

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

GUIDE FOR FILING A CIVIL SUIT

The following forms and information are necessary to file a civil suit in the United States District Court for the District of Colorado. These documents, except for Form USM-285/United States Marshals Service Process Receipt and Return (item 14 below), 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. Sample Copy of Form USM-285/United States Marshals Service Process Receipt and Return
7. Rule 4 of the Federal Rules of Civil Procedure
8. Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915
9. Complaint
10. Where to Get Help
11. Maps: How to Find Us
12. Plaintiff's Checklist
13. Local Rules of Practice of the United States District Court for the District of Colorado
14. Form USM-285/United States Marshals Service Process Receipt and Return (3 copies)

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 19th Street, Room A105
Denver, CO 80294-3589
303/844-3433
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 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 if you are serving the complaint yourself. If the court orders service of process by the United States Marshals Service, the completed summonses will be signed and sealed by the clerk or a deputy clerk and forwarded to the United States Marshals Service.

Court Fees

Each complaint must be accompanied by the full \$350.00 filing fee. The filing fee 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 commence a civil suit without prepayment of fees, you must file on the form provided in this packet an original Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Each question in the motion and affidavit 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 motion and affidavit, 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 state whether you want the court to direct the United States Marshals Service to serve process. Service of process is discussed in greater detail below. You must sign the motion and affidavit and your signature must be notarized. 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 motion and affidavit 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 Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 form requires you to state whether you want the court to direct the United States Marshals Service to serve process. If you want the court to direct the United States Marshals Service to serve process, you must prepare for each defendant a separate service of process packet that includes all of the forms and documents necessary for service of process to be made by the United States Marshals Service. Each defendant's packet must include:

1. An original and one copy of a Summons in a Civil Action as described above;
2. A Process Receipt and Return form as described below;
3. The notice and request for waiver of service forms described below, if appropriate; and
4. A copy of the complaint.

Please use a clip or rubber band to separate each defendant's packet.

If you decide 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.

United States Marshals Service Process Receipt and Return

If you are seeking leave to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915 and you want the court to direct the United States Marshals Service to serve process, you must complete and submit to the court a separate United States Marshals Service Process Receipt and Return form (Form USM-285) for each party to be served. Instructions for completing a Process Receipt and Return form appear on the reverse side of the form. When an agent or agency of the United States government is named as a defendant, you must provide the court with one copy of the completed Process Receipt and Return form for each named defendant, one copy for the United States Attorney General, and one copy for the United States Attorney. The

addresses for the United States Attorney General and the United States Attorney are:

United States Attorney General
Room 5111, Main Justice Building
10th and Constitution, N.W.
Washington, DC 20530

United States Attorney
District of Colorado
1225 17th Street, Suite 700
Denver, CO 80202

You are responsible for providing accurate and complete information so that each defendant may be served properly. Copies of the United States Marshals Service Process Receipt and Return form are available from the Clerk of the Court.

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 want the court to direct the United States Marshals Service to serve process, you must prepare for each defendant appropriately served pursuant to Rule 4(d) a completed Notice of Lawsuit and Request for Waiver of Service of Summons (Form AO 398) and two completed copies of a Waiver of Service of Summons (Form AO 399). You are responsible for providing accurate and complete information so that the defendants may be served properly.

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 pursuant to D.C.COLO.LCivR10.1J. 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 also must provide the court with one copy of the complaint for each named defendant if the court grants you leave to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915 and you want the court to direct the United States Marshals Service to serve process. For example, if you name two defendants, you must submit to the court one original and two copies of the complaint. When an agent or agency of the United States government is named as a defendant, you must provide the court with one copy for each named defendant, one copy for the United States Attorney General, and one copy for the United States Attorney. You should keep an additional copy of the complaint for your records. The court will not provide a copy for you. All copies of the complaint, including all exhibits attached to the complaint, must be identical to the original.

You must file your complaint on the form provided in this packet. 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, 1660 Wynkoop, Suite 130, Denver, CO 80202, telephone number 303/844-3964. The Federal Rules of Civil Procedure also are available for your use in the law library at the United States Courthouse at the address listed at the end of these instructions.

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 the 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. 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 the 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:

Gregory C. Langham, Clerk
Alfred A. Arraj United States Courthouse
901 19th 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

To download this form visit our website.

www.cod.uscourts.gov

SUMMONS IN A CIVIL ACTION

**United States District
Court
for the District of Colorado**

Civil Action Number:

v. PLAINTIFF(S),

DEFENDANT(S).

SUMMONS

To the above named Defendant(s):

You are hereby summoned and required to serve upon

plaintiff's attorney, whose address is:

AND FILE WITH THE CLERK OF THE COURT

an answer to the complaint which is herewith served upon you, within _____ days of service of this summons upon 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.

Gregory C. Langham, Clerk

By: _____
Deputy Clerk

(Seal of the Court)

Date:

Clerk, U.S. District Court, Room A-105 Alfred A. Arraj U.S. Courthouse, 901 19th Street, Denver, Colorado 80294-3589

NOTE: This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

RETURN OF SERVICE

NAME OF SERVER:

TITLE:

Check one box to indicate appropriate method of service.

Served personally upon the defendant. Place where left: _____

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 where left: _____

Returned unexecuted: _____

Other (specify): _____

STATEMENT OF SERVICE OF FEES

TRAVEL

SERVICES

TOTAL

DECLARATION OF SERVER

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 is true and correct.

Executed on:

_____ Date

_____ Signature of Server

_____ Address of Server

**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

United States District Court

**District of
Colorado**

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 _____]

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.

United States District Court

**District of
Colorado**

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 _____]

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.

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

| | | | |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|--|
| PLAINTIFF YOUR NAME | | COURT CASE NUMBER LEAVE BLANK | |
| DEFENDANT FIRST DEFENDANT NAME | | TYPE OF PROCESS S/C (SUMMONS & COMPLAINT) | |
| SERVE ➔ AT | NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DEFENDANT BEING SERVED | | |
| | ADDRESS (Street or RFD, Apartment No., City State and Zip Code) ADDRESS FOR DEFENDANT (MUST BE A STREET ADDRESS, NO PO BOXES) | | |

| | | |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|--|
| SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW: ----- YOUR NAME YOUR ADDRESS | Number of process to be served with this Form - 285 | |
| | Number of parties to be served in this case | |
| | Check for service on U.S.A. | |

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Personal Service

| | | | |
|---------------------------------------------------------------------------------------------------------------|----------------|--------------------|--------------------|
| Signature of Attorney or other Originator requesting service on behalf of: LEAVE BLANK Deputy Clerk | ____ PLAINTIFF | TELEPHONE NUMBER | DATE |
| | ____ DEFENDANT | LEAVE BLANK | LEAVE BLANK |

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

| | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------|--------------------------|----------------------------------------------|------|
| I acknowledge receipt for the total number of process indicated. (<i>Sign only first USM 285 if more than one USM 285 is submitted</i>) | Total Process | District of Origin No. | District to Serve No. | Signature of Authorized USMS Deputy or Clerk | Date |
|-------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------|--------------------------|----------------------------------------------|------|

I hereby certify and return that I ____ have personally served, ____ have legal evidence of service, ____ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, etc., shown at the address indicated below.

____ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

| | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------|
| Name and title of individual served (<i>if not shown above</i>) | ____ A person of suitable age and discretion then residing in the defendant's usual place of adobe. | |
| | Address (<i>complete only if different than shown above</i>) | Date of Service |
| | Time | am pm |
| Signature of U.S. Marshal or Deputy | | |

| | | | | | | |
|-------------|---------------------------------------------|----------------|---------------|------------------|--------------------------------|------------------|
| Service Fee | Total Mileage Charges (including endeavors) | Forwarding Fee | Total Charges | Advance Deposits | Amount owed to U.S. Marshal or | Amount of Refund |
|-------------|---------------------------------------------|----------------|---------------|------------------|--------------------------------|------------------|

REMARKS:

COMMENCEMENT OF ACTION ETC.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

Rule 4. Summons

(a) Form.

The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) Issuance.

Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) Service with Complaint; by Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subdivision (m) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916.

(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h), and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subdivision (h);

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subdivision (e), (f), or (h), together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(e) Service Upon Individuals Within a Judicial District of the United States.

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States:

(1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or

(2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(f) Service Upon Individuals in a Foreign Country.

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

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

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

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

(C) unless prohibited by the law of the foreign country, by

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

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(g) Service Upon Infants and Incompetent Person.

Service upon an infant or an incompetent person in a judicial district of the United States shall be effected in the manner prescribed by the law of the state in which the service is made for the service of summons or like process upon any such

defendant in an action brought in the courts of general jurisdiction of that state. Service upon an infant or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (f) or by such means as the court may direct.

(h) Service Upon Corporations and Associations.

Unless otherwise provided by federal law, service upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected:

(1) in a judicial district of the United States in the manner prescribed for individuals by subdivision (e)(1), or by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant, or

(2) in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (f) except personal delivery as provided in paragraph (2)(C)(i) thereof.

(i) Service Upon the United States, and its Agencies, Corporations, or Officers.

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

(2) Service upon an officer, agency, or corporation of the United States shall be effected by serving the United States in the manner prescribed by paragraph (1) of this subdivision and by also sending a copy of the summons and of the complaint by registered or certified mail to the officer, agency, or corporation.

(3) The court shall allow a reasonable time for service of process under this subdivision for the purpose of curing the failure to serve multiple officers, agencies, or corporations of the United States if the plaintiff has effected service on either the United States attorney or the Attorney General of the United States.

(j) Service Upon Foreign, State, or Local Governments.

(1) Service upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

(2) Service upon a state, municipal corporation, or other governmental organization subject to suit, shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

(k) Territorial Limits of Effective Service.

(1) Service of a summons or filing a waiver of service is effective to establish jurisdiction over the person of a defendant

(A) who could be subjected to the jurisdiction of a court of general jurisdiction in the state in which the district court is located, or

(B) who is a party joined under Rule 14 or Rule 19 and is served at a place within a judicial district

of the United States and not more than 100 miles from the place from which the summons issues, or

(C) who is subject to the federal interpleader jurisdiction under 28 U.S.C. § 1335, or

(D) when authorized by a statute of the United States.

(2) If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

(l) Proof of Service.

If service is not waived, the person effecting service shall make proof thereof to the court. If service is made by a person other than a United States marshal or deputy United States marshal, the person shall make affidavit thereof. Proof of service in a place not within any judicial district of the United States shall, if effected under paragraph (1) of subdivision (f), be made pursuant to the applicable treaty or convention, and shall, if effected under paragraph (2) or (3) thereof, include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

(m) Time Limit for Service.

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (I)(1).

(n) Seizure of Property; Service of Summons not Feasible.

(1) If a statute of the United States so provides, the court may assert jurisdiction over property. Notice to claimants of the property shall than be sent in the manner provided by the statute or by service of a summons under this rule.

(2) Upon a showing that personal jurisdiction over a defendant cannot, in the district where the action is brought, be obtained with reasonable efforts by service of summons in any manner authorized by this rule, the court may assert jurisdiction over any of the defendant's assets found within the district by seizing the assets under the circumstances and in the manner provided by the law of the state in which the district court is located.

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

Civil Action No. _____

_____,
Plaintiff(s),

v.

_____,
Defendant(s).

**MOTION AND AFFIDAVIT FOR LEAVE TO PROCEED
PURSUANT TO 28 U.S.C. § 1915**

I request leave to commence this civil action without prepayment of fees or security therefor pursuant to 28 U.S.C. § 1915. I do ____ do not ____ (check one) request that the court direct the United States Marshals Service to serve process. In support of my requests, I submit the following affidavit and state that:

- (1) I am unable to pay such fees or give security therefor.
- (2) The nature of this action is: _____
- (3) I am entitled to redress.

I further state that the responses I have made to the questions below relating to my ability to pay the cost of prosecuting this action and other matters are true:

MARITAL STATUS AND DEPENDENTS

Single ____ Married ____ Separated ____ Divorced ____

The following individuals are my dependents (Identify minor children by their initials only. Do not include their date of birth.):

| | | |
|------------|-----------|--------------------|
| Name _____ | Age _____ | Relationship _____ |
| Name _____ | Age _____ | Relationship _____ |
| Name _____ | Age _____ | Relationship _____ |
| Name _____ | Age _____ | Relationship _____ |

RESIDENCE

Street Address: _____

City: _____ State: _____

Zip Code: _____ Telephone: _____

EDUCATION

What is the highest level of formal education you have received:

I can speak, read, write, and understand the English language: Yes _____ No _____

EMPLOYMENT

If employed at present, complete the following:

Name of employer: _____

Address of employer: _____

Telephone number of employer: _____

How long have you been employed by present employer: _____

Income: Monthly \$ _____ Weekly \$ _____

If self-employed, state your net income: Monthly \$ _____ Weekly \$ _____

What is the nature of your self-employment? _____

If unemployed at present, complete the following:

I have been unemployed since: _____

Name of last employer: _____

Address of last employer: _____

Telephone number of last employer: _____

Salary or hourly wage received from last employer: \$ _____

If spouse is employed, complete the following:

Name of employer: _____

How long has spouse been employed by present employer: _____

Income: Monthly \$ _____ Weekly \$ _____

If receiving public assistance (e.g., welfare, unemployment benefits), complete the following:

I have been receiving public assistance since: _____

Monthly benefits: \$ _____ Weekly benefits: \$ _____

REAL AND PERSONAL PROPERTY

Real property:

Do you own real property? Yes _____ No _____

If yes, describe: _____

Address: _____

Name(s) on title: _____

Estimated value: \$ _____ Amount owed: \$ _____

Annual income from real property: \$ _____

Personal property:

Automobile: Make: _____ Model: _____ Year: _____

Name(s) on registration: _____

Estimated value: \$ _____ Amount owed: \$ _____

Cash on hand:

Total amount of cash in banks and savings and loan associations: \$ _____

Names and addresses of banks and associations: _____

Other information pertinent to financial status: (Include stocks, bonds, savings bonds, interests in trusts either owned or jointly owned):

FINANCIAL OBLIGATIONS:

MONTHLY PAYMENT:

Rent on house or apartment: \$ _____

Mortgage on house: \$ _____

Gas bill: \$ _____

Electric bill: \$ _____

Telephone bill: \$ _____

Food: \$ _____

Clothing: \$ _____

Automobile loan: \$ _____

Automobile insurance: \$ _____

Other insurance: \$ _____

Payments to retail merchants: \$ _____

Total owed: _____

Payments on any other outstanding loans or debts: \$ _____

Total owed: _____

Payments to doctors, hospitals, lawyers: \$ _____

Total owed: _____

Maintenance under separation or dissolution agreement: \$ _____

Child support: \$ _____

Other Payments:

Describe: _____ \$ _____

Describe: _____ \$ _____

Describe: _____ \$ _____

Describe: _____ \$ _____

Total monthly payments: \$ _____

ATTEMPTS TO LOCATE COUNSEL

Please list the name, address, and telephone number of each attorney you have contacted requesting representation in this matter. The court encourages you to contact a minimum of three attorneys.

Attorney: _____ Date Contacted: _____
Street Address: _____
City: _____ State: _____
Zip Code: _____ Telephone: _____

Attorney: _____ Date Contacted: _____
Street Address: _____
City: _____ State: _____
Zip Code: _____ Telephone: _____

Attorney: _____ Date Contacted: _____
Street Address: _____
City: _____ State: _____
Zip Code: _____ Telephone: _____

Attorney: _____ Date Contacted: _____
Street Address: _____
City: _____ State: _____
Zip Code: _____ Telephone: _____

Attorney: _____ Date Contacted: _____
Street Address: _____
City: _____ State: _____
Zip Code: _____ Telephone: _____

Date: _____

(Plaintiff's Original Signature)

Subscribed and sworn to before me this _____ day of _____, 20____

(Notary Public)

(Address)

My commission expires: _____

**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.)

COMPLAINT

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 | www.cobar.org |
| Colorado Legal Services (formerly Legal Aid Society) | |
| Denver | 303/837-1313 |
| Fort Collins | 970/493-2891 |
| Colorado Springs | 719/471-0380 |
| | www.coloradolegalservices.org |
| The Legal Center (physically challenged only) | 303/722-0300 www.thelegalcenter.org |
| Law Line 9 (legal advice only Wednesdays 4:15-6:30 p.m.) | 303/698-0999 |
| Metropolitan Lawyer Referral Service | 303/831-8000 www.cobar.org/mlrs/ |

Maps: How to Find Us

To obtain these maps, contact the office of the Clerk of the Court:

Alfred A. Arraj United States Courthouse

901 19th Street, Room A105

Denver, CO 80294-3589

303/844-3433

PLAINTIFF'S CHECKLIST

- _____ 1 original Civil Cover Sheet

- _____ 1 original and 2 copies of Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, 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 for payment of the \$350.00 filing fee, if the plaintiff does not seek to proceed without payment of the filing fee.

- _____ Complaint
 - _____ 1 original and 2 copies for court use
 - _____ 1 copy for the plaintiff's records
 - _____ 1 copy for each defendant (3 copies for each defendant if the plaintiff is suing a federal agency)

- _____ 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

- _____ 1 Form USM 285/United States Marshals Service Process Receipt and Return for each defendant, if the plaintiff asks for the United States Marshal Service to serve the complaint

Local Rules of Practice of the United States District Court
for the District of Colorado

To download this document visit our website.
www.cod.uscourts.gov

Form USM-285/United States Marshals Service Process Receipt and Return

To obtain these forms, contact the office of the Clerk of the Court:

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Denver, CO 80294-3589

303/844-3433