

INSTRUCTIONS FOR FILING A COMPLAINT

To bring an action in the U.S. District Court for the Northern District of New York, you must file one original complaint and provide the Clerk with a copy of your complaint for each defendant named. All copies of the original complaint must be identical. You also should keep a copy for your own records.

There is a **\$350.00 filing fee** required in order to maintain an action in federal court. If you are unable to pay the filing fee and cost of service of this case, you may request that the Court allow you to proceed “in forma pauperis.” If there is more than one plaintiff to an action, each plaintiff named must file a separate “Application to Proceed In Forma Pauperis.” **The Clerk cannot accept for filing a complaint that is not accompanied by either the full filing fee or a completed in forma pauperis application.**

- You may file this complaint with our Court only if one or more of the defendants is located within this district.
- You are required to furnish the correct name and address of each person you have named as defendant.
- You must file a separate complaint for each claim **unless** all of your claims relate to the same incident or issue.
- You must include allegations of wrongful conduct as to all defendants named in your complaint.
- Your complaint must be legibly handwritten or typed.
- You are required to give facts supporting each of your claims against each of the defendants in your complaint, and you must sign this document and declare under penalty of perjury that the facts are correct. All plaintiffs must sign the complaint individually.
- Your complaint should not contain legal arguments or case citations.
- You will also have to fill out other documents, such as a summons, a civil cover sheet, USM-285 forms, etc., in order to maintain an action in this district.

If you need additional space to answer a question, you may use additional sheets of paper. When these forms are completed, mail the original complaint and sufficient copies of same to:

Lawrence K. Baerman, Clerk
U.S. District Court
Federal Building, P.O. Box 7367
100 S. Clinton Street
Syracuse, New York 13261-7367

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK**

NOTICE

Amended August 6, 2004

Effective *January 1, 2004*, the Office of the Clerk will accept electronically-filed documents and will make the content of those documents available on the Court's Internet webpage via PACER (Public Access to Court Electronic Records). Any subscriber to PACER will be able to read, download, store and print the full contents of the electronically-filed documents. The Clerk's Office is not posting documents sealed or otherwise restricted by court order (*See also General Order #22*).

You should not include sensitive information in any document filed with the Court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via PACER. If sensitive information must be included, the following personal identifiers must be partially redacted from the document, whether it is filed traditionally or electronically:

- ✓ **Social Security Numbers.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.
- ✓ **Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- ✓ **Dates of Birth.** If an individual's date of birth must be included in a document, only the year should be used.
- ✓ **Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- ✓ **Home Addresses.** If home addresses must be used, use only the City and State.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- a. file an unredacted version of the document under seal, or
- b. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file. In addition, exercise caution when filing documents that contain the following:

- ◆ personal identifying number, such as a driver's license number
- ◆ medical records, treatment and diagnosis
- ◆ employment history
- ◆ individual financial information
- ◆ proprietary or trade secret information
- ◆ information regarding an individual's cooperation with the government

Counsel is strongly urged to share this notice with all clients so that an informed decision about the inclusion, redaction and/or exclusion of certain materials may be made. **It is the sole responsibility of counsel and the parties** to be sure that all documents comply with the rules of this Court requiring redaction of personal identifiers. The Clerk will not review each document for compliance with this rule. (*See also NDNY Local Civil Rule 8.1 and Criminal Rule 12.1(g)*)

Attached for your convenience are the following forms:

- 1. Summons in a Civil Action**
- 2. Application to Proceed In Forma Pauperis (waiver of civil filing fee)**
- 3. Inmate Authorization Form**
- 4. JS44 Civil Cover Sheet**
- 5. U.S. Marshals 285 Forms**

UNITED STATES DISTRICT COURT

District of

SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within _____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Clerk of Court

Date

Deputy Clerk

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ¹		DATE
NAME OF SERVER (<i>PRINT</i>)		TITLE
Check one box below to indicate appropriate method of service		
<div><input type="checkbox"/> Served personally upon the defendant. Place where served:</div> <div><input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:</div> <div><input type="checkbox"/> Returned unexecuted:</div> <div><input type="checkbox"/> Other (specify):</div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div><div>Executed on _____ Date</div><div><div>_____ Signature of Server</div><div>_____ Address of Server</div></div></div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Plaintiff(s)

v.

Defendant(s)

**APPLICATION TO PROCEED
WITHOUT FULL PREPAYMENT
OF FEES; AFFIDAVIT AND
AUTHORIZATION FORM**

CASE NUMBER:

I, _____ declare that I am (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 U.S.C. § 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 institution? Yes No

Do you receive any payment from same? Yes No

Notice to Inmates: The Certificate Portion Of This Affidavit Must Be Completed.

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 the name and address of your last employer.

3. In the past 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 each source of money and state the amount received **and** what you expect you will continue to receive.

4. Do you have any cash, 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 assets?** Yes No
If "Yes" describe the property and state its value (Attach additional sheets as necessary):

6. List the person(s) 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

CERTIFICATE

(To be completed by appropriate official at institution of incarceration)

I certify that the applicant named herein has the sum of \$ _____ on account to his/her credit at (Name of Institution) _____.

I further certify that the applicant has the following securities to his/her credit: _____

I further certify that **during the past six(6) months** the applicant's average balance was \$ _____

DATE

SIGNATURE OF AUTHORIZED OFFICER

INMATE AUTHORIZATION

I, _____,
authorize the agency holding me in custody to send to the Clerk of the United States District Court for the Northern District of New York ("Clerk"), at his request, a certified copy of the statements, for the past six months, of my trust fund account (or institutional equivalent) at the institution where I am currently incarcerated.

If I have not been incarcerated at my current place of confinement for at least six (6) months, I authorize such agency to provide said Clerk, at his request, with copies of such account statements from the institution(s) in which I had previously been incarcerated.

I further request and authorize the agency holding me in custody to calculate, encumber and/or disburse funds from my trust fund account (or institutional equivalent) in the amounts specified by 28 U.S.C. § 1915(b). This authorization is furnished in connection with the commencement of the civil action submitted herewith (or noted below), and I understand that the total filing fee which I am obligated to pay is \$350.00. I also understand that this fee will be debited from my account regardless of the outcome of my lawsuit. This authorization shall apply to any other agency into whose custody I may be transferred.

➔ **Signature:** _____

★ **NOTE:** You **must sign your name** on the above line. ★

FOR OFFICIAL USE ONLY - DO NOT WRITE BELOW THIS LINE

Name and DIN Number: _____
Civil Action Number: _____
Short Name of Case: _____

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

☐ 2 U.S. Government Defendant

☐ 3 Federal Question (U.S. Government Not a Party)

☐ 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	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 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	<div><div>PERSONAL INJURY</div><div><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</div></div> <div><div>PERSONAL INJURY</div><div><input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</div></div> <div><div>PERSONAL PROPERTY</div><div><input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability</div></div>	<div><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other</div> <div><div>LABOR</div><div><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</div></div> <div><div>IMMIGRATION</div><div><input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions</div></div>	<div><input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157</div> <div><div>PROPERTY RIGHTS</div><div><input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark</div></div> <div><div>SOCIAL SECURITY</div><div><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))</div></div> <div><div>FEDERAL TAX SUITS</div><div><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</div></div>	<div><input type="checkbox"/> 375 False Claims Act <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</div> <div><input type="checkbox"/> 950 Constitutionality of State Statutes</div>
<div><div>REAL PROPERTY</div><div><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</div></div>	<div><div>CIVIL RIGHTS</div><div><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</div></div>	<div><div>PRISONER PETITIONS</div><div><div>Habeas Corpus:</div><div><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</div><div><div>Other:</div><div><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</div></div></div></div>		

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

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:

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

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.