

REPRESENTING YOURSELF AS A PRO SE LITIGANT

Introduction:

This guide is to assist a person who will be appearing *pro se* (without an attorney) to file and pursue a civil case in this court. These guidelines **CANNOT** take the place of an attorney's legal advice. They are not extensive, and are only intended to assist you in understanding the basic procedures involved in civil cases.

If you do not want an attorney or are unable to find an attorney to represent you, you have the right to pursue your claims in court by appearing *pro se*. As a *pro se* litigant, you are representing yourself and presenting only your claims and defenses. Under the law, you cannot speak for another person or other entity such as a company, club, or association. A *pro se* litigant may not authorize another person who is not a member of the bar of this court to appear for them. This includes a spouse, relative, or another party on the same side. It is *your* responsibility to make sure that any documents you file comply with the Federal Rules of Civil Procedure (Fed.R.Civ.P.) and the District of Vermont Local Rules of Practice. The fact that you do not have an attorney does NOT relieve you of this obligation.

The court staff **cannot** provide you with legal advice, or tell you what you "should" do in any given situation. This guide will not answer all your questions about what you need to do to represent yourself effectively as a *pro se* litigant. It outlines the basic steps necessary to file an action, or lawsuit, in this court.

How To File A Case:

A civil action is commenced by filing a complaint with the Court. To initiate a civil action, the following documents should be submitted: (see attached samples)

1. One (1) ORIGINAL complaint. The complaint is the document that a plaintiff files to initiate a lawsuit. Only the ORIGINAL complaint is filed with the court. A COPY of the complaint is issued for service upon each named defendant. It is suggested that you keep a copy of the complaint for your own records (and to keep a copy of everything that you file with the court).
2. A *Civil Cover Sheet* (Form JS-44) with an **original** signature must accompany the complaint. (Instructions for completing this form may be found on the reverse side of the JS-44.)
3. Completed *summons and waiver of service* forms for each defendant.

4. *Notice of Pro Se* Appearance form.

5. A \$350 *filing fee* is required when filing a complaint. A credit card, money order, cashier's check, personal check, or cash are acceptable forms of payment. Checks should be made payable to: Clerk, U.S. District Court. If you are unable to afford the filing fee and service costs, you may petition the court to proceed *in forma pauperis*. A blank application and supporting affidavit are available at the Clerk's Office and must be included with your filing, should you decide to apply.

If you choose to file a motion to proceed in forma pauperis (IFP) the ORIGINAL motion and supporting affidavit must be filed, along with the complaint, civil cover sheet, notice of pro se appearance and appropriate service forms. A copy of all documents, including the complaint, will be forwarded to the judge for review. The judge will determine whether you will be granted leave to proceed in forma pauperis. Once a decision has been rendered, you will receive a copy of the order by *mail*.

Contents of the Complaint:

A complaint does not need to be typewritten, but must be legible if handwritten. A complaint can be brought in this Court only if one or more of the named parties is located within this district.

The Court does not have complaint forms available. Preparation of the complaint is the sole responsibility of the plaintiff. Federal Rule of Civil Procedure 8 gives some information about what should be contained in the complaint.

Caption. A caption or heading specifying the court in which the lawsuit is brought and the name of the parties.

Title. A title, simply "Complaint" or, if a jury trial is requested, the demand should be made immediately following the title to read "Complaint with Jury Demand".

Parties. A numbered paragraph (or paragraphs if there is more than one plaintiff containing the name and address of (each) plaintiff. A numbered paragraph (or paragraphs if there is more than one defendant) containing the name, address, his or her official position, and/or his or her official place of employment and address of (each) defendant.

Jurisdiction. A numbered paragraph stating why this court has jurisdiction, or legal authority, to hear this case.

Claim. A numbered paragraph (or paragraphs) containing a statement of facts that are

alleged to have caused the damage claimed. These allegations, or claims, should be concise and clearly written. There should be separate numbered paragraph for each factually allegation made. The statement of facts should include a description of what the defendant(s) did or failed to do and how those acts or omissions caused injury or damage, as well as a description of any injury sustained or what medical treatment, if any, was required. It is important to be as specific as possible in stating the facts. Names, dates, and events should be described accurately. Failure to allege facts demonstrating that each defendant was personally involved in and/or responsible for the alleged incident or harm may result in dismissal of that defendant or the case.

Relief. A closing or final paragraph, which is not numbered (note: this is the only paragraph in the complaint that is not numbered) outlining the relief being asked of the Court. Briefly state exactly what you want the Court to do for you. Do not give legal arguments or citations.

Signature. The plaintiff's original signature over the plaintiff's printed/typed name (followed by the words *pro se*), address and phone number. If there is more than one plaintiff, the complaint must contain an original signature for each plaintiff.

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Service:

If IFP is granted by the Court, the complaint will be filed and assigned the next consecutive civil case number. The Clerk's Office will issue the summons or waiver of service forms and forward the documents to the U.S. Marshal's Office for service pursuant to the Federal Rules of Civil Procedure. Please note that in forma pauperis status only waives filing and service fees. Copying, mailing, and other expenses must be paid by you.

If IFP is denied, the complaint will **NOT** be filed, nor will summons(es) be issued without prepayment of the filing fee.

Pursuant to Federal Rule of Civil Procedure 4, service of the complaint upon the defendants may be accomplished in either of two ways:

By Summons:

Pursuant to F.R.C.P. 4(c)(1) a summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within

the time allowed and shall furnish the person effecting service with the necessary copies of the summons and complaint.

By Waiver of Service:

Pursuant to F.R.C.P. 4(d) the plaintiff may notify a defendant of the commencement of an action and request that the defendant waive service of a summons. The notice and request shall be in writing (forms to be used: Waiver of Service and Notice of Lawsuit), shall be through first-class mail or other reliable means, shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed, shall set forth the date on which the request is sent, shall allow the defendant a reasonable time to return the waiver (which shall be 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside the United States), and shall provide the defendant with an extra copy of the notice and request.

Miscellaneous Information:

ALL papers after the complaint are required to be accompanied with a Certificate of Service. Effective December 1, 1991, Rule 5(d), Federal Rules of Civil Procedure, requires that all papers filed after the complaint are required to be served upon all parties to an action, together with a **Certificate of Service** (see sample attached) which attests to this fact. This process insures that all parties are kept aware of the exact status of all filings made in a case.

It is suggested that you keep a copy of everything you send to and receive from other parties or the Court.