United States District Court

Southern District Of California
Office Of The Clerk
Edward J. Schwartz Federal Building
880 Front Street
Room 4290
San Diego, California 92101-8900

W. Samuel Hamrick, Jr.
Clerk of Court

Phone: (619) 557-5600
Fax: (619) 702-9900

TO ANY PERSON WISHING TO FILE A COMPLAINT IN THEIR OWN BEHALF

The following instructions have been compiled to assist any person wishing to file a complaint in this court. We have attempted to simplify procedures, however, we cannot and will not act as lawyers nor give advice as counsel. We do not anticipate that these simple procedures will satisfy all needs and the local rules of practice for the U.S. District Court are available for more specific guidance. You should use the local rules along with the Federal Rules of Civil Procedure. The Rules are available at the public or local law library.

PRO SE: In PRO SE status you are representing yourself and acting on your own behalf without counsel. The following requirements must be met in order to file a complaint:

1. Filing Fee: A $150.00 filing fee is required when filing a complaint.

2. Cover Sheet: A civil cover sheet, form JS-44, is required and must be filled out completely. An original is all that is needed for filing.

3. Complaint: The complaint can be typed, printed by hand, or written on 8½" x 11" paper. Your complaint should be legible and clearly stated so that it is easily understood. Clearly set out your grievance against whom and what you would like the Court to do to correct the situation. You should take care in its preparation. For your convenience, a cover page example is included in this package, it is not for any use other than format. An original and one copy of the complaint is required for filing. (See Sample #1)

IN FORMA PAUPERIS: If you are granted IN FORMA PAUPERIS status, you can be represented by counsel or act on your own behalf. When filing in this status you are requesting permission from the court to pursue your lawsuit without prepayment of the statutory filing fees. In addition, you may seek authorization from the Court to obtain service of process without prepayment of the U.S. Marshal's fee.

If you are granted In forma pauperis status, a summons will be issued to the U.S. Marshals Office. However, before service is accomplished you are required to complete USM Form 285.

Attached to this package is:

1. Civil Cover Sheet
2. Complaint Cover Sheet. This sample sets out the proper complaint format (Sample #1)
3. Summons in a Civil Action.
4. Request for Appointment of Counsel.
5. Motion and Declaration to Proceed in Forma Pauperis.
6. Amendment to FRCvP 4-Summons
7. Consent to Proceed Before a U.S. Magistrate Judge and Order of Reference

AN ORIGINAL AND ONE COPY OF THE ABOVE PLEADINGS IS REQUIRED FOR FILING
****

Additional Information

At the time of filing your complaint, the Clerk's Office will issue a "Summons in a Civil Action". You are responsible for the service of both your complaint and the summons, with the exception of those proceeding In Forma Pauperis. In addition, you are responsible for the timely movement of your case once it is filed.

It is very important that you provide us with your current address and phone number so the Court can contact you in the event it is necessary to obtain further information or clarification, or advise you of any changes in hearing schedules. If you do not provide us with a contact phone number, the court will not be responsible for untimely notification of emergency changes in hearing schedules.

If you require additional information you may call the Clerk's Office at (619) 557-5600. The Clerk's Office can assist you with procedural questions, but can not give you any legal advice.

Also, enclosed is the amendment to Rule 4 of the Federal Rules of Civil Procedure concerning service of process by certified mail. If you choose to serve process by certified mail, this Rule will help in explaining what is required.

JS44

(Rev. 07/89)

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 SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

9 1U.S. Government Plaintiff

9 3Federal Question (U.S. Government Not a Party)

9 2U.S. Government Defendant

9 4Diversity (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
(For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	9 1	9 1	Incorporated or Principal Place of Business in This State	9 4	9 4
Citizen of Another State	9 2	9 2	Incorporated and Principal Place of Business in Another State	9 5	9 5
Citizen or Subject of a Foreign Country	9 3	9 3	Foreign Nation	9 6	9 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT

9 110 Insurance
9 120 Marine
9 130 Miller Act
9 140 Negotiable Instrument
9 150 Recovery of Overpayment &Enforcement of Judgment
9 151 Medicare Act
9 152 Recovery of Defaulted Student Loans (Excl. Veterans)
9 153Recovery of Overpayment of Veterans Benefits
9 160 Stockholders Suits
9 190 Other Contract
9 195 Contract Product Liability

TORTS

PERSONAL INJURY

9 310 Airplane
9 315 Airplane Product Liability
9 320 Assault, Libel & Slander
9 330 Federal Employers' Liability
9 340 Marine
9 345 Marine Product Liability
9 350 Motor Vehicle
9 355 Motor Vehicle Product Liability
9 360 Other Personal Injury

PERSONAL INJURY

9 362 Personal Injury-Medical Malpractice
9 365 Personal Injury - Product Liability
9 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

9 370 Other Fraud
9 371 Truth in Lending
9 380 Other Personal Property Damage
9 385 Property Damage Product Liability

FORFEITURE/PENALTY

9 610 Agriculture
9 620 Other Food & Drug
9 625 Drug Related Seizure of Property 21 USC881
9 630 Liquor Laws
9 640 RR & Truck
9 650 Airline Regs
9 660 Occupational Safety/Health
9 690 Other

LABOR

9 710Fair Labor Standards Act
9 720 Labor/Mgmt. Relations
9 730 Labor/Mgmt. Reporting & Disclosure Act
9 740 Railway Labor Act
9 790 Other Labor Litigation
9 791 Empl. Ret. Inc. Security Act

BANKRUPTCY

9 422 Appeal 28 USC 158
9 423 Withdrawal 28 USC 157

PROPERTY RIGHTS

9 820 Copyrights
9 830 Patent
9 840 Trademark

SOCIAL SECURITY

9 861 HIA (13958)
9 862 Black Lung (923)
9 863 DIWC/DIWW (405(g))
9 864 SSID Title XVI
9 865 RSI (405(g))

FEDERAL TAX SUITS

9 870 Taxes (U.S. Plaintiff or Defendant)
9 871 IRS - Third Party 26 USC 7609

OTHER STATUTES

9 400 State Reappointment
9 410 Antitrust
9 430 Banks and Banking
9 450 Commerce/ICC Rates/etc.
9 460 Deportation
9 470 Racketeer Influenced and Corrupt Organizations
9 810 Selective Service
9 850 Securities/Commodities Exchange
9 875 Customer Challenge 12 USC
9 891 Agricultural Acts
9 892 Economic Stabilization Act
9 893 Environmental Matters
9 894 Energy Allocation Act
9 895 Freedom of Information Act
9 900 Appeal of Fee Determination Under Equal Access to Justice
9 950 Constitutionality of State
9 890 Other Statutory Actions

REAL PROPERTY

9 210 Land Condemnation
9 220 Foreclosure
9 230 Rent Lease & Eiectmant
9 240 Tort to Land
9 245 Tort Product Liability
9 290 All Other Real Property

CIVIL RIGHTS

9 441 Voting
9 442 Employment
9 443 Housing/Accommodations
9 444 Welfare
9 440 Other Civil Rights

PRISONER PETITIONS

9 510 Motions to Vacate Sentence Habeas Corpus
9 530 General
9 535 Death Penalty
9 540 Mandamus & Other
9 550 Civil Rights
9 555 Prisoner Conditions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

9 1 Original Proceeding 9 2 Removal from State Court 9 3 Remanded from Appelate Court 9 4 Reinstated or Reopened 9 5 Transferred from another district (specify) 9 6 Multidistrict Litigation 9 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: 9 CHECK IF THIS IS A **CLASS ACTION** UNDER f.r.c.p. 23

DEMAND $

Check YES only if demanded in complaint:
JURY DEMAND: 9 YES 9 NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE _____ Docket Number _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

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 completed the form as follows:

I.(a) Plaintiffs - Defendants. Enter names (last, first, middle intitial) 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, giveing 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 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 the "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 is 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, it 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. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. 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 IV above, 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.

VI. 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's decision.

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 relating 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.
(rev. 07/89)

Clear Form

YOUR NAME
YOUR ADDRESS
YOUR TELEPHONE NUMBER

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA
(Must start on line 8 or below)

	)	
	)	
	)	
	)	
-v-	)	Case No._____
	)	(To be assigned at time of filing)
	)	
	)	
	)	
_____	)	COMPLAINT FOR (Brief description of document)

Plaintiff alleges:

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

vs

SUMMONS IN A CIVIL ACTION

Case No.

TO: (Name and Address of Defendant)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon PLAINTIFF'S ATTORNEY

An answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon 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.

W. Samuel Hamrick, Jr.

CLERK

DATE

By , Deputy Clerk

RETURN OF SERVICE	
Service of the Summons and Complaint was made by me	DATE
NAME OF SERVER	TITLE

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: _____

☐ 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: _____

☐ Return unexecuted:

☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL		SERVICES	TOTAL $0.00	

DECLARATION OF SERVER

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 is true and correct.

Executed on: _____

Date

Signature of Server

Address of Server

NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE

IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.

YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.

JUDGEMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.

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

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

	)	Civil No.
	)	
	)	REQUEST FOR APPOINTMENT OF COUNSEL UNDER THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. 2000e 5(f)(1); DECLARATION IN SUPPORT OF REQUEST
v.	)	
	)	
	)	
	)	
	)	

1. I, the plaintiff in the above-entitled employment discrimination action, request that the court appoint an attorney to represent me in this matter. In support of this request, I state as follows:

A. my claim is meritorious (that is, I have a good case), and

B. I have made a reasonably diligent effort to obtain counsel, and

C. I am unable to find an attorney willing to represent me on terms that I can afford.

2. A copy of the Notice-of-Right-to-Sue-Letter I received from the Equal Opportunity Commission is attached to the complaint which accompanies this request for counsel.

3. A. Does the Notice-of-Right-to-Sue-Letter show that the Commission found "no reasonable cause" to believe the allegations made in your charge were true?

_____ Yes _____ No

IF YOUR ANSWER IS "YES," YOU MUST ATTACH A COPY OF THE COMMISSION'S INVESTIGATIVE FILE TO THIS REQUEST AND ANSWER QUESTIONS B AND C.

B. Do you question the correctness of the Commission's "no reasonable cause" determination?

_____ Yes _____ No

C. If you answered "yes" to question 3B, what are your reasons for questioning the Commission's determination? Be specific and support your objections with fact. Do not simply repeat the allegations made in your complaint; the court will review your complaint in considering this request for counsel.

(Attach additional sheets as needed)

4. Have you talked with any attorney about handling your claim?

_____ Yes _____ No

If "YES," give the following information about each attorney with whom you talked:

Attorney: _____

When: _____

Where: _____

How (by telephone, in person, etc.): _____

Why attorney was not employed to handle your claim: _____

_____

_____

Attorney: _____

When: _____

Where: _____

How (by telephone, in person, etc.): _____

Why attorney was not employed to handle your claim:

_____

_____

Attorney: _____

When: _____

Where: _____

How (by telephone, in person, etc.): _____

Why attorney was not employed to handle your claim:

_____

_____

_____

(Attach additional sheets as needed)

5. Explain any other efforts you have made to contact an attorney to handle your claim:

6. Give any other information which supports your application for the court to appoint an attorney for you:

7. Give the name and address of each attorney who has represented you in the last 10 years for any purpose:

(Attach additional sheets as needed)

8. I cannot afford to obtain a private attorney. The details of my financial situation are listed below:

A. Employment

Are you employed now? ___ yes ___ no ___ am self-employed

Name and address of employer:

If employed, how much do you earn per month? _____

If not employed, give month and year of last employment: _____

How much did you earn per month in your last employment? _____

If married, is your spouse employed? ___ yes ___ no

If "YES," how much does your spouse earn per month? _____

If you are a minor under age 21, what is your parents' or guardians' approximate monthly income? _____

B. Assets

(i) Other Income

Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement of annuity payments or other sources? _____ yes _____ no

If "YES," give the amount received and identify the sources:

$ Received	Source

(Attach additional sheets as necessary)

(ii) Cash

Have you any cash on hand or money in savings or checking accounts? ___ yes ___ no

If "YES," state total amount: _____

(iii) Property

Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ___ yes ___ no

If "YES," give value and describe it:

Value	Description

C. Obligations and Debts

(i) Dependents

Your marital state is: ____ single ____ married ____ widowed, separated or divorced.

Your total number of dependents is : _____

List those person you actually support, your relationship to them, and your monthly contribution to their support:

Name/Relationship	Monthly Support Payment

(ii) Debts and Monthly Bills

List all creditors, including banks, loan companies and charge accounts, etc.

	Creditor	Total Debt	Monthly Payment
Rent:			
Mortgage on Home:			
Others:			

9. Signature

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

Dated: _____

_____

Signature

(Notarization is not required)

PLAINTIFF/PETITIONER/MOVANT'S NAME

PRISON NUMBER

PLACE OF CONFINEMENT

ADDRESS

United States District Court
Southern District Of California

, Plaintiff/Petitioner/Movant v. , Defendant/Respondent	Civil No. _____ (TO BE FILLED IN BY U.S. DISTRICT COURT CLERK) **MOTION AND DECLARATION UNDER PENALTY OF PERJURY IN SUPPORT OF MOTION TO PROCEED <u>IN FORMA PAUPERIS</u>**

I, , declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

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

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

   If "Yes," state the place of your incarceration

   Are you employed at the institution? ☐ Yes ☐ No

   Do you receive any payment from the institution? ☐ Yes ☐ No

   [Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last 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 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, royalties interest or dividends ☐ Yes ☐ No
   c. Pensions, annuities or life insurance ☐ Yes ☐ No
   d. Disability or workers compensation ☐ Yes ☐ No
   e. Social Security, disability or other welfare ☐ Yes ☐ No
   e. Gifts or inheritances ☐ Yes ☐ No
   f. Spousal or child support ☐ Yes ☐ No
   g. Any other sources ☐ Yes ☐ No

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

   _____

   _____

4. Do you have any checking account(s)? ☐ Yes ☐ No
   a. Name(s) and address(es) of bank(s):_____
   b. Present balance in account(s):_____

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☐ No
   a. Name(s) and address(es) of bank(s):
   b. Present balance in account(s):

6. Do you own an automobile or other motor vehicle? ☐ Yes ☐ No
   a. Make: Year: Model:
   b. Is it financed? ☐ Yes ☐ No
   c. If so, what is the amount owed?

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?
   ☐ Yes ☐ No
   If "Yes" describe the property and state its value._____

   _____

8. 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.

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable):

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]):

11. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses.

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

DATE

_____
SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(**Incarcerated applicants only**)
(To be completed by the institution of incarceration)

I certify that the applicant_____,
(NAME OF INMATE)

_____,
(INMATE'S CDC NUMBER)

has the sum of $_____ on account to his/her credit at _____

_____.
(NAME OF INSTITUTION)

I further certify that the applicant has the following securities _____

to his/her credit according to the records of the aforementioned institution. I further certify that **during the past six months** the applicant's ***average monthly balance*** was $ _____,

and the ***average monthly deposits*** to the applicant's account was $_____.

ALL PRISONERS ***MUST*** ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

_____
DATE

_____
SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

_____
OFFICER'S FULL NAME (PRINTED)

_____
OFFICER'S TITLE/RANK

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, _____, request and authorize the agency holding me in
(Name of Prisoner/ CDC No.)
custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either **9** $150 (civil complaint) or **9** $5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

_____ _____
DATE SIGNATURE OF PRISONER

NOTICE TO ATTORNEYS

AMENDMENT TO RULE 4 - SUMMONS
Federal Rules of Civil Procedure

WAIVER OF SERVICE OF SUMMONS

Rule 4 (d) provides that a plaintiff may send a notice of commencement of action and a request for waiver to the defendant. When the defendant signs the waiver and it is filed with the clerk, the action proceeds as if service of summons and complaint had been made. If the waiver is not timely returned, plaintiff must serve process. A defendant who fails to waive service of summons will be assessed the costs subsequently incurred in effecting service on the defendant.

The ability to serve the summons by mail with a notice and acknowledgement has been eliminated.

EFFECT OF WAIVER OF SERVICE

If the defendant timely signs and returns the waiver of service of summons, the action shall proceed as if summons and complaint had been served at the time of the filing of the waiver. By filing a waiver, a defendant does not waive any objection to venue or jurisdiction of the court over the person of the defendant.

When a waiver has been filed, the time for response to the complaint is **60 days** (rather than 20 days) from the date the notice and request was sent to defendant. (Rule 4(d)(3) and Rule 12(a)(1)(B)).

Sample copies of the above forms are available from the Clerk, U.S. District Court.

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 a 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 the date is you 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 that I waive service of a summons in the action of _____, which is case number _____ in the United States District Court 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 an acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I an 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 _____, or within 90 days after that date if the request was sent outside the United States.

(DATE REQUEST WAS SENT)

_____

(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 a 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 had 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.

NOTICE OF OPPORTUNITY TO CONSENT TO THE EXERCISE OF CIVIL JURISDICTION BY A MAGISTRATE JUDGE AND APPEAL OPTION

In accordance with the provisions of 28 U.S.C. 636(c) and Fed.R.Civ.P. 73, you are hereby notified that the United States magistrate judges of this district court, in addition to their other duties, may, upon the consent of all the parties in a civil case, conduct any or all proceedings in the case, including a jury or non-jury trial, and order the entry of a final judgment.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States magistrate judge for disposition is entirely voluntary and should be indicated by counsel endorsing the attached consent form for the plaintiff(s) and defendant(s). If the form is executed by all counsel for the parties, it should be communicated solely to the clerk of the district court. ONLY if all the parties to the case consent to the reference to a magistrate judge will either the judge or magistrate judge to whom the case has been assigned be informed of your decision.

Your opportunity to have your case disposed of by a magistrate judge is subject to the calendar requirements of the court. Accordingly, the district judge to whom your case is assigned must approve the reference of the case to a magistrate judge for disposition.

In accordance with 28 U.S.C. 636(c)(3) and Fed.R.Civ.P. 73(c), an appeal from a judgment entered by a magistrate judge may be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Copies of the consent form are available from the clerk of court.

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

V.

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE AND ORDER OF REFERENCE

CASE NUMBER:

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. 636(c) and Fed.R.Civ.P. 73, the parties in this case hereby voluntarily waive their rights to proceed before a judge of the United States district court and consent to have a United States magistrate judge conduct any and all further proceedings in this case, including the trial, and order the entry of a final judgment.

Plaintiff(s) Signatures	Date

Defendant(s) Signatures	Date

New Case #: _____

ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case be referred to the Honorable _____, United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S.C. 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties.

Date	United States District Judge