

INFORMATION SHEET FOR PRO SE LITIGANTS

UNITED STATES DISTRICT COURT DISTRICT OF NORTH DAKOTA

Office of the Clerk of Court
220 East Rosser Avenue, Room 476
Post Office Box 1193
Bismarck, North Dakota 58502-1193

Office of the Clerk of Court
655 First Avenue North, Suite 130
Fargo, North Dakota 58102-4932

Telephone: (701) 530-2300

Telephone: (701) 297-7000

GENERAL INFORMATION

1. You are responsible for complying with the Federal Rules of Civil Procedure and the Local Rules of Court. Legal research sources are listed on the following page.
 2. Employees of the court are not permitted to give you legal advice. Legal Aid and attorney referral services are listed on the following page.
 3. You are responsible for paying court fees: \$400 for filing a civil action; \$505 for filing an appeal; \$.50 per page for copying.
 4. All communications to the court should be in writing and directed to the Clerk of Court at an address listed above. You should not directly contact a Judge or chamber's staff.
 5. Before filing a civil action, consider the consequences of losing or filing a frivolous lawsuit. Under limited circumstances the court may order that the losing party pay the attorney's fees and costs incurred by the winning party to defend a civil action.
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TO FILE A COMPLAINT

1. Review the Federal Rules of Civil Procedure and Local Rules of Court.
 2. Complete an original signed complaint and file it with the Clerk. Clearly mark whether a jury trial is demanded.
 3. Complete a cover sheet (Form JS-44) and attach it to the complaint.
 4. Send the filing fee or complete an Application to Proceed Without Prepayment of Fees and file it with the Clerk.
 5. The Clerk will issue a Summons, Notice of Lawsuit/Request for Waiver of Service (Form AO-398), and Waiver of Service of Summons (Form AO-399) for each defendant. See Rule 4(d) of the Federal Rules of Civil Procedure.
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SERVICE OF SUMMONS AND COMPLAINT

1. Review Rule 4 of the Federal Rules of Civil Procedure and Rule 4.1 of the District of North Dakota's Civil Local Rules. For service upon the United States of America, Review Rule 4 (i) of Federal Rules of Civil Procedure.
2. File the original summons with return of service with the Clerk.
3. File the return receipt (green card) and a Certificate of Service with the Clerk, if service by certified mail.

REFERENCES

1. Libraries

The following libraries are open to the public for legal research.

Bismarck:

State Supreme Court Law Library

Fargo/Moorhead:

State Supreme Court Law Library

Minnesota State University-Moorhead, Moorhead, MN

Clay County Courthouse, Moorhead, MN

Minot:

Minot State University

Minot Public Library

Grand Forks:

University of North Dakota Law Library

Grand Forks County Courthouse

2. Organizations

The following organizations offer legal services.

Legal Services of North Dakota: 1-800-634-5263

Legal Services of Northwest Minnesota: 1-800-233-8585

Lawyer Referral and Information Service: 1-866-450-9579
State Bar Association of North Dakota

3. **Black's Law Dictionary** is a helpful resource to define legal terms you may encounter in the Federal District Court. This dictionary can be found at most major libraries.

4. Internet Resources

The following internet websites may be useful for legal research. Many public libraries provide internet access to the public.

www.sband.org Lawyer referral service of State Bar Association of North Dakota

www.legalassist.org Legal Services of North Dakota

www.ndcourts.gov/Research North Dakota Supreme Court: Research

www.uscourts.gov/UFC99.pdf Publication: Understanding the Federal Courts

www.ndd.uscourts.gov US District Court website contains links for Federal Rules of Civil Procedure, Federal Rules of Evidence, United States Code, Local Rules of Court, forms and information.

TERMS YOU MAY ENCOUNTER WHEN FILING A CIVIL ACTION

(See Black's Law Dictionary for additional terms)

Amendment	Correction of an error in any pleading or legal document.
Answer	Formal written statement made by a defendant in the civil action which answers each allegation contained in the complaint.
Certificate of Service	Document evidencing delivery of a legal document to a party.
Civil action	Every lawsuit other than a criminal action; an action brought by a party to enforce or protect a private right.
Complaint	Legal document that begins a civil action. It states the facts and identifies the action the court is asked to take.
Costs	Expense of prosecuting or defending a civil action, other than attorneys fees.
Defendant	Person defending a civil action.
Dismissal	Termination of a civil action, either with or without prejudice.
Diversity of Citizenship	Condition when the party of one side of civil action is a citizen of one state and the other party is a citizen of another state; may be basis for federal court jurisdiction if dollar amount in controversy is met (\$75,000).
Federal Question	Legal issue involving the interpretation and application of the U.S. Constitution, an act of Congress, or a treaty; may be basis for federal court jurisdiction.
Federal Rules of Civil Procedure	Rules governing civil actions in federal courts. Abbreviated as Fed. R. Civ. P. or FRCP. The appendix to the Rules contains many sample forms.
Federal Rules of Evidence	Rules governing the admissibility of evidence at trials in federal courts. Abbreviated as Fed. R. Evid. or FRE.
In Forma Pauperis	Permission given by the court to a person to sue without prepayment of fees. Abbreviated as IFP.
Jurisdiction	Power or authority of the Court to hear and decide a case.
Jury Trial Demand	Formal request to the court for a trial by jury; right to jury trial may be waived if demand not made promptly.
Local Rules	Rules of procedure for U.S. District Court, North Dakota.
Parties	Persons or entities who prosecute or defend a civil action.
Plaintiff	Person prosecuting a civil action.
Pro Se	Prosecuting or defending a civil action without the assistance of an attorney.
Service of process	Delivery of legal documents to a party to furnish reasonable notice of proceedings and afford opportunity to appear and be heard.
Summons	Document notifying defendant that a civil action has begun and that defendant is required to appear and answer the complaint.
United States Code	Federal statutory law published as multi-volume code. Abbreviated as U.S.C.
Venue	Geographical location where a civil action is tried.

II. PLAINTIFF. For each Plaintiff list: name and address including City, County and State.

III. DEFENDANT. For each Defendant list: name and address including City, County and State.

IV. CLAIM. State the facts of your claim. Include the name of each person involved, dates and places. Be as specific as possible. Do not give any legal argument or cite any cases or statutes. Use additional sheets of paper if necessary.

V. ADMINISTRATIVE PROCEDURES. If applicable, state whether your claim was heard by any administrative agencies; the type of proceedings; the date and place of any proceedings; the outcome of any administrative proceedings.

VI. RELIEF. State what you want the Court to do for you.

VII. SIGNATURE. Each Plaintiff must individually sign this complaint.

Signed this _____ day of _____, 2_____.

Signature of Plaintiff

Signature of Plaintiff

Printed Name of Plaintiff

Printed Name of Plaintiff

Mailing Address

Mailing Address

City, State, Zip Code

City, State, Zip Code

Telephone Number of Plaintiff

Telephone Number of Plaintiff

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

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

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

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<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	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		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 (Place an "X" in One Box Only)

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

VI. CAUSE OF ACTION

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

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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

UNITED STATES DISTRICT COURT

for the

_____ District of _____

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

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

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

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

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

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

My take-home pay or wages are: \$ _____ per (*specify pay period*) _____ .

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

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

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

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

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

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

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

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

Date: _____

Applicant's signature

Printed name

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Plaintiff(s),

CERTIFICATE OF SERVICE

v.

Case No .

Defendant(s).

I hereby certify that an exact copy of the following document(s) was served upon all attorneys of record or upon all parties, if not represented by an attorney, by placing a copy in the United States Mail, postage prepaid, and mailing to their last known address.

Document(s) sent:

Names & Addresses to which the document(s) was sent:

Dated:

Signature of Plaintiff