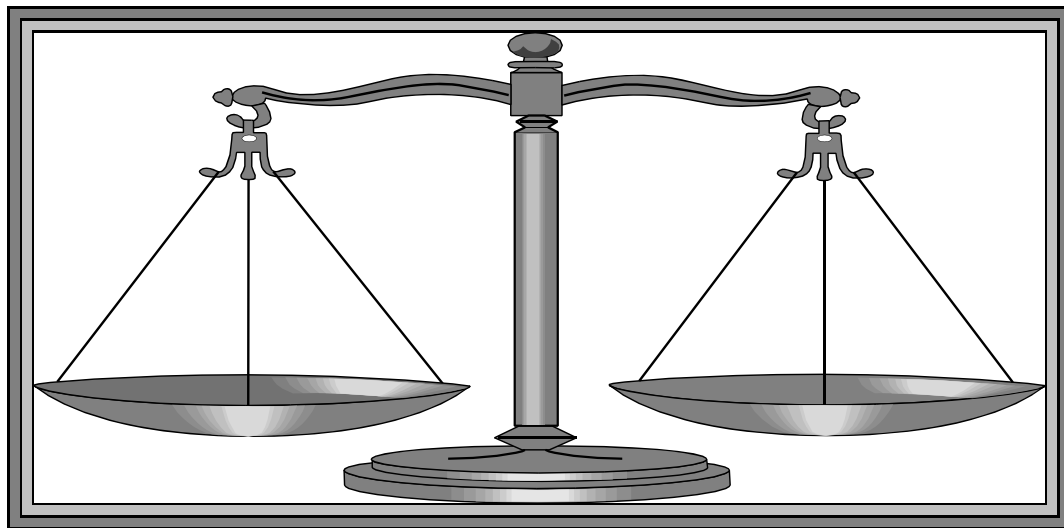


***UNITED STATES DISTRICT COURT
For the Eastern District of Virginia
Alexandria Division***

***Pro Se
Reference
Handbook***



April 26, 2010

UNITED STATES DISTRICT COURT
For the Eastern District of Virginia
Alexandria Division

Pro Se Reference Handbook

Introduction

Welcome to the United States District Court for the Eastern District of Virginia. The Eastern District of Virginia consists of four divisions: Alexandria, Norfolk, Richmond, and Newport News.

The following instructions have been compiled to assist any person wishing to represent themselves (pro se) in a civil action in the Alexandria Division. These procedures do not satisfy all needs, nor is this handbook a substitute for legal representation. The information contained herein is not legal advice.

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Pro Se Reference Handbook

**Pro Se
Definition**

People acting pro se are people who represent themselves in a legal action. A pro se litigant may only represent themselves; they may not represent any other person or entity.

**Legal
Resources
Available**

The following legal resources are available to people representing themselves pro se:

Resource	Hours of Operation
Legal Services of Northern Virginia, Inc. 603 King Street 4 th Floor Alexandria, VA 22314 (703) 684-5566	Monday – Friday 9:00 a.m. – 4:00 p.m.
Alexandria Bar Lawyers Referral 520 King Street Suite 202 Alexandria, VA 22314 (703) 548-1105	Monday – Thursday 9:00 a.m. – 4:00 p.m. Friday 9:00 a.m. – 1:00 p.m.
Alexandria Law Library 520 King Street Suite 308 Alexandria, VA 22314 (703) 838-4077	Monday – Friday 9:00 a.m. – 5:00 p.m.

**Filing
Procedures**

The Court requires an original of each document filed. A document is called a “pleading.” Pleadings must be typed, printed or legibly handwritten on 8 1/2 x 11 inch paper, and the pages must be sequentially numbered. Any documentation submitted with a pleading must be attached to the pleading and referred to in the pleading.

**Copies of Court
Documents**

Do not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk’s Office to be copied and returned. The fee for any copying of court documents done by the Clerk’s Office is \$0.50 per page for paper documents and \$0.10 per page for electronic documents. Payment is due at the time of the copy request.

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Complaint Filing Fee

The charge for filing a complaint is \$350.00. There may also be additional fees for service of the summons and complaint upon the defendant. “Service” is the term used to describe the procedure by which a defendant is informed of a lawsuit that has been commenced or of additional pleadings added to the file as the case proceeds.

If the payment of fees poses a hardship, the filer may apply to be excused from the payment of fees by completing the form “Application to Proceed Without Prepayment and Affidavit.” The form may be obtained from the Court’s Internet site at www.vaed.uscourts.gov, and from the Clerk’s Office. A sample *Application to Proceed Without Prepayment and Affidavit* is provided in this handbook. If the Court allows waiver of fees, then the filing and the service fee of the U.S. Marshal do not need to be paid.

Address Change

The Court must be informed of any change of address. The Clerk’s Office must have a current, correct address and telephone number in the file. In the event of a move, the Court must be promptly notified of any change of status.

Rules to Follow

The Federal Rules of Civil Procedure and the Court’s Local Rules must be followed throughout the life of the case. These rules can be found on the Court’s Internet site at www.vaed.uscourts.gov. The Clerk’s Office employees are not attorneys and are prohibited from giving legal advice or acting as counsel.

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Pro Se Reference Handbook, Continued

Complaint

Civil lawsuits in Federal Court begin with the filing of a complaint. The name of the court, “The United States District Court for the Eastern District of Virginia, Alexandria Division” should appear on the first page, centered at the top of the page. A sample complaint is included in this handbook.

The complaint must include the following:

- A caption that contains the names of the litigants, such as name and address of the plaintiff (person filing the lawsuit) versus the name and address of the defendant (person being sued). This caption should appear on the upper left-hand corner of the page.
- A clear, concise statement of the allegations or claims you are making against the defendant(s) and reference to the laws or statutes under which federal jurisdiction is being claimed, i.e., why this lawsuit is being filed in federal court.
- A statement of the relief being sought – what the Court should do to correct the situation.

Also be sure to do the following:

- **Each** plaintiff sign and date the complaint,
- Type or legibly write the complaint on 8 ½” x 11” paper,
- Include a current address where notices from the Court or the opposing side may be served, and
- Submit a copy of the complaint for each defendant against whom the lawsuit is being filed.

To comply with the E-Government Act of 2002, do not include any 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)

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Pro Se Reference Handbook, Continued

Submission of the Complaint

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

- The \$350.00 filing fee for a civil suit or your Motion to Proceed In Forma Pauperis (IFP). Your IFP application will be submitted to the judge for consideration. If your IFP application is granted, the court will enter an order granting IFP and your complaint will be filed. If your IFP application is denied, you will be required to pay the filing fee.
- 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.

Note: 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 of the complaint, including any exhibits, attachments, or motions that you submitted with the Complaint. The additional copies are for service on the U.S. Attorney General and the U.S. Attorney in Alexandria.

Service of Process

“Service of Process” refers to the procedure of notifying a defendant that a lawsuit has been filed, what the lawsuit is about, and the time for filing an answer to the complaint.

In accordance with Rule 4 of the Federal Rules of Civil Procedure, 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.

The U.S. Marshal will not serve a summons and complaint if the pro se plaintiff is able and required to pay the filing and service fees. In that instance, the pro se plaintiff is responsible for prompt service of the complaint and summons in accordance with Local Rule 4(A) and Rule 4 of the Federal Rules of Civil Procedure.

The summons and complaint may be served by any person not less than 18 years of age who is not a party to or has an interest in the subject matter of controversy.

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Pro Se Reference Handbook, Continued

Service of Process – Mail Service

Rule 4 of Federal Rules of Civil Procedure also provides for service of the complaint by mail using the “Notice of Lawsuit” and “Waiver of Service of Summons” forms. Rule 4 permits a defendant to waive personal service of process. This means that the defendant(s) agrees to respond to the Complaint without being personally served with a summons. A *Notice of Lawsuit and Waiver of Service of Summons* form must be completed for each defendant. These forms may be obtained from the Clerk’s Office or on our website at www.vaed.uscourts.gov. A sample *Notice of Lawsuit and Waiver of Service of Summons* is provided in this handbook.

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

- Completed *Notice of Lawsuit and Request for Waiver of Service of Summons* forms,
- An extra copy of the *Waiver of Service of Summons* form for the Defendant to keep,
- A self-addressed stamped envelope so the Defendant can return a *Waiver of Service of Summons* 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 of Service of Summons* form from the Defendant(s), you must file the originals with the Court. If the Defendant fails to return the *Waiver of Service of Summons* form within the specified time, you must submit a written notification to the Clerk and request that a summons be issued by the Clerk’s Office.

Note: 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.

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Pro Se Reference Handbook, Continued

Service of Process on a U.S. Government Agency or Employee

If the Defendant is either an agency of the United States or an officer or employee of the United States, you must also serve both the U.S. Attorney General and the U.S. Attorney in Alexandria with a Summons form. You can serve the summons and complaint either by first class mail (or other reliable means) or you may have the summons and complaint personally served by any person not less than 18 years of age who is not a party to or has an interest in the subject matter of controversy.

Submit two copies of a completed *Summons* form for service on each of the following:

Serve:
Attorney General of the United States
Main Justice Building
10th & Constitution Ave, NW
Washington, DC 20530

Serve:
United States Attorney for the Eastern District of Virginia
2100 Jamieson Avenue
Alexandria VA 22314

Copies of Pleadings to Opposing Side

After a defendant has been served, a copy of any pleading submitted to the Court must also be sent to the defendant's attorney (or to the defendant, if unrepresented) in accordance with Rule 5 of the Federal Rules of Civil Procedure.

All pleadings must contain a *Certificate of Service* reflecting that a copy of the pleading has been sent to the opposing side. A sample *Certificate of Service* is provided in this handbook.

The Clerk is not permitted to forward copies of pleadings for any litigant.

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Pro Se Reference Handbook, Continued

Motions Practice

Motions hearings for civil cases are held on Fridays at 10:00 a.m. unless otherwise ordered.

To set a civil motion for a hearing, you need to do the following:

- File a “Notice of Hearing” with your motion, setting the motion for a Friday at 10:00 a.m.
 - Select your Friday motion date according to the following deadlines:
 - Non-dispositive motions (e.g., discovery, default judgment, leave to file an amended complaint, etc.) must be filed by 5:00 p.m. Friday for the following Friday’s hearings.
 - Dispositive motions (e.g., summary judgment, dismiss case, etc.) must be filed and noticed for a Friday after the 11-day response deadline expires.
-

Sample Forms

Samples of the following forms are included below for review and guidance:

- Application to Proceed Without Prepayment and Affidavit
- Complaint
- Notice of Hearing
- Certificate of Service
- Summons
- Notice of Lawsuit and Request for Waive of Service of Summons

Note: Statements in bold on the forms are guidance for filling out the forms.

UNITED STATES DISTRICT COURT

Eastern

District of

Virginia

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER:

I, _____ declare that I am the (check appropriate box)
petitioner/plaintiff/movant other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

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

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

If "Yes," state the place of your incarceration _____

Are you employed at the _____ Do you receive any payment from _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past **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 12 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, interest or dividends Yes No
- c. Pensions, annuities or life insurance payments Yes No
- d. Disability or workers compensation payments Yes No
- e. Gifts or inheritances Yes No
- f. Any other sources Yes No

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

4. Do you have **any** cash or checking or savings accounts? Yes No
 If "Yes," state the total amount. _____
5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? Yes No
 If "Yes," describe the property and state its value.
6. 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.

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

Date

Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed IFP shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

ORDER OF COURT

<p>The application is hereby denied</p>	<p>The application is hereby granted. Let the applicant proceed without prepayment of cost or fees or the necessity of giving security therefor.</p>
<p>_____ United States Judge</p>	<p>_____ Date</p>
<p>_____ United States Judge or Magistrate</p>	<p>_____ Date</p>

**In the United States District Court
for the Eastern District of Virginia
Alexandria Division**

Plaintiff's Name
Address
Phone Number

v. Civil Action No. *(Leave blank, will be assigned by Clerk's Office)*

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

Submit an original plus one copy for each person you are bringing suit against.

**In the United States District Court
for the Eastern District of Virginia
Alexandria Division**

Plaintiff's Name

v.

Civil Action No. (*Enter Civil Action Number*)

Defendant's Name

NOTICE

PLEASE TAKE NOTICE that on Friday (*enter date for hearing*) _____, at 10:00 a.m., or as soon thereafter as the undersigned may be heard, the plaintiff(s) will present to the Court the Motion (*enter motion type*) _____.

(*Signature*)

(*Printed Name*)

Address

Telephone Number

CERTIFICATE OF SERVICE

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

YOU must send a copy of every motion, pleading or document to the defendant(s) or counsel for defendant(s). If you do not send a copy to the defendant(s) or counsel for the 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.

Complete each blank as directed:

(1) Describe the document you are submitting to the court and sending to the 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 the defendant(s) or counsel for the 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 the 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.

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

_____)
Plaintiff)
v.)
_____)
Defendant)

Civil Action No. _____

TO: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: lief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____)
Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____ and
a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last
known address; or

I served the summons on *(name of individual)* _____, who is designated by law to accept service of process
of *(name of organization)* _____ on *(date)* _____; or

I returned the summons unexecuted because _____

Other (specify): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true:

Date: _____

Server's Signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.