

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA



FORMS FOR FILING CASES  
*PRO SE* (Representing Yourself)

Revised 3/22/2001

# ATTACHMENTS

**FORM A: *Pro Se* [Non-Prisoner] Complaint Form**

**FORM B: Civil Cover Sheet (Form JS-44)**

**FORM C: Application to Proceed Without Prepayment of Fees and Affidavit (IFP Application)**

**FORM D: *Pro Se* Party's Answers to Rule 26.01 Interrogatories**

**FORM E: Summons in a Civil Case**

**FORM F: Notice of Lawsuit and Request for Waiver of Service for Summons**

**FORM G: Waiver of Service of Summons**

**FORM H: Consent to Proceed before a United States Magistrate Judge**



B. *If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.*

1. *Parties to this previous lawsuit:*

*Plaintiff:* \_\_\_\_\_

*Defendant(s):* \_\_\_\_\_

2. *Court:* \_\_\_\_\_  
*(If federal court, name the district; if state court, name the county)*

3. *Docket Number:* \_\_\_\_\_

4. *Name(s) of Judge(s) to whom case was assigned:* \_\_\_\_\_

5. *Status of Case:* \_\_\_\_\_  
*(For example, was the case dismissed? Settled? Appealed? Still Pending?)*

6. *Date lawsuit was filed:* \_\_\_\_\_

7. *Date of disposition (if concluded):* \_\_\_\_\_

C. *Do you have any other lawsuits pending in the federal court in South Carolina?*

Yes \_\_\_\_\_ No \_\_\_\_\_

## II. PARTIES

*In Item A below, place your name and address in the space provided. Do the same for additional plaintiffs, if any.*

A. Name of Plaintiff: \_\_\_\_\_

Address: \_\_\_\_\_

*In Item B below, place the full name of the defendant; and his, her, or its address, in the space provided. Use Item C for additional defendants, if any.*

B. Name of Defendant: \_\_\_\_\_

Address: \_\_\_\_\_

C. *Additional Defendants (provide the same information for each defendant as listed in Item B above):*

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**III. STATEMENT OF CLAIM**

*State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the name(s) of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.*

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# 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 THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

County of Residence of First Listed \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- G 1 U.S. Government Plaintiff
- G 2 U.S. Government Defendant
- G 3 Federal Question (U.S. Government Not a Party)
- G 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for and One Box for Defendant)

- |   |            |     |  |            |
|---|------------|-----|--|------------|
|   | <b>DEF</b> |     | <b>PTF</b>   | <b>DEF</b> |
| Citizen of This State                   | G 1        | G 1 | Incorporated <i>or</i> Principal Place of Business In This State | G 4 G 4    |
| Citizen of Another State                | G 2        | G 2 | Incorporated <i>and</i> Principal of Business In Another State   | G 5 G 5    |
| Citizen or Subject of a Foreign Country | G 3        | G 3 | Foreign Nation   | G 6 G 6    |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
G 110 Insurance G 120 Marine G 130 Miller Act G 140 Negotiable Instrument G 150 Recovery of Overpayment & Enforcement of Judgment G 151 Medicare Act G 152 Recovery of Defaulted Student Loans (Excl. Veterans) G 153 Recovery of Overpayment of Veteran's Benefits G 160 Stockholders' Suits G 190 Other Contract G 195 Contract Product Liability	<b>PERSONAL INJURY</b> G 310 Airplane G 315 Airplane Product Liability G 320 Assault, Libel & Slander G 330 Federal Employers' Liability G 340 Marine G 345 Marine Product Liability G 350 Motor Vehicle G 355 Motor Vehicle Product Liability G 360 Other Personal Injury	<b>PERSONAL INJURY</b> G 362 Personal Injury—Med. Malpractice G 365 Personal Injury—Product Liability G 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> G 370 Other Fraud G 371 Truth in Lending G 380 Other Personal Property Damage G 385 Property Damage Product Liability	G 610 Agriculture G 620 Other Food & Drug G 625 Drug Related Seizure of Property 21 USC 881 G 630 Liquor Laws G 640 R.R. & Truck G 650 Airline Regs. G 660 Occupational Safety/Health G 690 Other	G 400 State Reapportionment G 410 Antitrust G 430 Banks and Banking G 450 Commerce/ICC Rates/etc. G 460 Deportation G 470 Racketeer Influenced and Corrupt Organizations G 810 Selective Service G 850 Securities/Commodities/Exchange G 875 Customer Challenge 12 USC 3410 G 891 Agricultural Acts G 892 Economic Stabilization Act G 893 Environmental Matters G 894 Energy Allocation Act G 895 Freedom of Information Act G 900 Appeal of Fee Determination Under Equal Access to Justice G 950 Constitutionality of State Statutes G 890 Other Statutory Actions
<b>REAL PROPERTY</b> G 210 Land Condemnation G 220 Foreclosure G 230 Rent Lease & Ejectment G 240 Torts to Land G 245 Tort Product Liability G 290 All Other Real Property	<b>CIVIL RIGHTS</b> G 441 Voting G 442 Employment G 443 Housing/Accommodations G 444 Welfare G 440 Other Civil Rights	<b>PRISONER PETITIONS</b> G 510 Motions to Vacate Sentence Habeas Corpus: G 530 General G 535 Death Penalty G 540 Mandamus & Other G 550 Civil Rights G 555 Prison Condition	<b>LABOR</b> G 710 Fair Labor Standards Act G 720 Labor/Mgmt. Relations G 730 Labor/Mgmt. Reporting & Disclosure Act G 740 Railway Labor Act G 790 Other Labor Litigation G 791 Empl. Ret. Inc. Security Act	<b>PROPERTY RIGHTS</b> G 422 Appeal 28 USC 158 G 423 Withdrawal 28 USC 157 G 820 Copyrights G 830 Patent G 840 Trademark <b>SOCIAL SECURITY</b> G 861 HIA (1395ff) G 862 Black Lung (923) G 863 DIWC/DIWW (405(g)) G 864 SSID Title XVI G 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> G 870 Taxes (U.S. Plaintiff or Defendant) G 871 IRS—Third Party 26 USC 7609

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- |                         |                              |                                   |                            |   |                              |   |
|-------------------------|------------------------------|-----------------------------------|----------------------------|---|------------------------------|---|
| G 1 Original Proceeding | G 2 Removed from State Court | G 3 Remanded from Appellate Court | G 4 Reinstated or Reopened | G 5 Transferred from another district (specify) | G 6 Multidistrict Litigation | G 7 Appeal to District Judge from Magistrate Judgment |
|-------------------------|------------------------------|-----------------------------------|----------------------------|---|------------------------------|---|

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

**VII. REQUESTED IN COMPLAINT:** G CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23 CHECK YES only if demanded in complaint: **JURY DEMAND:** G Yes G 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.C.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; 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 IV below, is sufficient to enable the deputy clerk or the statistical clerks 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 seven 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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause.

**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 dollar amount (in thousands of dollars) 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.

# UNITED STATES DISTRICT COURT

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

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 institution? \_\_\_\_\_ Do you receive any payment from the institution? \_\_\_\_\_

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.

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Date

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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.

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

	)	C/A No. _____
Plaintiff,	)	
vs.	)	
	)	<b><i>Pro Se Party's Answers to Rule 26.01 Interrogatories</i></b>
	)	
	)	
Defendant(s).	)	
	)	

(A) State the full name, address and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

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(B) As to each claim, state whether it should be tried jury or non jury and why.

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(C) State the basis for asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division).

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(D) Is this action related in whole or in part to any other matter filed in this District, whether civil or criminal? If so, provide:

- (1) a short caption and the full case number of the related action;
- (2) an explanation of how the matters are related; and
- (3) a statement of the status of the related action.

Please disclose any cases which may be related regardless of whether they are still pending.

*Note:* Whether cases are related such that they should be assigned to a single judge will be determined by the Clerk of Court based on a determination of whether the cases: arise from the same or identical transactions, happenings or events; involve the identical parties or property; or for any other reason would entail substantial duplication of labor if heard by different judges.

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(E) [*Pro Se Defendants* only.] If the defendant is improperly identified, give the proper identification and state whether the party(ies) submitting these responses will accept service of an amended summons and pleading reflecting the correct identification.

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(F) [*Pro Se Defendants* only.] If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
*Signature of Party Responding*

# 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

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(By) DEPUTY CLERK



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

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

as (B) \_\_\_\_\_ 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

### WAIVER OF SERVICE OF SUMMONS

TO: \_\_\_\_\_  
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, \_\_\_\_\_, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of \_\_\_\_\_,  
(CAPTION OF ACTION)

which is case number \_\_\_\_\_ in the United States District Court  
(DOCKET NUMBER)

for the \_\_\_\_\_ District of \_\_\_\_\_.

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 \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

#### 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.

