

# United States District Court

Southern District Of California

Office Of The Clerk

333 West Broadway, Suite 420

San Diego, California 92101

[www.casd.uscourts.gov](http://www.casd.uscourts.gov)

John Morrill  
Acting 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 \$400.00 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 and one copy is required for filing.
3. **Complaint:** The complaint can be typed, printed by hand, or written on 8½" x 11" paper (see CIVIL LOCAL RULE 5.1 for further format instructions). 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, pleading paper has been provided, for use. A cover page example is also 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 and the Judge has Ordered the U.S. Marshals Office to direct service, a summons will be issued. However, before service is accomplished you are required to complete a USM Form 285 for each party being served.

**Attached to this package is:**

1. Civil Cover Sheet (instructions included on the 2<sup>nd</sup> page)
2. Pleading Paper (for use)
3. Complaint Cover Sheet. This sample sets out the proper complaint format (Sample #1)
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 ARE REQUIRED FOR FILING.** Two copies are needed if you wish to receive a conformed copy back.

\*\*\*\*\*

**Additional Information**

At the time of filing your complaint, the Clerk's Office will prepare and issue a "Summons in a Civil Action", if applicable. You are responsible for the service of both your complaint and the summons, with the exception of those proceeding In Forma Pauperis (see CIVIL LOCAL RULE 4.1 for Service of Process information). 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.

# 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## 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	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <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  <b>IMMIGRATION</b> <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  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (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	<b>Habeas Corpus:</b> <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 <b>Other:</b> <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		<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## 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.

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YOUR NAME  
YOUR ADDRESS  
YOUR TELEPHONE NUMBER  
YOUR EMAIL ADDRESS

\*\*\*\*\*SAMPLE DOCUMENT\*\*\*\*\*

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

\*\*SAMPLE\*\*

-v-

\*\*SAMPLE\*\*

Case No.: \_\_\_\_\_  
(To be assigned at time of filing)

COMPLAINT FOR  
(Brief description of document)

Plaintiff alleges:

\*\*\*\*\*SAMPLE DOCUMENT\*\*\*\*\*

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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

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

1 IF YOUR ANSWER IS “YES,” YOU MUST ATTACH A COPY OF THE  
2 COMMISSION’S INVESTIGATIVE FILE TO THIS REQUEST AND ANSWER QUESTIONS B  
3 AND C.

4 B. Do you question the correctness of the Commission’s “no reasonable cause”  
5 determination?

6  Yes  No

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

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28 (Attach additional sheets as needed)

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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:

\_\_\_\_\_

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(Attach additional sheets as needed)

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

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

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

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(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:

1 If employed, how much do you earn per month? \_\_\_\_\_

2 If not employed, give month and year of last employment: \_\_\_\_\_

3 How much did you earn per month in your last employment? \_\_\_\_\_

4 If married, is your spouse employed? \_\_\_ yes \_\_\_ no

5 If "YES," how much does your spouse earn per month? \_\_\_\_\_

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

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9 B. Assets

10 (i) Other Income

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

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

15	<u>\$ Received</u>	<u>Source</u>
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28 (Attach additional sheets as necessary)

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(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:

<u>Value</u>	<u>Description</u>

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:

<u>Name/Relationship</u>	<u>Monthly Support Payment</u>

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(ii) Debts and Monthly Bills

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

<u>Creditor</u>	<u>Total Debt</u>	<u>Monthly Payment</u>
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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 IN FORMA  
PAUPERIS**

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? **G** Yes **G** 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.

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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.

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

- a. Business, profession or other self-employment **G** Yes **G** No
- b. Rent payments, royalties interest or dividends **G** Yes **G** No
- c. Pensions, annuities or life insurance **G** Yes **G** No
- d. Disability or workers compensation **G** Yes **G** No
- e. Social Security, disability or other welfare **G** Yes **G** No
- e. Gifts or inheritances **G** Yes **G** No
- f. Spousal or child support **G** Yes **G** No
- g. Any other sources **G** Yes **G** 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.

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4. Do you have any checking account(s)? **G** Yes **G** 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? **G** Yes **G** 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? **G** Yes **G** No

- a. Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_
- b. Is it financed? **G** Yes **G** 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?

**G** Yes **G** 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

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**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

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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 am acting) be served with judicial process in the manner provided by Rule 4.

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

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after

\_\_\_\_\_, or within 90 days after that date if the request was sent outside the  
(DATE REQUEST WAS SENT)  
United States.

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE)

Printed/Typed Name: \_\_\_\_\_

As \_\_\_\_\_ of \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

### Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of 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

for the  
Southern District of California

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

## NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

*Notice of a magistrate judge's availability.* A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

*Consent to a magistrate judge's authority.* The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

<i>Parties' printed names</i>	<i>Signatures of parties or attorneys</i>	<i>Dates</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

### Reference Order

**IT IS ORDERED:** This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: \_\_\_\_\_

\_\_\_\_\_  
*District Judge's signature*

\_\_\_\_\_  
*Printed name and title*

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.