

**Self-Help Resources  
for the  
Self-Represented Litigant**

**By: United States Courts Library  
Eighth Circuit  
November 2005**

## **Self-Help Resources for the Self-Represented Litigant**

The Latin terms, *pro se* (meaning 'for self') and *pro per* (meaning 'for one's own person'), are used in the legal profession to identify people who represent themselves in court proceedings. However, it is generally recommended that, other than in small claims courts, it is best to have a lawyer.

In a recent AALL panel presentation, the Honorable Chief Judge Edward Toussaint, Jr., Minnesota Court of Appeals, noted that there are two major elements important in litigation: first, knowledge about procedural issues and, second, persuasion techniques. Failure in these two areas will translate into poor results for the litigant. A misunderstanding of procedure may even make an appeal impossible to grant. (Toussaint, 2005)\*

That said, libraries are aware that a lawyer is not always an option for a litigant. For that reason the following sites are being provided to assist self-represented litigants.

### **General Sites and Federal Law Resources**

Federal Court sites:

Supreme Court Website

<http://www.supremecourtus.gov/>

U.S. District Court, Eastern District of Missouri Self-Help Tools

<http://www.moed.uscourts.gov/SelfHelpTools/ProSe.asp>

Pro Se Handbook: The Manual for the Litigant Filing Without Counsel, May 1997, Idaho

U.S. District Court

<http://www.id.uscourts.gov/pro-se.htm>

Federal Rules of Court: Federal Rulemaking

<http://www.uscourts.gov/rules/newrules4.html>

Local Federal Rules of Court

<http://www.uscourts.gov/rules/newrules8.html>

Non-Court sites:

AJS (American Judicature Society) Pro Se Forum

<http://www.ajs.org/prose/home.asp>

REDRESS Pro Se Information

<http://www.redressinc.org/ProSeInformation.html>

Pine Tree Legal Assistance Pro Se Links

<http://www.ptla.org/pro-se.htm>

Legal Freedom.com Pro Se Resource Center

<http://www.legalfreedom.com/prc/>

National Federation of Paralegal Associations

<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=23>

The Jailhouse Lawyer's Pro Se Self-Help and Legal Research Center

<http://www.angelfire.com/az/sthurston/research.html>  
Wizard Law Collection of Pro Se Links  
<http://www.nolawyer.com/proselnx.html>  
selfhelpsupport.org (Self-help Support)  
<http://www.selfhelpsupport.org/resourcesforselfrepresent378.cfm>  
Name Change Center (Choose your state)  
<http://www.namechangelaw.com/index.asp>  
Findlaw  
<http://www.findlaw.com/>  
ABA FindLegalHelp.com  
[http://www.abanet.org/legalservices/findlegalhelp/faq\\_selfhelp.cfm](http://www.abanet.org/legalservices/findlegalhelp/faq_selfhelp.cfm)  
ABA Pro Se Law Center  
<http://www.pro-selaw.org/pro-selaw/index.asp>  
ABA Public Information Website  
<http://www.abanet.org/rppt/public/home.html>  
American Pro se Association  
<http://www.legalhelp.org/index.php>  
Legal Information Institute LII  
[http://www.law.cornell.edu/wex/index.php/Main\\_Page](http://www.law.cornell.edu/wex/index.php/Main_Page)  
LII Categories List  
[http://www.law.cornell.edu/wex/index.php?title=Special:Categories&article=Main\\_Page](http://www.law.cornell.edu/wex/index.php?title=Special:Categories&article=Main_Page)

Document Resources:

Code of Federal Regulations  
<http://www.gpoaccess.gov/cfr/index.html>  
List of CFR Sections Affected  
<http://www.gpoaccess.gov/lisa/index.html>  
United States Code  
<http://www.gpoaccess.gov/uscode/index.html>  
Congressional Legislative Information: Thomas  
<http://thomas.loc.gov/>  
Library of Congress  
<http://www.loc.gov/>  
Federal Citizen Consumer Information Center  
<http://www.pueblo.gsa.gov/>  
Equal Employment Opportunity Commission  
<http://www.eeoc.gov/index.html>  
Federal Bulletin Board  
<http://fedbbs.access.gpo.gov/>  
Federal Register  
<http://www.gpoaccess.gov/fr/index.html>  
U.S. Constitution  
<http://www.gpoaccess.gov/constitution/index.html>

## State Law Resources (Eighth Circuit States)

### Minnesota Judiciary

<http://www.courts.state.mn.us/>

LawMoose Legal Reference Library Pro Bono and Pro Se

<http://www.lawmoose.com/index.cfm?Action=Library.&Topic=MN102097>

Minnesota Legal Research Resources

<http://www.law.umn.edu/library/tools/EResources/MNWeb.html>

Minnesota Fifth Judicial District County Law Library Resources

<http://www.countylawlibraryproject.southwestmsu.edu/legal.html>

Minnesota Statutes

<http://www.leg.state.mn.us/leg/statutes.asp>

Minnesota Court Rules

<http://www.courts.state.mn.us/page/?pageID=139>

Minnesota Rules (Administrative Code)

<http://www.leg.state.mn.us/leg/statutes.asp>

### North Dakota Judiciary

<http://www.ndcourts.com/court/brochure.htm>

Dakota Plains Legal Service Pro Se

<http://www.dpls.org/prose.html>

N. Dakota Constitution and Code

<http://www.state.nd.us/lr/information/statutes/const-laws.html>

N. Dakota Court Rules

<http://www.ndcourts.com/court/rules/frameset.htm>

N. Dakota Administrative Code

<http://www.state.nd.us/lr/information/rules/admincode.html>

### South Dakota Judiciary

<http://www.sdjudicial.com/>

Dakota Plains Legal Service Pro Se

<http://www.dpls.org/prose.html>

S. Dakota Codified Laws

<http://legis.state.sd.us/statutes/index.aspx>

S. Dakota Court Rules

[http://www.sdjudicial.com/index.asp?title=appellate\\_one&category=procedures&nav=931](http://www.sdjudicial.com/index.asp?title=appellate_one&category=procedures&nav=931)

S. Dakota Administrative Rules

<http://legis.state.sd.us/rules/index.aspx>

### Nebraska Judiciary

<http://court.nol.org/>

Nebraska Laws

<http://www.unicam.state.ne.us/laws/index.htm>

Nebraska Trial Court Rules

<http://court.nol.org/trialcourt/index.html>

Nebraska Supreme Court Rules

<http://court.nol.org/rules/>

Nebraska Rules and Regulations

<http://www.sos.state.ne.us/business/regsearch/>

Iowa Judiciary

<http://www.judicial.state.ia.us/>

Iowa Judicial Branch Website

<http://www.judicial.state.ia.us/contents/index.asp?printable=True>

Iowa Code

<http://www.legis.state.ia.us/IACODE/>

Iowa Court Rules

<http://www.legis.state.ia.us/Rules2.html>

Iowa Administrative Code

<http://www.legis.state.ia.us/IAC.html>

Missouri Judiciary

<http://www.osca.state.mo.us/>

Missouri Revised Statutes

<http://www.moga.state.mo.us/STATUTES/STATUTES.HTM>

Missouri Court Rules

<http://www.courts.mo.gov/sup/index.nsf/d45a7635d4bfdb8f8625662000632638/c06ebdca9396f40f86256769005830c8?OpenDocument>

Missouri Administrative Code

<http://www.sos.mo.gov/adrules/csr/csr.asp>

Arkansas Judiciary

<http://courts.state.ar.us/>

Arkansas Code

<http://www.arkleg.state.ar.us/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code>

Arkansas Court Rules

<http://courts.state.ar.us/rules/index.html>

**Materials: Publishers, Publications and Book Resources**

Nolo.com (Self described provider of do-it-yourself legal solutions) Publishers of:

<http://www.nolo.com/>

***Represent Yourself in Court: How to Prepare and Try a Winning Case*** 2003

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.nolo.com/product.cfm/ObjectID/3731D4E8-C4D8-4A98-88680150520FAEDB/104/>

**Lawsuit Survival Guide 2001**

(KF8863 .M28 2001 held by St. Louis)

<http://www.nolo.com/product.cfm/ObjectID/2FCF5FBA-626B-4F3E-A25A847FC887A2AB/104/308/184/>

**Nolo Estate Planning Basics 2005**

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.nolo.com/product.cfm/ObjectID/BA76E59D-DB2E-4EB9-8782E5E55E0CE9CB/catid/FD1795A9-8049-422C-9087838F86A2BC2B/309/>

**Nolo's Simple Will Book 2005**

(KF755 .Z9 C54 2005 held by Fargo)

<http://www.nolo.com/product.cfm/ObjectID/00A94E61-BCE4-4B4B-805807081D655236/catid/FD1795A9-8049-422C-9087838F86A2BC2B/309/>

**Nolo's Pocket Guide to Family Law 4<sup>th</sup> 1996 available through Amazon**

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.amazon.com/gp/product/0873373227/002-0470443-6108010?v=glance&n=283155&n=507846&s=books&v=glance>

**How to Research a Legal Problem: A Guide for Non-Lawyers from AALL**

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.aallnet.org/sis/lisp/research.htm>

**Oceana's Law for the Layperson: Self-Help Legal Almanac Series: listing**

(KF9367 .Z9 J38 2002 Identity theft and how to protect yourself - held by Des Moines )

(KF4865 .Z9 J37 1998 Religion and the law - held by Des Moines )

(KF9304 .J37 1998 The law of violence against women - held by Des Moines )

(KF9227 .C2 J37 1998 The law of capital punishment - held by Des Moines )

[http://www.oceanalaw.com/main\\_Subject\\_list.asp?ID=28](http://www.oceanalaw.com/main_Subject_list.asp?ID=28)

**ABA's Guide to Wills and Estates 2<sup>nd</sup>, (ABA) 2004**

(KF755 .Z9 A376 2004 held by Fargo; Little Rock has 2000 ed)

[http://www.abanet.org/abastore/index.cfm?section=Main&fm=static&url=http://www.abanet.org/abastore/front\\_end/static/home\\_page.html&r=1](http://www.abanet.org/abastore/index.cfm?section=Main&fm=static&url=http://www.abanet.org/abastore/front_end/static/home_page.html&r=1)

**Patents Guides by U.S. Dept. of Commerce**

<http://www.uspto.gov/web/patents/guides.htm>

<http://www.uspto.gov/web/offices/pac/doc/general/index.html>

**Patent Pro Se: The Entrepreneur's Guide to Provisional Patent Applications**

(Updated for 2006 – Audio & Data CD's included) by John Ferrell, Esq.

Baywater Publishing

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.baywaterpublishing.com/about/>

***Family Lawyer*** software from Parsons Technology, 2004 Review here. Available from Broderbund

(Software not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.legalhelp.org/public/reviews.php>

- <http://www.broderbund.com/jump.jsp?itemID=398&mainPID=398&itemType=PRODUCT&RS=1&keyword=family+law>

***Practical Divorce Solutions*** by Ed Sherman, Esq. Review here. Nolo Press Occidental 1994 available through Amazon.com

(Not held in 8<sup>th</sup> Circuit as of 11/17/05)

<http://www.legalhelp.org/public/reviews.php>

<http://www.nolotech.com/>

<http://www.amazon.com/gp/product/0944508138/002-0470443-6108010?v=glance&n=283155&%5Fencoding=UTF8&me=ATVPDKIKX0DER&no=283155&st=books>

\*May It Please the Court: Strategies for Discovering SRL Services Judges Crave," Program A3, Sunday, July 17, 2005, 10a.m. - 11:30a.m., a panel with the Hon. Thomas T. C. Campbell; the Honorable Dan R. Price II; the Honorable Edward Toussaint, Jr.; D. Jason Raymond, Moderator. AALL Conference, San Antonio, Texas.

# SCHEDULE OF FEES

Rev. 10/4/2005

## Filing Fees

Civil Cases	\$250.00
Habeas Corpus	\$ 5.00
Notice of Appeal	\$255.00
Miscellaneous Cases	\$ 39.00

## Miscellaneous Court Fees

Pro Hac Vice	\$ 75.00
Admission to the Bar	\$150.00
Certificate of Good Standing	\$ 15.00
Copies created from public terminals (per page)	\$ .10
Copies (per page)	\$ .50
Certification	\$ 9.00
Exemplifications	\$ 18.00
Searches/Name/Case	\$ 26.00
Retrieval per Case	\$ 45.00
Fax Fee: 1-9 Pages	\$ 3.00
10 + pages	\$ 5.00
Tape Duplication	\$ 26.00
Microfilm/Fiche of Court Record	\$ 5.00
Returned Check	\$ 45.00
28:1821 Witness Fee	\$ 40.00 per day
	\$ .44 1/2 Cents
	Per mile - Round Trip

## **FEE SCHEDULE UPDATED 1/11/2006**

**New Civil Case: 510000-\$190.00/086900 \$60.00=\$250.00 (\$150.00 prior to 2/7/05)**

**New Habeas Case: 086900 = \$5.00**

**New Misc Case: 086900-\$20.00/510000-\$19.00 = \$39.00**

**Notice of Appeal: 086900 = \$255.00**

**Pro Hac Vice: 6855XX = \$75.00 per attorney**

**Admission: 085000-\$20.00/510000-\$130.00 = \$150.00**

**Copy Fee Per Page: 322350 = \$.50**

**CVB = 504100**

**Postage: 322360**

**Fax: 322360 = 1-9 Pages \$3.50**

**Court House Parking: 05-092000**

**10+Pages \$5.00**

**Marshal Sale: 604700**

**Search/Name/Case: 322360-\$15.00/510000-\$11.00 = \$26.00**

**Certification: 322360-\$5.00/510000-\$4.00 = \$9.00**

**Retrieval Per Case: 322360-\$25.00/510000-\$20.00 = \$45.00**

**Tape Duplication: 322350-\$15.00/510000-\$11.00 = \$26.00**

**Microfile/Fiche of Court Record: 322350-\$3.00/510000-\$2.00 = \$5.00**

**Exemplifications: 322360-\$10.00/510000-\$8.00 = \$18.00**

**Returned Check: 322360-\$25.00/510000-\$20.00 = \$45.00**

**Certificate of Good Standing: 510000-\$10.00/085000-\$5.00 = \$15.00**

**Civil Witness fee - Juror fee = \$40.00 per day; mileage .44.5 as of 1/1/06**



LEONIDAS RALPH MECHAM  
Director

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

GLEN K. PALMAN  
Chief

CLARENCE A. LEE, JR.  
Associate Director

WASHINGTON, D.C. 20544

Bankruptcy Court  
Administration Division

March 8, 2006

MEMORANDUM TO ALL: CLERKS, UNITED STATES BANKRUPTCY COURTS

SUBJECT: Filing Fee Changes

I am writing to give you an update on the Deficit Reduction Act of 2005 (Pub.L. 109-171). This law was enacted on February 8, 2006 and includes several changes to the filing fees. These fee increases will take effect for all new cases filed 60 days from enactment of the bill. Thus, the increases will apply to all new cases filed on or after Sunday, April 9, 2006.

The fee increases are as follows:

**Court of Appeals** : filing fee - increased from \$250 to \$450

**District Court**: civil action filing fee - increased from \$250 to \$350

**Bankruptcy Court**: filing fees<sup>1</sup>

- chapter 7: increased from \$220 to \$245, total fees due at filing \$299<sup>2</sup>
- chapter 13: increased from \$150 to \$235, total fees due at filing \$274

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<sup>1</sup> It appears that Congress intended to increase chapter 11 filing fees as well, from \$1,000 to \$2,750, which would raise the total fees due at filing to \$2,789. However, there is a drafting error in the bill which incorrectly references the statutory subsection prescribing the chapter 9 fee, rather than the chapter 11 fee. Thus, the chapter 11 fee, at this time, is unaltered. We will keep you apprised of Congress's actions to address this drafting error.

<sup>2</sup> The bankruptcy fee increases affect only the statutory chapter filing fees; all other fees collected at filing, such as the \$39 miscellaneous fee in all chapters and the \$15 trustee fee in chapter 7 cases, remain unchanged.

Although not mentioned in the Act, the fee to convert a chapter 7 or chapter 13 case to a chapter 11 case, as prescribed by 28 U.S.C. § 1930 (a), must be recalculated based upon the increase in chapter 7 and 13 filing fees.<sup>3</sup>

The incremental amounts collected under all of these increases shall be deposited into a special fund in the Treasury to be established after the enactment of the act. The amounts that are currently deposited into the four existing funds (Judiciary, U.S. Trustee, Case Trustee, Treasury) will not be changed by the fee increases. You will receive additional information about the new Treasury fund into which these fee increases will be deposited at a later date, along with other information on implementing the fee increases and revised fee schedules.

With respect to the bankruptcy courts, all of these fee increases impact certain fees in the Bankruptcy Court Miscellaneous Fee Schedule linked to statutory filing fees.<sup>4</sup> The Court Administration and Case Management Committee, in conjunction with the Bankruptcy Committee, has requested the increases in miscellaneous fees be stayed until the Committees have had a chance to review these increases at their June meetings. This request is currently under consideration by the Judicial Conference on its March consent calendar. (As you know, Conference agendas are not public record until the Conference has met, so we ask that you not share this information with your local bar or the public until after the Conference meets next week.)

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<sup>3</sup> “For converting, on request of the debtor, a case under chapter 7, or 13 of title 11, to a case under chapter 11 of title 11, the debtor shall pay to the clerk of the . . . court . . . a fee of the amount equal to the difference between the fee specified in paragraph (3) and the fee specified in paragraph . . .” (a)(1)(A) and (a)(1)(B). 28 U.S.C. § 1930 (a).

<sup>4</sup> The miscellaneous fees that are potentially affected are: **Item 6**: The adversary filing fee, which is linked to the civil action filing fee; **Item 11**: The reopening fee, which is the same as the statutory filing fee for the chapter under which the case was originally commenced; **Item 15**: The fee for docketing an appeal, which is linked to the fee for filing an appeal in the Court of Appeals; **Item 19**: The fee for splitting a joint case, which is linked to the current filing fee for the chapter under which the case was originally commenced; and **Item 21**: The fee for docketing a cross appeal, which is linked to the fee for filing an appeal in the Court of Appeals. In addition, if Congressional action is taken to increase the filing fee for a chapter 11 (as discussed in fn. 1), **Item 16**, which links the chapter 15 filing fee to the fee for filing a chapter 11, would also be affected.

Finally, while some of you may be aware that there have some constitutional issues raised with respect to the Act because the House and the Senate passed slightly different versions of the bill,<sup>5</sup> absent further action, the statutory fee increases mandated by the Act will go into effect on April 9.

If you have any questions, please call Mary Louise Mitterhoff or Mary Fritsche at (202) 502-1550.



Glen K. Palman

cc: Chief Judges, United States Bankruptcy Courts

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<sup>5</sup> There has been a case filed in the District Court for the Southern District of Alabama, challenging the constitutionality of the Act on these grounds.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA

**GUIDE FOR FILING FEDERAL CIVIL SUITS**

(Pro Se-Party not being represented by an attorney)

Item	Requirements
<b>Civil Cover</b>	One original is required. Please insert county of plaintiff. If the United States is the plaintiff, please insert county of defendant. The "Cause of Action" section must be completed with the proper code. A detailed listing of the "Cause of Actions Codes" are available on this Court's website under "Forms/Publications"
<b>Summons</b>	Original plus two summons for each party to be served. Exception: IF ANY AGENT OR AGENCY OF THE U.S. GOVERNMENT NAMED, TWO COPIES PLUS ONE FOR EACH NAMED DEFENDANT ARE REQUIRED. The Government is exempt from service by waiver of service of summons. Service is effected by certified or registered mail
<b>or</b>	
<b>Waiver of Service of Summons Form</b>	Two completed waivers for each party to be served.
<b>Complaint</b>	The original and a complete conformed copy, together with exhibits, if any for each defendant to be served are required.
<b>Signature</b>	The complaint and all original pleadings must be signed by the party filing the complaint, with a complete address and telephone number.
<b>Service</b>	See F.R.C.P. 4 Service may be made in accordance with Rule. Except for extra-ordinary circumstances, the Marshal shall decline to serve process in the absence of a special order of the court.
<b>Court Fees</b>	The fee for filing a new civil case is \$350.00 (whether Complaint or Petition for Removal). Payment can be made by cash, money order, check, payable to the "Clerk, U.S. District Court or by credit card. Please see this Court's website for a Credit Card Authorization Form.

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b>  <b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) _____	<b>DEFENDANTS</b>  County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known) _____
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated 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>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**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	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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**VI. CAUSE OF ACTION**

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

Brief description of cause: \_\_\_\_\_

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$** \_\_\_\_\_

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

**VIII. RELATED CASE(S) IF ANY** (See instructions):

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

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

**FOR OFFICE USE ONLY**

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

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

### Authority For Civil Cover Sheet

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

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

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

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

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

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

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UNITED STATES DISTRICT COURT

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

**SUMMONS IN A CIVIL ACTION**

V.

CASE NUMBER:

TO: (Name and address of Defendant)

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within \_\_\_\_\_ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(By) DEPUTY CLERK

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:  <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:  <input type="checkbox"/> Returned unexecuted:  <input type="checkbox"/> Other (specify):		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p style="text-align: center;">I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____  <span style="margin-left: 100px;">Date</span> <span style="margin-left: 200px;">Signature of Server</span></p> <p style="text-align: center;">_____  <span style="margin-left: 100px;">Address of Server</span></p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

(This form is intended to be used by persons who are not represented by an attorney. The form should NOT be used by a prisoner who is filing a complaint under the Civil Rights Act, 42 U.S.C. § 1983. A separate form is obtainable for prisoners.)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

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(Enter above the **FULL** name of each plaintiff in this action)

vs.

COMPLAINT

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(Enter above the **FULL** name of each defendant in this action)

**Parties**

(In item A below, place your name in the first blank and place your present address and phone number in the second blank. In the third blank write the state where your home is ("Home State"). In item B below, do the same for additional plaintiffs, if any.)

A. Name of Plaintiff \_\_\_\_\_  
Address & Phone number \_\_\_\_\_  
Home State \_\_\_\_\_

B. Additional Plaintiffs (include addresses, phone numbers and home states)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(In item C below, place the **FULL** name of the defendant in the first blank place the address and phone number for the defendant in the second blank. In the third blank , write the state in which the defendant has his/her home. If the defendant is a corporation, list the location of its home office, and the state where it is incorporated, if known. If the defendant is a government agency, simply name it. In item D, do the same for additional defendants, if any.)

C. Name of defendant \_\_\_\_\_  
Address & Phone number \_\_\_\_\_  
Home State \_\_\_\_\_

D. Additional Defendants (include addresses, phone numbers and home states)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Relief**

(State briefly **EXACTLY** what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

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**Signature(s) of Plaintiff(s)**

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

\_\_\_\_\_  
(Signature of Plaintiff)

\_\_\_\_\_  
(Area code) Phone Number

Signatures and phone numbers of additional plaintiffs, if any:

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### 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) \_\_\_\_\_ District of \_\_\_\_\_ 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 \_\_\_\_\_ District of \_\_\_\_\_.

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.

UNITED STATES DISTRICT COURT

District of

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER:

I, \_\_\_\_\_ declare that I am the (check appropriate box)

petitioner/plaintiff/movant  other

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

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

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

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

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

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

2. Are you currently employed?  Yes  No

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

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

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

- a. Business, profession or other self-employment  Yes  No
b. Rent payments, interest or dividends  Yes  No
c. Pensions, annuities or life insurance payments  Yes  No
d. Disability or workers compensation payments  Yes  No
e. Gifts or inheritances  Yes  No
f. Any other sources  Yes  No

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

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

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

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

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

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

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

---

Date

Signature of Applicant

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

**RULES OF CIVIL PROCEDURE**  
**FOR THE**  
**UNITED STATES DISTRICT COURTS<sup>1</sup>**

Effective September 16, 1938, as amended to December 31, 2004

I. SCOPE OF RULES—ONE FORM OF ACTION

**Rule 1. Scope and Purpose of Rules**

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

(As amended Dec. 29, 1948, eff. Oct. 20, 1949; Feb. 28, 1966, eff. July 1, 1966; Apr. 22, 1993, eff. Dec. 1, 1993.)

**Rule 2. One Form of Action**

There shall be one form of action to be known as “civil action.”

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS,  
PLEADINGS, MOTIONS, AND ORDERS

**Rule 3. Commencement of Action**

A civil action is commenced by filing a complaint with the court.

**Rule 4. Summons**

(a) FORM. The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) ISSUANCE. Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) SERVICE WITH COMPLAINT; BY WHOM MADE.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a sum-

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<sup>1</sup>Title amended December 29, 1948, effective October 20, 1949.

mons and complaint within the time allowed under subdivision (m) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. §1915 or is authorized to proceed as a seaman under 28 U.S.C. §1916.

(d) WAIVER OF SERVICE; DUTY TO SAVE COSTS OF SERVICE; REQUEST TO WAIVE.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subdivision (h);

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which the request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that

date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subdivision (e), (f), or (h), together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(e) SERVICE UPON INDIVIDUALS WITHIN A JUDICIAL DISTRICT OF THE UNITED STATES. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States:

(1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or

(2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(f) SERVICE UPON INDIVIDUALS IN A FOREIGN COUNTRY. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(g) SERVICE UPON INFANTS AND INCOMPETENT PERSONS. Service upon an infant or an incompetent person in a judicial district of the United States shall be effected in the manner prescribed by the law of the state in which the service is made for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state. Service upon an infant or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (f) or by such means as the court may direct.

(h) SERVICE UPON CORPORATIONS AND ASSOCIATIONS. Unless otherwise provided by federal law, service upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected:

(1) in a judicial district of the United States in the manner prescribed for individuals by subdivision (e)(1), or by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant, or

(2) in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (f) except personal delivery as provided in paragraph (2)(C)(i) thereof.

(i) SERVING THE UNITED STATES, ITS AGENCIES, CORPORATIONS, OFFICERS, OR EMPLOYEES.

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

(2)(A) Service on an agency or corporation of the United States, or an officer or employee of the United States sued only in an official capacity, is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

(B) Service on an officer or employee of the United States sued in an individual capacity for acts or omissions occurring in connection with the performance of duties on behalf of the United States—whether or not the officer or employee is sued also in an official capacity—is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by serving the officer or employee in the manner prescribed by Rule 4(e), (f), or (g).

(3) The court shall allow a reasonable time to serve process under Rule 4(i) for the purpose of curing the failure to serve:

(A) all persons required to be served in an action governed by Rule 4(i)(2)(A), if the plaintiff has served either the United States attorney or the Attorney General of the United States, or

(B) the United States in an action governed by Rule 4(i)(2)(B), if the plaintiff has served an officer or employee of the United States sued in an individual capacity.

(j) SERVICE UPON FOREIGN, STATE, OR LOCAL GOVERNMENTS.

(1) Service upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. §1608.

(2) Service upon a state, municipal corporation, or other governmental organization subject to suit shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

(k) TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

(1) Service of a summons or filing a waiver of service is effective to establish jurisdiction over the person of a defendant

(A) who could be subjected to the jurisdiction of a court of general jurisdiction in the state in which the district court is located, or

(B) who is a party joined under Rule 14 or Rule 19 and is served at a place within a judicial district of the United States and not more than 100 miles from the place from which the summons issues, or

(C) who is subject to the federal interpleader jurisdiction under 28 U.S.C. §1335, or

(D) when authorized by a statute of the United States.

(2) If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

(l) PROOF OF SERVICE. If service is not waived, the person effecting service shall make proof thereof to the court. If service is made by a person other than a United States marshal or deputy United States marshal, the person shall make affidavit thereof. Proof of service in a place not within any judicial district of the United States shall, if effected under paragraph (1) of subdivision (f), be made pursuant to the applicable treaty or convention, and

shall, if effected under paragraph (2) or (3) thereof, include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

(m) **TIME LIMIT FOR SERVICE.** If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

(n) **SEIZURE OF PROPERTY; SERVICE OF SUMMONS NOT FEASIBLE.**

(1) If a statute of the United States so provides, the court may assert jurisdiction over property. Notice to claimants of the property shall then be sent in the manner provided by the statute or by service of a summons under this rule.

(2) Upon a showing that personal jurisdiction over a defendant cannot, in the district where the action is brought, be obtained with reasonable efforts by service of summons in any manner authorized by this rule, the court may assert jurisdiction over any of the defendant's assets found within the district by seizing the assets under the circumstances and in the manner provided by the law of the state in which the district court is located.

(As amended Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; Apr. 29, 1980, eff. Aug. 1, 1980; Jan. 12, 1983, eff. Feb. 26, 1983; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 17, 2000, eff. Dec. 1, 2000.)

#### **Rule 4.1. Service of Other Process**

(a) **GENERALLY.** Process other than a summons as provided in Rule 4 or subpoena as provided in Rule 45 shall be served by a United States marshal, a deputy United States marshal, or a person specially appointed for that purpose, who shall make proof of service as provided in Rule 4(l). The process may be served anywhere within the territorial limits of the state in which the district court is located, and, when authorized by a statute of the United States, beyond the territorial limits of that state.

(b) **ENFORCEMENT OF ORDERS: COMMITMENT FOR CIVIL CONTEMPT.** An order of civil commitment of a person held to be in contempt of a decree or injunction issued to enforce the laws of the United States may be served and enforced in any district. Other orders in civil contempt proceedings shall be served in the state in which the court issuing the order to be enforced is located or elsewhere within the United States if not more than 100 miles from the place at which the order to be enforced was issued.

(As added Apr. 22, 1993, eff. Dec. 1, 1993.)

#### **Rule 5. Service and Filing of Pleadings and Other Papers**

(a) **SERVICE: WHEN REQUIRED.** Except as otherwise provided in these rules, every order required by its terms to be served, every