

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**GUIDE FOR FILING A CIVIL SUIT**

The following forms and information are available to file a civil suit in the United States District Court for the District of Colorado. These documents may be downloaded from the court's website. A copy of the Local Rules of Practice for the United States District Court for the District of Colorado also may be downloaded from the court's website.

1. Information and Instructions for Filing a Civil Suit
2. Civil Cover Sheet
3. Summons in a Civil Action
4. Notice of Lawsuit and Request for Waiver of Service of Summons
5. Waiver of Service of Summons (2 copies)
6. Rule 4 of the Federal Rules of Civil Procedure
7. Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)
8. Complaint
9. Where to Get Help
10. Maps: How to Find Us
11. Plaintiff's Checklist

For further information, please contact the office of the Clerk of the Court at the following address and telephone number:

Alfred A. Arraj United States Courthouse  
901 19<sup>th</sup> Street, Room A105  
Denver, CO 80294-3589  
303/844-3433  
[www.cod.uscourts.gov](http://www.cod.uscourts.gov)

The court's business hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

**INFORMATION AND INSTRUCTIONS FOR FILING  
A CIVIL SUIT IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**Introduction**

Attached are the forms you must complete and return to the court in order to file a civil suit. Information regarding these forms and instructions for completing the forms are provided below. Please read all of the instructions carefully before you complete the attached forms. All forms and other papers submitted to the court must bear an original signature and must be typewritten or legibly handwritten.

**Civil Cover Sheet**

You must complete and submit to the court a civil cover sheet (Form JS 44). *See* D.C.COLO.LCivR 3.1. Only the original civil cover sheet is required. Instructions for completing the civil cover sheet appear on the reverse side of the civil cover sheet.

**Summons in a Civil Action**

You do not need to complete and submit a “Summons in a Civil Action” if you are requesting, and the court orders, service of process by the United States Marshals Service. Otherwise, you must complete and submit to the court an original and one copy of the “Summons in a Civil Action” form for each party to be served. The completed summonses will be signed and sealed by the clerk or a deputy clerk and returned to you to serve the complaint yourself.

**Court Fees**

Each complaint must be accompanied by the full \$350.00 filing fee plus an additional \$50.00 administrative fee, for a total payment of \$400.00. The fees may be paid in cash, by money order, by credit card, or by check payable to: Clerk, U.S. District Court. There are no fees for a jury demand, an answer, or other similar papers. A schedule of other fees charged by the court is attached to the Local Rules of Practice for the United States District Court for the District of Colorado. A copy of the Local Rules of Practice is available from the Clerk of the Court or from the court’s website.

If you want to proceed without prepayment of fees, you must file on the form provided in this packet an original Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form). The required form, including a version that may be downloaded and completed on your computer, also is available on the court’s website. Each question in the application must be answered clearly and concisely in the appropriate space on the form. Any information that does not fit in the space provided on the form should be attached to the application, and the attached information should indicate clearly to which question the information pertains. Do not use the full name of minor children listed as dependents on the form. Identify minor children by their initials only. Do not include their date of birth. You must sign the application. You should exercise care to assure that all answers are true, correct, and complete. If there is more than one plaintiff in the civil suit, each plaintiff must complete and submit a separate application seeking leave to proceed without prepayment of fees following these same instructions.

## **Service of Process**

Each defendant must be served with a copy of the summons and complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. A copy of Rule 4 is included in this packet. Serving each defendant with a copy of the summons and complaint is known as service of process.

If the court grants you leave to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915, you are entitled, but not required, to have the United States Marshals Service serve process. The United States Marshals Service will not serve process without a court order.

If you elect not to have the court direct the United States Marshals Service to serve process, you are responsible for making service of process yourself. You should be aware that, due to high demands on the United States Marshals Service, service of process by the marshals may take up to 120 days. You may reduce the amount of time required for service of process if you choose to make service of process yourself pursuant to Rule 4 of the Federal Rules of Civil Procedure.

## **Notice and Request for Waiver of Service**

Rule 4(d) of the Federal Rules of Civil Procedure allows for service of process of certain individuals, corporations, and associations by providing notice of the lawsuit and requesting a waiver of formal service of process. You should consult the copy of Rule 4 that is included in this packet to determine whether a particular defendant appropriately may be served pursuant to Rule 4(d).

If you are seeking leave to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915 and you choose to make service of process yourself or if you are required to make service of process yourself, you may attempt to obtain a waiver of formal service of process from each defendant appropriately served pursuant to Rule 4(d). To attempt to obtain such a waiver, you must send by first-class mail to each appropriate defendant:

1. The completed Notice of Lawsuit and Request for Waiver of Service of Summons;
2. Two completed copies of a Waiver of Service of Summons;
3. A copy of the complaint; and
4. A self-addressed, stamped envelope.

If the defendant agrees to waive formal service of process, the defendant will return the Waiver of Service of Summons to you for filing with the court. If any defendant does not return the Waiver of Service of Summons to you within the time you specify on the Notice of Lawsuit and Request for Waiver of Service of Summons, that defendant must be served personally in accordance with Rule 4 of the Federal Rules of Civil Procedure.

## **Complaint**

Each named defendant must be listed in the caption of the complaint, one defendant per line. If there is more than one defendant, you should indicate clearly in the body of the complaint which actions are attributable to each defendant.

You must provide the court with an original complaint. You should keep a copy of the complaint for your records. The court will not provide a copy for you.

You must file your complaint on the form provided in this packet. The required form, including a version that may be downloaded and completed on your computer, also is available on the court's website. Your complaint must comply with the requirements of the Federal Rules of Civil Procedure. Rule 8 of the Federal Rules of Civil Procedure provides the general rules of pleading. A copy of the complete Federal Rules of Civil Procedure may be purchased at the U.S. Government Bookstore, <http://bookstore.gpo.gov>. The Federal Rules of Civil Procedure also are available for your use in the law library at the United States Courthouse.

If applicable, you should attach to your complaint, as an exhibit, a copy of any letter or other notification from an administrative agency that authorizes you to file your lawsuit or that otherwise may be relevant to the complaint you file. You are encouraged to file your complaint with the court well in advance of any applicable deadline for filing the complaint.

If you are removing a case from state court, please contact the Clerk of the Court for additional information.

### **Legal Assistance**

The United States district judges, the United States magistrate judges, the Clerk of the Court, the deputy clerks, and other court staff are officers of the court and are prohibited from giving legal advice. Legal questions should be directed to an attorney. A list of organizations and services that may be able to provide you with legal assistance or assist you in finding an attorney is included in this packet.

### **Additional Information**

After the court has issued a case number, each paper filed with the court must include the case number. You also must provide each opposing party or his, her, or its attorney with a copy of all documents submitted to the court.

You should keep a copy of each paper filed with the court for your records. The court will not provide a copy for you. You also should submit copies, not originals, of any exhibits or other attachments to papers submitted to the court for filing because the court is unable to return original documents or exhibits to you. For privacy and security reasons, you should not submit documents that include dates of birth, Social Security numbers, or banking information.

Each original document submitted to the court, except the original complaint, must include a certificate stating the date a copy of the document was mailed to each opposing party or his, her, or its attorney and the address to which it was mailed. Any document that fails to include a certificate of service may be disregarded by the court or returned to you. Even if you have been granted leave to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915, neither the court nor the United States Marshals Service will serve any papers after the filing and service of the complaint. An example of a certificate of service is:

I hereby certify that a copy of the foregoing pleading/document was mailed to \_\_\_\_\_ (defendant(s) or counsel for defendant(s))  
at \_\_\_\_\_ (address) on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff's Original Signature

When you have completed the complaint and all of the necessary forms as described in these instructions, the completed complaint and forms should be mailed or hand delivered to the Clerk of the United States District Court whose name and address are:

Jeffrey P. Colwell, Clerk  
Alfred A. Arraj United States Courthouse  
901 19<sup>th</sup> Street, Room A105  
Denver, CO 80294-3589

If you have any questions or seek additional information, please contact the office of the Clerk of the Court at 303/844-3433. The court's business hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

# 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 ' 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant ' 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)

	PTF	DEF		PTF	DEF
Citizen of This State	' 1	' 1	Incorporated or Principal Place of Business In This State	' 4	' 4
Citizen of Another State	' 2	' 2	Incorporated and Principal Place of Business In Another State	' 5	' 5
Citizen or Subject of a Foreign Country	' 3	' 3	Foreign Nation	' 6	' 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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<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"/> 835 Patent - Abbreviated New Drug Application <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"/> 376 Qui Tam (31 USC 3729(a)) <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	LABOR	FEDERAL TAX SUITS
<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	<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	<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 - Transfer
- 8 Multidistrict Litigation - Direct File

## 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:  AP Docket

## 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 \_\_\_\_\_

**UNITED STATES DISTRICT COURT**

for the

District of Colorado

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

**SUMMONS IN A CIVIL ACTION**

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:

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*

**United States District Court  
District of Colorado**

**NOTICE OF LAWSUIT AND REQUEST FOR  
WAIVER OF SERVICE OF SUMMONS**

TO: ( \_\_\_\_\_ )

as ( \_\_\_\_\_ ) 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 as 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 that date if your 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



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**United States District Court**

**District of  
Colorado**

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**WAIVER OF SERVICE OF SUMMONS**

V.

CASE NUMBER:

**NOTICE**

TO:

I acknowledge receipt of your request that I waive service of summons in the action of \_\_\_\_\_  
Caption of Action

\_\_\_\_\_, which is case number \_\_\_\_\_ in the United States District Court for the District of  
Docket Number

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

\_\_\_\_\_  
(Date)

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

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

[as \_\_\_\_\_ ]

[of \_\_\_\_\_ ]

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**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 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 has 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.

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**United States District Court**

**District of  
Colorado**

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**WAIVER OF SERVICE OF SUMMONS**

V.

CASE NUMBER:

**NOTICE**

TO:

I acknowledge receipt of your request that I waive service of summons in the action of \_\_\_\_\_  
Caption of Action  
\_\_\_\_\_, which is case number \_\_\_\_\_ in the United States District Court for the District of  
Docket Number

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

\_\_\_\_\_  
(Date)

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

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

[as \_\_\_\_\_ ]

[of \_\_\_\_\_ ]

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**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 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 has 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.

Title II. Commencing an Action; Service of Process, Pleadings, Motions, and Orders

Federal Rules of Civil Procedure Rule 4

**Rule 4. Summons**

**(a) Contents; Amendments.**

(1) **Contents.** A summons must:

- (A) name the court and the parties;
- (B) be directed to the defendant;
- (C) state the name and address of the plaintiff's attorney or--if unrepresented--of the plaintiff;
- (D) state the time within which the defendant must appear and defend;
- (E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;
- (F) be signed by the clerk; and
- (G) bear the court's seal.

(2) **Amendments.** The court may permit a summons to be amended.

**(b) Issuance.** On or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons--or a copy of a summons that is addressed to multiple defendants--must be issued for each defendant to be served.

**(c) Service.**

(1) **In General.** A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

(2) **By Whom.** Any person who is at least 18 years old and not a party may serve a summons and complaint.

(3) **By a Marshal or Someone Specially Appointed.** At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

**(d) Waiving Service.**

(1) **Requesting a Waiver.** An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

- (A) be in writing and be addressed:
  - (i) to the individual defendant; or
  - (ii) for a defendant subject to service under Rule 4(h), to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process;
- (B) name the court where the complaint was filed;
- (C) be accompanied by a copy of the complaint, 2 copies of the waiver form appended to this Rule 4, and a prepaid means for returning the form;
- (D) inform the defendant, using the form appended to this Rule 4, of the consequences of waiving and not waiving service;
- (E) state the date when the request is sent;
- (F) give the defendant a reasonable time of at least 30 days after the request was sent--or at least 60 days if sent to the defendant outside any judicial district of the United States--to return the waiver; and
- (G) be sent by first-class mail or other reliable means.

(2) **Failure to Waive.** If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

- (A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(3) **Time to Answer After a Waiver.** A defendant who, before being served with process, timely returns a waiver need not serve an answer to the complaint until 60 days after the request was sent--or until 90 days after it was sent to the defendant outside any judicial district of the United States.

(4) **Results of Filing a Waiver.** When the plaintiff files a waiver, proof of service is not required and these rules apply as if a summons and complaint had been served at the time of filing the waiver.

(5) **Jurisdiction and Venue Not Waived.** Waiving service of a summons does not waive any objection to personal jurisdiction or to venue.

(e) **Serving an Individual Within a Judicial District of the United States.** Unless federal law provides otherwise, an individual--other than a minor, an incompetent person, or a person whose waiver has been filed--may be served in a judicial district of the United States by:

(1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or

(2) doing any of the following:

(A) delivering a copy of the summons and of the complaint to the individual personally;

(B) leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

(C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

(f) **Serving an Individual in a Foreign Country.** Unless federal law provides otherwise, an individual--other than a minor, an incompetent person, or a person whose waiver has been filed--may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the complaint to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(g) **Serving a Minor or an Incompetent Person.** A minor or an incompetent person in a judicial district of the United States must be served by following state law for serving a summons or like process on such a defendant in an action brought in the courts of general jurisdiction of the state where service is made. A minor or an incompetent person who is not within any judicial district of the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

(h) **Serving a Corporation, Partnership, or Association.** Unless federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served:

(1) in a judicial district of the United States:

(A) in the manner prescribed by Rule 4(e)(1) for serving an individual; or

(B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and--if the agent is one authorized by statute and the statute so requires--by also mailing a copy of each to the defendant; or

(2) at a place not within any judicial district of the United States, in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).

**(i) Serving the United States and Its Agencies, Corporations, Officers, or Employees.**

(1) **United States.** To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought--or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk--or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) **Agency; Corporation; Officer or Employee Sued in an Official Capacity.** To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) **Officer or Employee Sued Individually.** To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

(4) **Extending Time.** The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or

(B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.

**(j) Serving a Foreign, State, or Local Government.**

(1) **Foreign State.** A foreign state or its political subdivision, agency, or instrumentality must be served in accordance with 28 U.S.C. § 1608.

(2) **State or Local Government.** A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:

(A) delivering a copy of the summons and of the complaint to its chief executive officer; or

(B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant.

**(k) Territorial Limits of Effective Service.**

(1) **In General.** Serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant:

(A) who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located;

(B) who is a party joined under Rule 14 or 19 and is served within a judicial district of the United States and not more than 100 miles from where the summons was issued; or

(C) when authorized by a federal statute.

(2) **Federal Claim Outside State-Court Jurisdiction.** For a claim that arises under federal law, serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant if:

(A) the defendant is not subject to jurisdiction in any state's courts of general jurisdiction; and

(B) exercising jurisdiction is consistent with the United States Constitution and laws.

**(l) Proving Service.**

**(1) Affidavit Required.** Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit.

**(2) Service Outside the United States.** Service not within any judicial district of the United States must be proved as follows:

**(A)** if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or

**(B)** if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

**(3) Validity of Service; Amending Proof.** Failure to prove service does not affect the validity of service. The court may permit proof of service to be amended.

[Text of subdivision (m) effective until December 1, 2017, absent contrary Congressional action.]:

**(m) Time Limit for Service.** If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1).

[Text of subdivision (m) effective December 1, 2017, absent contrary Congressional action.]:

**(m) Time Limit for Service.** If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).

**(n) Asserting Jurisdiction over Property or Assets.**

**(1) Federal Law.** The court may assert jurisdiction over property if authorized by a federal statute. Notice to claimants of the property must be given as provided in the statute or by serving a summons under this rule.

**(2) State Law.** On a showing that personal jurisdiction over a defendant cannot be obtained in the district where the action is brought by reasonable efforts to serve a summons under this rule, the court may assert jurisdiction over the defendant's assets found in the district. Jurisdiction is acquired by seizing the assets under the circumstances and in the manner provided by state law in that district.

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

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

**APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS  
(Long Form)**

<b>Affidavit in Support of the Application</b>	<b>Instructions</b>
I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.	Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.
Signed: _____	Date: _____

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property <i>(such as rental income)</i>	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

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Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
<b>Total monthly income:</b>	\$	\$	\$	\$

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you 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.



5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<b>Assets owned by you or your spouse</b>	
Home ( <i>Value</i> )	\$
Other real estate ( <i>Value</i> )	\$
Motor vehicle #1 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Other assets ( <i>Value</i> )	\$
Other assets ( <i>Value</i> )	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

<b>Name</b> (or, if under 18, initials only)	<b>Relationship</b>	<b>Age</b>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

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Regular expenses for operation of business, profession, or farm ( <i>attach detailed statement</i> )	\$	\$
Other ( <i>specify</i> ):	\$	\$
<b>Total monthly expenses:</b>	\$	\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes     No    If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit?     Yes     No

If yes, how much? \$ \_\_\_\_\_

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

12. Identify the city and state of your legal residence.

Your daytime phone number: \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

Last four digits of your social-security number: \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. \_\_\_\_\_  
(To be supplied by the court)

\_\_\_\_\_, Plaintiff,

v.

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_,'

\_\_\_\_\_, Defendant(s).

(List each named defendant on a separate line.)

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**COMPLAINT**

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**PARTIES**

1. Plaintiff \_\_\_\_\_ is a citizen of \_\_\_\_\_  
who presently resides at the following address:

\_\_\_\_\_

2. Defendant \_\_\_\_\_ is a citizen of \_\_\_\_\_  
who live(s) at or is/are located at the following address:

\_\_\_\_\_

3. Defendant \_\_\_\_\_ is a citizen of \_\_\_\_\_  
who live(s) at or is/are located at the following address:

\_\_\_\_\_

(Attach a separate page, if necessary, to list additional parties.)

**JURISDICTION**

4. Jurisdiction is asserted pursuant to following statutory authorities:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Briefly state the background of your case:

**FIRST CLAIM FOR RELIEF  
AND SUPPORTING FACTUAL ALLEGATIONS**

(Please number your paragraphs and attach any necessary additional pages.)

**SECOND CLAIM FOR RELIEF  
AND SUPPORTING FACTUAL ALLEGATIONS**

(Please number your paragraphs and attach any necessary additional pages.)

**THIRD CLAIM FOR RELIEF  
AND SUPPORTING FACTUAL ALLEGATIONS**

(Please number your paragraphs and attach any necessary additional pages.)



**REQUEST FOR RELIEF**

Plaintiff requests the following relief:

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

\_\_\_\_\_  
(Plaintiff's Original Signature)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, ZIP)

\_\_\_\_\_  
(Telephone Number)

## WHERE TO GET HELP

American Civil Liberties Union	303/777-5482
Catholic Immigration Services (immigration and deportation only)	303/742-0828
Colorado Bar Association website	<a href="http://www.cobar.org">www.cobar.org</a>
Colorado Legal Services (formerly Legal Aid Society)	
Denver	303/837-1313
Fort Collins	970/493-2891
Colorado Springs	719/471-0380
	<a href="http://www.coloradolegalservices.org">www.coloradolegalservices.org</a>
The Legal Center (physically challenged only)	303/722-0300 <a href="http://www.thelegalcenter.org">www.thelegalcenter.org</a>
Law Line 9 (legal advice only Wednesdays 4:15-6:30 p.m.)	303/698-0999
Metropolitan Lawyer Referral Service	303/831-8000 <a href="http://www.cobar.org/mlrs/">www.cobar.org/mlrs/</a>

# PLAINTIFF'S CHECKLIST

- \_\_\_\_\_ 1 original Civil Cover Sheet
  
- \_\_\_\_\_ 1 original Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), if the plaintiff seeks to proceed without payment of the filing fee. Each plaintiff must complete this form if there is more than one plaintiff.
  
- \_\_\_\_\_ A check, cash, or credit card payment in the amount of \$400.00, if the plaintiff does not seek to proceed without payment of the filing fee.
  
- \_\_\_\_\_ Complaint
- \_\_\_\_\_ 1 original
- \_\_\_\_\_ 1 copy for the plaintiff's records
  
- \_\_\_\_\_ 1 Notice of Lawsuit and Request for Waiver and Service of Summons for each defendant (if the defendant is a nongovernmental individual or corporation)
  
- \_\_\_\_\_ 2 copies of Waiver of Service of Summons for each defendant
  
- \_\_\_\_\_ 2 original Summons in a Civil Action for each defendant