

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA



PRO SE GUIDE AND FORMS

August 2016

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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). 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

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)
- [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.

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) 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 May 1, 2013, the cost for filing a federal lawsuit is \$400.00. 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 cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p style="border: 1px solid red; padding: 2px; text-align: center;">Insert your name and county of residence</p> <p>(b) County of Residence of First Listed Plaintiff <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p>	<p>DEFENDANTS</p> <p style="border: 1px solid red; padding: 2px; text-align: center;">Insert Person or Company you are suing and county of residence</p> <p>County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></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 <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</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 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.

Foreign Country						
IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>						
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <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 Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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))		
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes		
FEDERAL TAX SUITS						
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609						
V. ORIGIN <i>(Place an "X" in One Box Only)</i>						
<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 <i>(specify)</i>	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File

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.

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 - Transfer	<input type="checkbox"/> 7 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):			
VI. CAUSE OF ACTION			
Brief description of cause:			
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$
		CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No	
VIII. RELATED CASE(S) IF ANY (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.

0. 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 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)*

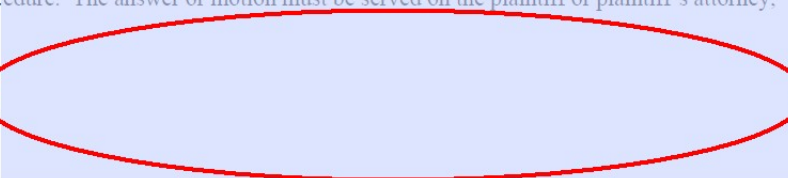
A lawsuit has been filed against you.

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: *(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.

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.

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. Pro Se (Non Prisoner) Authorization Form to Receive Documents Electronically

(Found on the next page).

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**PRO SE (NON PRISONER)
AUTHORIZATION FORM TO RECEIVE DOCUMENTS ELECTRONICALLY**

Pursuant to Fed. R. Civ. P. 5(b), Fed. R. Civ. P. 77(d), and Local Civil Rule 5.3(b)(2), documents may be served through the Court's transmission facilities by electronic means. Documents that are not permitted to be served electronically are pleadings that are to be served with process under Fed. R. Civ. P. 4.

I _____ hereby consent to receive service of documents and notices of electronic filing (NEFs) via the Court's Electronic Filing System to the extent and in the manner authorized by the above rules and waive the right to receive notice by first class mail pursuant to Fed. R. Civ. P. 5(b)(2)(D) and Fed. R. Civ. P. 77(d). I will promptly notify the Court in writing if there is a change in my personal data, such as name, address, telephone number and/or e-mail address. I will also promptly notify the Court in writing of my request to cancel this electronic service. I understand that this authorization to receive documents electronically automatically ceases upon expiration of the time for filing an appeal of a final judgment or decree.

Pro se parties who have consented to receive documents electronically will be sent a Notice of Electronic Filing (NEF) by e-mail. Upon receipt of the notice, pro se parties are permitted one "free look" at the document by clicking on the hyperlinked document number. The one "free look" will expire 15 days from the date the notice was sent. After the "free look" is used or expires, the document can only be accessed through PACER (Public Access to Court Electronic Records). It is recommended that pro se parties create a PACER account by visiting the PACER web site at <https://pacer.gov>. PACER will allow an individual to view, print, and download documents for a fee. Parties can also obtain records through PACER, without setting up an account, by accessing the public terminals located in the Clerk's Office. Parties are able to view documents for free; however, any printing of documents will incur a fee.

My e-mail address is: _____

My case number is: _____ (One case number per Authorization Form)

Signature of Pro Se Party

Mailing Address

City, State, Zip Code

Telephone Number

Date: _____

U. 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 \$400.00. 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 proceed 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. 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, 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 \$400.00 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 \$400.00. 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 cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

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

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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 - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

 (Your Name)

 Plaintiff,

 v.

 Defendant(s)

**APPLICATION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS
 AND AFFIDAVIT/DECLARATION IN SUPPORT**

I, _____, request leave of Court to proceed in the above-entitled action without prepayment of fees and costs or giving security therefor. In support of this request, I state that I am unable to pay such costs or give security therefor and that I believe that I am entitled to redress. The nature of this action is: _____

I understand that any false statements or answers to any question in this application may subject me to the penalties for perjury.

1. Are you presently employed? Yes ___ No ___
 a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer.

- b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received.

2. Is your spouse presently employed? Yes ___ No ___ No Spouse ___
 a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer.

- b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received.

3. Have you received within the past twelve months any money from any of the following sources:

- a. Business, profession, or form of self-employment? Yes ___ No ___
- b. Rent payments, interest, or dividends? Yes ___ No ___
- c. Pensions, annuities, or insurance? Yes ___ No ___
- d. Social Security, SSI or disability? Yes ___ No ___
- e. Workers' Compensation or Unemployment? Yes ___ No ___
- f. Child Support? Yes ___ No ___
- g. AFDC, WIC or Food Stamps? Yes ___ No ___
- h. Gifts or inheritances? Yes ___ No ___
- i. Any other sources? Yes ___ No ___

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

4. Has your spouse received within the past twelve months any money from any of the sources listed in question No. 3?

Yes ___ No ___ No Spouse ___

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

5. Do you and your spouse, if any, own any cash, or have money in a checking, savings, or any other financial account?

Yes ___ No ___

If the answer is yes, state the total value of the items owned.

6. Do you and your spouse, if any, own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes ____ No ____

If the answer is yes, describe the property and state its approximate value.

7. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

8. List your debts, obligations, and creditors, including banks, loan companies, charge accounts, and monthly bills.

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Executed on _____ (Date) _____ (Signature of Plaintiff)

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)
Plaintiff(s))

v.)

Civil Action No.)

_____)
Defendant(s))

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:

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) _____

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) MIDDLE District of NORTH CAROLINA and has been assigned docket number (E) _____.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A—Name of individual defendant (or name of officer or agent of corporate defendant)
B—Title, or other relationship of individual to corporate defendant
C—Name of corporate defendant, if any
D—District
E—Docket number of action
F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

WAIVER OF SERVICE OF SUMMONS

TO: _____
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of _____,
(CAPTION OF ACTION)

which is case number _____ in the United States District Court
(DOCKET NUMBER)

for the _____ MIDDLE District of _____ NORTH CAROLINA.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,
(DATE REQUEST WAS SENT)
or within 90 days after that date if the request was sent outside the United States.

(DATE)

(SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Re: Case No.: _____

**NOTICE OF RIGHT TO CONSENT
TO THE EXERCISE OF CIVIL JURISDICTION
BY A MAGISTRATE JUDGE**

Your attention is invited to Title 28 U.S.C. § 636(c).

You are hereby notified that if all parties to a civil case consent, the United States magistrate judges of this district court, in addition to their other duties, may conduct a trial pursuant to 28 U.S.C. § 636(c)(1) and order the entry of a final judgment. An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as any appeal from a judgment of the district court.

Your decision to consent, or not to consent, to the referral of your case to a United States magistrate judge for trial and entry of a final judgment must be entirely voluntary. The judge or magistrate judge to whom the case has been assigned will not be informed of your decision unless all parties agree that the case may be referred to a magistrate judge for these specific purposes. A less than unanimous decision will not be communicated by my office to either the judge or magistrate judge.

The Consent To Jurisdiction By A United States Magistrate Judge form is available on the Court's website at www.ncmd.uscourts.gov.

Date

/s/ John S. Brubaker
JOHN S. BRUBAKER, Clerk of Court

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