



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

GUIDE FOR FILING FEDERAL CIVIL SUITS

The following information explains court procedures and requirements. Each case filed with the Court is unique and must satisfy certain legal standards. You should not rely on this information to identify those standards. You should be especially mindful that there are certain time limits within which lawsuits must be brought, or in which to answer lawsuits brought by others. Failure to observe those time limits could be prejudicial and may result in the case being dismissed or otherwise decided against you.

To initiate a civil action in this Court, you must complete the following documents and submit them to the Clerk of Court for filing:

COMPLAINT

A guide for preparing your complaint is enclosed. Make sure to follow these guidelines:

- complete all forms as thoroughly as possible
- use letter size paper only (8 1/2 x 11)
- sign all documents
- send the original and one copy for each named defendant
- do not use staples
- do not use pencil: use black or blue pens only
- do not bind documents
- write only on the fronts of documents, do not write on the backs of documents

Set up your complaint in the manner shown below, using the heading of the court at the top as shown, naming the parties (plaintiff vs. defendant) and stating in the body of the complaint your claim and demand for relief. Sign and date the complaint at the end. Complaints against state personnel are filed under 42 U.S.C. § 1983; complaints against federal personnel are filed under 28 USC 1331b and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). **Do NOT use 42 U.S.C. § 1983 to apply for a writ of habeas corpus or to challenge the sentence you received in state or federal court.**

SUMMONS

The rules require that the Clerk of Court issue the Summons, but you should prepare the summons and submit the original and two copies to the court, plus an additional copy for each defendant, for issuance by the Clerk. If you are suing an agency for the government, submit an original and six (6) copies. Some forms are enclosed for your use.

FILING FEE, APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

The FILING FEE for filing a civil action in federal court is \$400.00 (money order or credit card only; no cash or personal checks accepted; make money order payable to “Clerk, U.S. District Court”). However, if you qualify, you may be allowed to proceed without prepaying the filing fee. If you feel you cannot afford to pay the fee, complete the Application to Proceed Without Prepayment of Fees and Affidavit form and submit it to the Clerk of Court, who will submit your application to the Court for a ruling. If you are allowed to proceed without prepayment of fees, your complaint will be filed. If your application is denied, you must pay your filing fee before your complaint will be filed. Be sure to complete this form, answering all questions in detail, or it will be returned to you for completion.

CIVIL COVER SHEET

This form’s purpose is to give the Court an overview of the basis for your civil action. Please complete each box as it applies to your case and submit the original to the Court with the complaint, summons, and Application to Proceed In Forma Pauperis (if applicable).

SCREENING

If your application to proceed without prepayment of fees is granted, your complaint will be screened to determine if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks relief against a defendant who is immune from such relief. If it is determined that your complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks relief against a defendant who is immune from such relief, your complaint will be dismissed and the summons will not be issued.

SERVICE OF THE SUMMONS AND COMPLAINT

If you pay the required filing fee and file your complaint with the Clerk's Office (Clerk) , the summons will be issued (signed and sealed by the Clerk). You must arrange for SERVICE of the summons and complaint on each defendant in the case. You must have the defendant(s) served in accordance with Rule 4 of the Federal Rules of Civil Procedure. Once you have served the defendant(s), you must file with the Clerk proof of service using the Return of Service section of the summons form.

After completing the complaint and all applicable forms, proofread them to ensure compliance with all instructions. Return the completed forms and the correct number of copies to the appropriate point of holding court:

Clerk, U.S. District Court
PO Box 2857
Clarksburg, WV 26302

Clerk, U.S. District Court
PO Box 471
Wheeling, WV 26003

Clerk, U.S. District Court
217 W. King St., Room 102
Martinsburg, WV 25401

Clerk, U.S. District Court
PO Box 1518
Elkins, WV 26241

FILING DOCUMENTS AFTER SERVICE HAS BEEN ISSUED

Documents filed with the Clerk of Court after the service has been issued on the defendants must be filed with the Court in writing in the form of a pleading, e. g.: motion, notice, memorandum, etcetera.

You must serve the defendant(s) or defense counsel with a copy of every pleading, letter, or other document submitted for consideration by the Court. The original of all documents filed with the Clerk should have a “Certificate of Service” (attached).

Any pleading or other document submitted to the Clerk of Court for filing which does not bear a proper Certificate of Service may be returned to the submitting party. All instruments (pleadings, letters, motions, or other documents) pertaining to your case must be signed by all plaintiffs and must state the civil action number (case number). All documents and correspondence submitted to the Clerk of Court should be on letter-sized paper (8 ½ x 11 inches). Please do not use legal-size (8 ½ x 14 inches) paper. Always submit two additional copies with the original of any document to the Clerk of Court for its files.

IMPORTANT ADDITIONAL INFORMATION

1. IF YOU DO NOT KEEP THE COURT ADVISED OF YOUR CURRENT ADDRESS, YOUR CASE MAY BE DISMISSED FOR WANT OF PROSECUTION.
2. It is improper to communicate directly with Judges or Magistrate Judges concerning matters that may become a subject in their Court.
3. It is improper for the Clerk, Judges, or Magistrate Judges to give legal advice to litigants.

Thank you in advance for your cooperation regarding these instructions.

AT THE DIRECTION OF THE COURT

Cheryl Dean Riley, Clerk

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

(The following is a guide for preparing your complaint)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Plaintiff,

C O M P L A I N T

v.

CIVIL ACTION NO. _____

Defendant(s)

Paragraph 1: Jurisdiction

Paragraph 2, etc. : Short and plain statement of the claim showing that the pleader is entitled to relief.

Final paragraph: Demand for judgment for the relief to which the party deems himself entitled.

Plaintiff, Pro Se

Date

NOTE: This form is ONLY A GUIDE; do NOT fill it in. Use a plain sheet of 8 ½ x 11 inch paper and set up your complaint in this format. In Paragraph 1, state the reason that you believe the Federal Court has jurisdiction of the matter about which you are filing your complaint. In paragraph 2, state the problem or the thing about which you are complaining and why you think you are entitled to relief or redress. In the last paragraph, state the amount of damages or the kind of relief to which you think you are entitled. Please type or legibly hand write your complaint. Do not use a pencil to hand write your complaint. DOUBLE-SPACE your complaint, and submit the original and two copies to the Clerk of Court, plus one additional copy for each defendant to be served.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Plaintiff,

v.

Civil Action No.: _____

Defendant(s)

Certificate of Service

I, (your name here), appearing pro se, hereby certify that I have served the foregoing (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on (insert date here):

(List name and address of counsel for defendant(s))

(sign your name)

UNITED STATES DISTRICT COURT
Northern District of West Virginia

Plaintiff,

V.

APPLICATION TO PROCEED WITHOUT
PREPAYMENT OF FEES AND
AFFIDAVIT

CASE NUMBER:

Defendant.

**YOU MUST COMPLETE THIS FORM FOR YOU, YOUR SPOUSE AND ALL
PERSONS OVER 18 LIVING IN THE RESIDENCE WHERE YOU LIVE**

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my action or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: _____

Instructions

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

Date: _____

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

Income Source	Average Monthly Amount during the past 12 months			Amount expected next month		
	You	Spouse	Other Adult*	You	Spouse	Other Adult*
Employment	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Self-Employment	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

* Other adult living where you reside

Alimony	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (social security, pensions, annuities, insurance, etc.)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Disability (social security, insurance payments, etc.)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Public-Assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify):	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

2. List your employment history with most recent employer first (Gross monthly pay is before taxes or other deductions).

Employer	Address	Dates of Employment	Gross Monthly Pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history with most recent employer first (Gross monthly pay is before taxes or other deductions).

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

4. How much cash do you and your spouses have? \$ _____

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

Financial Institution	Type of Account	Amount you have	Amount your spouse has	Amount other adult has*
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____	\$ _____

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

* Other adult living where you reside

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

Home (Value)	Other real estate (Value)	Motor vehicle #1 (Value)
_____	_____	Make & year: _____
_____	_____	Model: _____
_____	_____	Registration #: _____
Motor vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
Make & year: _____	_____	_____
Model: _____	_____	_____
Registration #: _____	_____	_____

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

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Initials	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

	You	Your Spouse	Other adult*
Rent or home mortgage payment (include lot rented for mobile home)	\$ _____	\$ _____	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ _____	\$ _____	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____	\$ _____
Food	\$ _____	\$ _____	\$ _____
Clothing	\$ _____	\$ _____	\$ _____
Laundry and dry cleaning	\$ _____	\$ _____	\$ _____

* Other adult living where you reside

Medical and dental expenses	\$ _____	\$ _____	\$ _____
Transportation (not including motor vehicle payment)	\$ _____	\$ _____	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)	\$ _____	\$ _____	\$ _____
Homeowner's or renter's	\$ _____	\$ _____	\$ _____
Life	\$ _____	\$ _____	\$ _____
Health	\$ _____	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments) (specify): _____	\$ _____	\$ _____	\$ _____
Installment payments			
Motor Vehicle	\$ _____	\$ _____	\$ _____
Credit Card (name): _____	\$ _____	\$ _____	\$ _____
Department Store (name): _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to other	\$ _____	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____	\$ _____

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

Yes No *If yes, describe on an attached sheet*

10. Have you paid-or will you be paying- an attorney any money for services in connection with this case including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid-or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
--	--

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p style="text-align: center;">PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p style="text-align: center;">LABOR</p> <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 <p style="text-align: center;">SOCIAL SECURITY</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p style="text-align: center;">IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<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"/> 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"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 <input type="checkbox"/> 440 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

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

Brief description of cause: _____

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

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

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Brief Description: Unauthorized reception of cable service

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

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

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

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

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

UNITED STATES DISTRICT COURT

for the

_____ District of _____

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

SUMMONS IN A CIVIL ACTION

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

A lawsuit has been filed against you.

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

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

Cheryl Dean Riley, Clerk of Court

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

v.

Case Number: _____

NOTICE OF CHANGE OF ADDRESS AND/OR CONTACT INFORMATION FOR PRO SE LITIGANTS

(Note: You must keep your contact information (address and phone number) current with the Court. The Court and opposing counsel will send orders, correspondence, motions, pleadings, notices, etc., to the last address filed with the Court in writing. Please file a separate Notice of Change of Address form for each case in which you are involved.)

I hereby notify the Court that my address has changed as follows:

Your name: _____

Old Address: _____

New address: _____

My current telephone number is: _____

I hereby request that copies of any future orders, correspondence, motions, pleadings, notices, etc., be provided to me at this new address.

I will notify the Clerk of Court in writing by filing a new Notice form if my address or telephone number changes.

Date: _____

Signature _____