

REPRESENTING YOURSELF AS A PRO SE LITIGANT

Introduction:

These guidelines are written for persons who wish to proceed on their own behalf before the United States District Court for the District of Vermont. The term "*pro se*" applies to persons who appear and proceed on their own behalf without representation of an attorney.

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.

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.

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, and one (1) COPY for each named defendant. The ORIGINAL complaint remains with the court and becomes the official file. A COPY of the complaint is issued for service upon each named defendant. *All copies of the complaint must be IDENTICAL to the original.* It is also suggested that you keep a copy of the complaint for your own records.
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. *Pro Se* Appearance form.

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.

Contents of the Complaint:

A statement of the parties. The full name of the Plaintiff and address. The full name of each defendant, his or her official position, and his or her place of employment and his/her address.

A statement of jurisdiction. A short statement of the grounds upon which the court's jurisdiction depends.

A statement of claim. State as briefly as possible the facts of your case. Describe how each defendant is involved. Also include the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes.

A statement of relief. State, briefly, exactly what you want the Court to do for you. Again, do not give legal arguments or citations.

For the complaint to be filed, it must be accompanied by a filing fee of \$150. After filing, the plaintiff (which is you) will be responsible for serving the filed-stamped copy of the complaint upon each named defendant. 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 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*.

Service:

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.

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.

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.

A pleading shall set forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

Pursuant to Local Rule 83.3 the words "*pro se*" must follow a party's signature on all filings. It is also very important that you provide your name, address and telephone number on all pleadings in the event it is necessary for court personnel to obtain further information or clarification.

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