defendant: \_\_\_\_\_

Current Address: \_\_\_\_\_

\_\_\_\_\_

- C. Additional Defendants (please provide the same information for each defendant as listed in Item B above):

III. STATEMENT OF CLAIM

(State here as briefly as possible the **FACTS** of your case. Do this by identifying the alleged legal wrong and by describing how each defendant named in Section II.B. and C. above is personally responsible for depriving you of your rights. Include relevant times, dates, and places. Also, you must state the basis for federal jurisdiction. In other words, why should the case be in federal court as opposed to state court. **DO NOT GIVE LEGAL ARGUMENTS OR CITE ANY CASES.** Number and set forth each separate claim in a separate paragraph.) (Attach extra sheets if necessary.)

III. STATEMENT OF CLAIM - continued.

IV. RELIEF

State briefly and exactly what relief you want from this court.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of plaintiff

\_\_\_\_\_  
Address

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

CIVIL COVER SHEET

The JS 44 civil coversheet 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)

|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <div><b>PERSONAL INJURY</b><br/><input type="checkbox"/> 310 Airplane<br/><input type="checkbox"/> 315 Airplane Product Liability<br/><input type="checkbox"/> 320 Assault, Libel &amp; Slander<br/><input type="checkbox"/> 330 Federal Employers' Liability<br/><input type="checkbox"/> 340 Marine<br/><input type="checkbox"/> 345 Marine Product Liability<br/><input type="checkbox"/> 350 Motor Vehicle<br/><input type="checkbox"/> 355 Motor Vehicle Product Liability<br/><input type="checkbox"/> 360 Other Personal Injury<br/><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</div> <div><b>PERSONAL INJURY</b><br/><input type="checkbox"/> 365 Personal Injury - Product Liability<br/><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br/><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</div> <div><b>PERSONAL PROPERTY</b><br/><input type="checkbox"/> 370 Other Fraud<br/><input type="checkbox"/> 371 Truth in Lending<br/><input type="checkbox"/> 380 Other Personal Property Damage<br/><input type="checkbox"/> 385 Property Damage Product Liability</div> | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><div><b>LABOR</b><br/><input type="checkbox"/> 710 Fair Labor Standards Act<br/><input type="checkbox"/> 720 Labor/Mgmt. Relations<br/><input type="checkbox"/> 740 Railway Labor Act<br/><input type="checkbox"/> 751 Family and Medical Leave Act<br/><input type="checkbox"/> 790 Other Labor Litigation<br/><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</div> <div><b>IMMIGRATION</b><br/><input type="checkbox"/> 462 Naturalization Application<br/><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)<br/><input type="checkbox"/> 465 Other Immigration Actions</div> | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><div><b>PROPERTY RIGHTS</b><br/><input type="checkbox"/> 820 Copyrights<br/><input type="checkbox"/> 830 Patent<br/><input type="checkbox"/> 840 Trademark</div> <div><b>SOCIAL SECURITY</b><br/><input type="checkbox"/> 861 HIA (1395ff)<br/><input type="checkbox"/> 862 Black Lung (923)<br/><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br/><input type="checkbox"/> 864 SSID Title XVI<br/><input type="checkbox"/> 865 RSI (405(g))</div> <div><b>FEDERAL TAX SUITS</b><br/><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br/><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</div> | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><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 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

# UNITED STATES DISTRICT COURT

for the

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

\_\_\_\_\_  
*Plaintiff/Petitioner*

v.

\_\_\_\_\_  
*Defendant/Respondent*

)  
)  
)  
)  
)

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

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

### Affidavit in Support of the Application

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

Signed: \_\_\_\_\_

### Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

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

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

| Income source  | Average monthly income amount during the past 12 months |        | Income amount expected next month |        |
|--|---|--------|-----------------------------------|--------|
|  | You   | Spouse | You                               | Spouse |
| Employment   | \$  | \$     | \$                                | \$     |
| Self-employment  | \$  | \$     | \$                                | \$     |
| Income from real property ( <i>such as rental income</i> ) | \$  | \$     | \$                                | \$     |
| Interest and dividends                                     | \$  | \$     | \$                                | \$     |
| Gifts  | \$  | \$     | \$                                | \$     |
| Alimony  | \$  | \$     | \$                                | \$     |
| Child support  | \$  | \$     | \$                                | \$     |

## AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

|   |    |    |    |    |
|---|----|----|----|----|
| Retirement ( <i>such as social security, pensions, annuities, insurance</i> ) | \$ | \$ | \$ | \$ |
| Disability ( <i>such as social security, insurance payments</i> )             | \$ | \$ | \$ | \$ |
| Unemployment payments   | \$ | \$ | \$ | \$ |
| Public-assistance ( <i>such as welfare</i> )                                  | \$ | \$ | \$ | \$ |
| Other ( <i>specify</i> ):   | \$ | \$ | \$ | \$ |
| <b>Total monthly income:</b>  | \$ | \$ | \$ | \$ |

2. List your employment history for the past two years, most recent employer first. (*Gross monthly pay is before taxes or other deductions.*)

| Employer | Address | Dates of employment | Gross monthly pay |
|----------|---------|---------------------|-------------------|
|          |         |                     | \$                |
|          |         |                     | \$                |

3. List your spouse's employment history for the past two years, most recent employer first. (*Gross monthly pay is before taxes or other deductions.*)

| Employer | Address | Dates of employment | Gross monthly pay |
|----------|---------|---------------------|-------------------|
|          |         |                     | \$                |
|          |         |                     | \$                |
|          |         |                     | \$                |

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

| Financial institution | Type of account | Amount you have | Amount your spouse has |
|-----------------------|-----------------|-----------------|------------------------|
|                       |                 | \$              | \$                     |
|                       |                 | \$              | \$                     |
|                       |                 | \$              | \$                     |

If you are a prisoner, you 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.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

| Assets owned by you or your spouse |    |
|------------------------------------|----|
| Home ( <i>Value</i> )              | \$ |
| Other real estate ( <i>Value</i> ) | \$ |
| Motor vehicle #1 ( <i>Value</i> )  | \$ |
| Make and year:                     |    |
| Model:                             |    |
| Registration #:                    |    |
| Motor vehicle #2 ( <i>Value</i> )  | \$ |
| Make and year:                     |    |
| Model:                             |    |
| Registration #:                    |    |
| Other assets ( <i>Value</i> )      | \$ |
| Other assets ( <i>Value</i> )      | \$ |

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

| Person owing you or your spouse money | Amount owed to you | Amount owed to your spouse |
|---------------------------------------|--------------------|----------------------------|
|                                       | \$                 | \$                         |
|                                       | \$                 | \$                         |
|                                       | \$                 | \$                         |

7. State the persons who rely on you or your spouse for support.

| Name (or, if under 18, initials only) | Relationship | Age |
|---------------------------------------|--------------|-----|
|                                       |              |     |
|                                       |              |     |
|                                       |              |     |

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

|   | You | Your spouse |
|---|-----|-------------|
| Rent or home-mortgage payment <i>(including lot rented for mobile home)</i><br>Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No<br>Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No | \$  | \$          |
| Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>   | \$  | \$          |
| Home maintenance <i>(repairs and upkeep)</i>  | \$  | \$          |
| Food  | \$  | \$          |
| Clothing  | \$  | \$          |
| Laundry and dry-cleaning  | \$  | \$          |
| Medical and dental expenses   | \$  | \$          |
| Transportation <i>(not including motor vehicle payments)</i>  | \$  | \$          |
| Recreation, entertainment, newspapers, magazines, etc.  | \$  | \$          |
| Insurance <i>(not deducted from wages or included in mortgage payments)</i>   |     |             |
| Homeowner's or renter's:  | \$  | \$          |
| Life:   | \$  | \$          |
| Health:   | \$  | \$          |
| Motor vehicle:  | \$  | \$          |
| Other:  | \$  | \$          |
| Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>  | \$  | \$          |
| Installment payments  |     |             |
| Motor vehicle:  | \$  | \$          |
| Credit card <i>(name):</i>  | \$  | \$          |
| Department store <i>(name):</i>   | \$  | \$          |
| Other:  | \$  | \$          |
| Alimony, maintenance, and support paid to others  | \$  | \$          |

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

|  |    |    |
|--|----|----|
| Regular expenses for operation of business, profession, or farm ( <i>attach detailed statement</i> ) | \$ | \$ |
| Other ( <i>specify</i> ):  | \$ | \$ |
| <b>Total monthly expenses:</b>   | \$ | \$ |

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes    ☐ No    If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit?    ☐ Yes    ☐ No

If yes, how much? \$ \_\_\_\_\_

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

12. Identify the city and state of your legal residence.

Your daytime phone number: \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

# 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.

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UNITED STATES DISTRICT COURT

for the

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

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)  
)  
)

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

**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.

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)

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

## 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 \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)

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

## 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.

## **Additional Legal Services Programs**

### **Legal Aid/Central Carolina Legal Services, Inc.**

122 North Elm Street  
Greensboro, North Carolina 27401  
(336) 272-0148

102 West Third Street, Suite 460, Liberty Plaza  
Winston-Salem, North Carolina 27101  
(336) 723-9140