

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk/Newport News Division**



**INFORMATION ON REPRESENTING
YOURSELF (PRO SE)
IN A CIVIL ACTION**

INTRODUCTION

The following instructions have been compiled to assist any person wishing to represent themselves (pro se) in a civil action in the Norfolk/Newport News Divisions. These procedures will not satisfy all needs, nor is this guide a substitute for legal representation. The information contained herein is not legal advice.

The Clerk's Office is prohibited from providing legal advice of any kind.

Litigants are expected to follow the rules that govern the practice of law in the Federal Courts. If you are representing yourself without the benefit of an attorney, you are known as a **PRO SE LITIGANT**. Pro Se litigants should be familiar with the Federal Rules of Civil Procedure and the Local Rules of this Court. The Federal Rules are available at public libraries, public law libraries, or on the internet. The Local Rules can be accessed on our website, www.vaed.uscourts.gov, or from a public law library.

FILING FEE

The cost of filing a case is \$350.00. This may be paid with exact cash, credit card, check or money order (made payable to Clerk, U.S. District Court).

If you cannot afford the filing fee, you may file a Motion to Proceed In Forma Pauperis (IFP) and Financial Affidavit (See Attachment # 1). The motion should be submitted with your original Complaint.

Please Note: If your IFP is granted, it applies only to the filing fee. All other costs, such as copy or transcript fees, will be your responsibility. If the judge denies your IFP, you may be required to pay the fee within a specified time period. If the fee is not paid, your case may be dismissed.

If you have no funds or limited resources, you may wish to contact the Legal Aid Society of Eastern Virginia. They are located at:

- * Norfolk/Portsmouth, 125 St. Paul's Blvd., Norfolk (757-627-5423)
- * Hampton/Newport News, 1214 Kecoughtan Rd., Hampton (757-275-0080)
- * Virginia Beach, Pembroke 4, 291 Independence Blvd., Va. Beach (757-552-0369)
- * Suffolk, 155 E. Washington St., Suffolk (757-539-3441)

You may also be able to obtain the assistance of an attorney through the following organizations:

- * Virginia Lawyer Referral Service sponsored by Va. State Bar at 1-800-552-7977 or www.vsb.org
- * Senior Law Center (for persons 60 or over), 125 St. Paul's Blvd., Norfolk (757-627-3232)

STEP ONE: WRITE YOUR COMPLAINT

The first document you must submit is a **Complaint**. (*The Complaint is NOT a letter to the judge.*) The function of the Complaint is to tell the Court and the Defendant(s) the reason for filing the lawsuit and what relief you desire. The Complaint is made up of four main parts:

1. The name of each of the Plaintiff(s) and Defendant(s).
2. The **Jurisdiction** or reason your case is being filed in Federal Court.
3. The **Allegations** or Claims you are making against the Defendant(s). Place each allegation in a short, clearly written paragraph. (See Rules 8 and 10 of the Fed. Rules of Civil Procedure)
4. The **Relief** you are seeking from the Court. (Sample Complaint, Attachment #2)

Your Complaint should be legibly written or typed on one side only on 8 1/2" x 11" plain white paper. **Each** Plaintiff must sign and date the Complaint and include his or her address and phone number (**P.O. Boxes are not acceptable**).

To comply with the E-Government Act of 2002, you should not include sensitive information on documents filed with the Court. If sensitive information must be included, personal identifiers must be redacted as follows:

- * Names of minor children to initials (Example: A.J., B.T.)
- * Account numbers to the last four digits (xxxx-xxxx-1212)
- * Social Security Numbers to the last four digits (xxx-xx-1212)
- * Dates of birth to the year only (DOB 1999)

STEP TWO: SUBMIT YOUR COMPLAINT

When you submit your Complaint to the Court, provide the following:

- * The original Complaint and an identical copy, including any exhibits, attachments or motions that you submitted with the Complaint, for **EACH** Defendant to be served.

If the Defendant is either an agency of the United States or an officer or employee of the United States, you must provide two additional copies, one for the U.S. Attorney General and one for the U.S. Attorney in Norfolk/Newport News.

- * A \$350.00 filing fee for a civil suit or your Motion to Proceed In Forma Pauperis (IFP). The filing fee for a habeas corpus petition, a legal action through which a person can seek relief from the unlawful detention of him or herself, or of another person, is \$5.00. Your IFP application will be submitted to the judge for consideration. If your IFP is granted, your Complaint will be filed.

STEP THREE: SERVICE OF PROCESS

“Service of Process” refers to the procedure of notifying a Defendant that a lawsuit has been filed, what it is about, and the time for filing an answer. ***A case cannot proceed against a Defendant who has not been served.***

1) If you have paid the filing fee, the Court will need each Defendant’s complete address or the name of the registered agent if the Defendant is a business or an entity. The Clerk will then prepare the summons and return the summons package(s) to you to effect service.

Effecting Service: You are responsible for making arrangements for service of the Complaint within 120 days from the date the Complaint is filed. If service is not effected within 120 days, your case may be dismissed. Rule 4 of the Fed. Rules of Civil Procedure and Local Rule 4 direct how service must be made. **Once service is made, the original summons is to be returned to the Court by mail or hand delivery.**

Notice of Lawsuit and Waiver of Service of Summons: Federal Rule 4 permits a Defendant to **waive personal service of process**. This means the Defendant(s) agrees to respond to the Complaint without being personally served with a summons. Copies of a Notice of Lawsuit and Request for Waiver of Service of Summons must be completed for each Defendant. These forms can be obtained from the Clerk’s Office or on our website at www.vaed.uscourts.gov. (Attachment #3)

Notice and Waiver forms may not be used when the Defendant is the United States, a federal government agency, or a federal government official or employee of a foreign, state or local government sued in his official capacity.

To request waiver of service from a Defendant, you must send the Defendant the following items by first class mail or other reliable means:

- * Properly completed Notice of Lawsuit and Request for Waiver of Service of Summons forms,
- * An extra copy of the Waiver for Defendant to retain,
- * A self-addressed stamped envelope so the Defendant can return the original Notice and Waiver forms back to you,
- * A copy of the complaint, including any exhibits or attachments or any motions that you submitted with the complaint.

When you receive the signed Waiver from the Defendant(s), you must file the originals with the Court. If the Defendant fails to return the Waiver form within the specified time, you must notify the Clerk and request that a summons be issued by the Clerk’s Office.

2) If your IFP is Granted, the Court will arrange to effect service for you. The Court will need each Defendant’s complete address or the name of the registered agent if the Defendant is a business or an entity.

ADDITIONAL INFORMATION

Motions and Briefs

At no time should you send any communication about your case directly to a judge, unless you are directed to do so. If you want to ask the Court to order something, you must file a **MOTION** with the Clerk's Office.

For each motion you must:

- * Submit a signed original motion to the Clerk, which includes your address and phone number,
- * Send a copy to the Defendant(s) or to the Defendant's attorney, if the Defendant is represented by counsel,
- * Include a Certificate of Service showing service was made on all parties, and
- * Submit a separate brief if required by the Local Rule. (See Local Rule 7)

If a motion is filed by the Defendant(s), your response to the motion must be filed within the time allowed by the Local Rules and the Federal Rules of Civil Procedure.

Certificate of Service

After service of the Complaint, all documents submitted to the Court must contain a Certificate of Service showing that service was made on all parties. (Attachment #4)

**The Clerk's Office is open from 8:30 a.m. until 5:00 p.m.,
Monday through Friday, excluding Federal holidays.
When contacting the Clerk's Office with questions about your case,
please have your case number available.
(757) 222-7201**

Attachments and Samples

| | |
|-------------------------------|----|
| Motion to Proceed IFP | #1 |
| Sample Complaint | #2 |
| Notice of Lawsuit & Waiver | #3 |
| Sample Certificate of Service | #4 |

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk/Newport News Division

_____, Plaintiff

Civil Action No. _____

_____, Defendant(s)

MOTION TO PROCEED IN FORMA PAUPERIS AND FINANCIAL AFFIDAVIT

I, _____, say that I am the plaintiff in the above entitled case, that I move to proceed without being required to prepay fees, costs or give security therefor, and that in support of this motion I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; and that I believe I am entitled to relief.

I further state that the responses which I have made to questions and instructions below are true.

EMPLOYMENT

Are you employed? ____ Yes ____ No ____ Self-Employed

IF YES, How much do you earn per month? _____

Name & Address of employer: _____

IF NO, give month and year of last employment: _____

How much did you earn per month? _____

IF MARRIED, is your spouse employed? ____ Yes ____ No

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

IF A MINOR, what is your parents' approximate monthly income? _____

OTHER INCOME

Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in rent payments, interest dividends, retirement or annuity payments, gifts or inheritance or other sources? ____ Yes ____ No

IF YES, give the amount received and identify the source(s):

\$ _____ Received from Source(s) _____

\$ _____ Received from Source(s) _____

CASH

Have you any cash on hand or money in savings or checking accounts? ____ Yes ____ No

Total Amount: Checking \$ _____ Savings \$ _____ Other \$ _____

PROPERTY

Do you own any real estate, stocks, bonds, notes, automobiles, boats, or other valuable property (excluding ordinary furnishings and clothing)? _____ Yes _____ No

IF YES, give value and describe it:

| Value | Description |
|----------|-------------|
| \$ _____ | _____ |
| \$ _____ | _____ |

MARITAL STATUS

_____ Single _____ Married _____ Widowed _____ Separated or Divorced

DEPENDENTS

Total Number of Dependents: _____

List persons you actually support, your relationship to them and how much you contribute toward their support:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

DEBTS & MONTHLY BILLS

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

| Creditors | Total Debt | Monthly Payment |
|-----------|------------|-----------------|
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |

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

Executed on _____
(Date)

(Signature)

Address: _____

Phone Number: _____

SAMPLE COMPLAINT

(2)

United States District Court
Eastern District of Virginia
Norfolk Division or Newport News Division (choose one)

Plaintiff's name
Address
Phone number

v

Case Number: Given by Clerk

Defendant's name
Address
Phone number

COMPLAINT

1. Grounds for jurisdiction. (Why do you think Federal Court is the appropriate court for your case?)
2. Facts of the case. Be specific. What events occurred? When did the events occur? Who was involved? Why do you contend the acts were wrongful? (You may use as much space as necessary) The last paragraph should state the relief you are seeking.
3. If applicable, describe how and when you exhausted any administrative remedies.

SIGNATURE _____
Name (Printed)
Address
Phone Number

UNITED STATES DISTRICT COURT
for the
Eastern District of Virginia

Plaintiff
v.
Defendant
Civil Action No.

Notice of a Lawsuit and Request to Waive Service of a Summons

To:
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within ___ days (give at least 30 days or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date

Signature of the attorney or unrepresented party

Printed name

Address

E-mail address

Telephone number

UNITED STATES DISTRICT COURT
for the
Eastern District of Virginia

Plaintiff
v.
Defendant
Civil Action No.

Waiver of the Service of Summons

To:
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date

Signature of the attorney or unrepresented party
Printed name
Address
E-mail address
Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

CERTIFICATE OF SERVICE

(4)

The undersigned hereby certifies that a true copy of the foregoing

(1) _____

was mailed this (2) _____ **day of (3)** _____

to (4) _____ **at**

(5) _____

(Your Signature)

Instructions

After the Court has notified defendant(s) that an action has been commenced, YOU must send a copy of every motion, pleading or document to defendant(s) or counsel for defendant(s). If you do not send a copy to defendant(s) or counsel for defendant(s), the court will not be able to consider your document.

You must prepare and submit one certificate of service for EACH motion, pleading or document you wish to have considered by the court. You may use a photocopy of this form or use one of your own that follows this format.

Complete each blank as directed:

(1) Describe the document you are submitting to the court and sending to defendant(s). (Remember: you should attach a Certificate of Service to each motion, pleading or document you wish to have considered by the court.)

(2) Day of the month that you give the document to officials for mailing to defendant(s) or counsel for defendant(s).

(3) Month and year.

(4) Name of person(s) to whom you are sending a copy of the document. If you send it directly to the defendant(s), list each defendant to whom you send a copy. If you send it to counsel for defendant(s), list only the name(s) of counsel.

(5) Address(es) that copy is being mailed to.

NOTE: YOU MUST SIGN THIS FORM. The court will not accept this form without an original signature