PLEASE NOTE: IF YOU CHOOSE TO REPRESENT YOURSELF *PRO SE* (WITHOUT COUNSEL), YOU MUST READ AND FOLLOW THE FEDERAL RULES OF CIVIL PROCEDURE AND THE LOCAL RULES OF PRACTICE. FAILURE TO COMPLY WITH THESE RULES MAY RESULT IN DISMISSAL OF YOUR LAWSUIT.

> United States District Court District of South Dakota

Guide for Filing a Civil Lawsuit

The following information is provided to give you some help with court procedures and requirements. Each lawsuit filed with the Court is unique and must satisfy certain legal standards. You should not rely on this information to identify those standards. You should be especially mindful that there are certain time limits within which lawsuits must be brought, or in which to answer lawsuits brought by others. Failure to observe those time limits could be prejudicial and may result in your case being dismissed or otherwise decided against you.

1. <u>Required Documents</u>

In order to initiate a civil lawsuit in Federal District Court, the following documents must be completed and the originals submitted to the Clerk of Court for filing:

A. Complaint

A guide for preparing your complaint is enclosed. As a general rule, there are three parts to a complaint: the heading or caption, the body, and the prayer for relief or demand. The heading should identify the court, including the appropriate division, and the parties. The body should contain a short and plain statement of the grounds for the court's jurisdiction along with a short and plain statement of the claim showing that you are entitled to relief. The prayer for relief should state the relief you are requesting. You **must** sign and date the complaint.

B. Summons

The rules require that the Clerk of Court issue the summons. It is your responsibility, however, to complete the summons. Summons forms are enclosed for your use. A summons—or a copy of a summons that is addressed to multiple defendants—must be issued for **each** defendant to be served.

C. Filing Fee or Motion to Proceed Without Prepayment of Fees and Declaration

The filing fee for a civil lawsuit is \$350 (cash, money orders or personal checks are accepted; please make checks and money orders payable to "Clerk, U.S. District Court"). If you cannot pay the \$350 filing fee, please complete the enclosed **Motion to Proceed Without Prepayment of Fees and Declaration** and submit it to the Clerk of Court, along with your completed complaint and summons. The Clerk's office will submit your motion and declaration to the Court for a ruling. Once the Court has ruled on the motion, the Clerk's office will mail you a copy of the Court's ruling. It is important that you fill out the motion and declaration completely, in detail and that you sign and date the form or it will be returned to you.

D. Civil Cover Sheet

This form is important because it provides us with information we need to open your case. It also gives the Court an overview of the basis for your civil lawsuit. Please complete each box to the best of your ability as it applies to your case.

When you have completed your documents, you may mail or hand-deliver them to one of the following three divisional clerk of court offices:

Clerk, United States District Court 400 South Phillips Avenue Room 128 Sioux Falls, SD 57104 Telephone (605) 330-6600

Clerk, United States District Court 225 South Pierre Street Room 405 Pierre, SD 57501 Telephone (605) 945-4600 Clerk, United States District Court 515 Ninth Street, Room 302 P.O. Box 6080 Rapid City, SD 57709-6080 Telephone (605) 399-6000

2. Service of the Summons and Complaint

When you pay the filing fee and provide the Clerk's office with the completed summons, the summons will be issued, and true copies will be returned to you for service. The Clerk's office will keep the original summons. Service of the summons and complaint is your responsibility. Service of the summons and complaint should proceed according to Rule 4 of the Federal Rules of Civil Procedure. After service on each defendant is completed, you must complete the proof of service portion of the summons and file it with the Clerk of Court.

If you are granted leave to proceed without prepayment of fees you will be advised of the procedure used for service on each defendant in the Court's order, which will be mailed to you as soon as it is entered on the docket.

3. Filing Documents After Service has been Issued

Documents filed with the Clerk of Court after service has made on each defendant must be filed in the form of a pleading, such as a motion, notice, memorandum, etc. Each pleading must contain the Court's heading and case number at the top. These pleadings can be hand-written or typed, but they must be legible. All documents and correspondence submitted to the Clerk's Office for filing should be on letter-sized paper ($8\frac{1}{2} \times 11$ inches). Please do not use legal-size ($8\frac{1}{2} \times 14$ inches) paper.

You must serve each defendant or their counsel with a copy of every pleading, letter or other document submitted to the Court for consideration. The original of the document you are filing should include a **Certificate of Service** either attached to the document or filed separately with the Court's heading and case number at the top.

A Certificate of Service should be in the following form:

Certificate of Service

I hereby certify that a copy of the foregoing document was mailed this _____ day of <u>(month)</u>, <u>(year)</u>, to:

Name: ______Address: ______ (Attorney for Defendant)

(Your Signature)

4. <u>Personal Identifiers</u>

Please refrain from using complete personal data identifiers in your pleadings. Personal identifiers include social security numbers (only the last four numbers should be used), names of minor children (only the initials of the child should be used), dates of birth (the year can be used), financial account numbers (only the last four digits should be used).

5. <u>Other Important Information</u>

- A. It is your responsibility to keep the Clerk's Office advised of your current address so that we can send you copies of Court orders and correspondence affecting the status of your case.
- B. It is inappropriate to communicate or attempt to communicate directly with the judge assigned to your case concerning matters that may come before the Court.
- C. The Clerk of Court, the Clerk's Office, Judges and Magistrate Judges are precluded from giving legal advice to litigants.

Enclosures

- 1. Complaint Guide
- 2. Summons
- 3. Motion to Proceed Without Prepayment of Fees and Declaration
- 4. Civil Cover Sheet
- 5. Local Rules of Practice

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA

	Plaintiff(s),
vs.	

Case No._____ (To be supplied by the Clerk)

COMPLAINT

Defendant(s).

JURISDICTION

- CLAIM(S)
 3.
- 4.
- 5.

PRAYER FOR RELIEF

- 1.
- 2.

Dated this _____ day of ______, 20__.

(Signature Line)

(Printed Name of Plaintiff), Pro Se

Address

City/State/Zip Code

Telephone Number

AO 440 (Rev. 04/08) Civil Summons

-.-

UNITED STATES DISTRICT COURT

for the

Plaintiff V.	-)))	Civil Action No.
Defendant	-)	

Summons in a Civil Action

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within _____ days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

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

Name of clerk of court

Date: _____

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

6	AO	440	(Rev.	04/08)	Civil	Summons	(Page	2)
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A ... A

Proof of Service

I declare under penalty of p by:	perjury that I served the summons and	d complaint in this case on	,
		at this place,;	
(2) leaving a copy of		usual place of abode with	
• •	of each to an agent authorized by app	pointment or by law to receive it whose name is; or	
	nons unexecuted to the court clerk or	n; or	
		for services, for a total of \$0.00	. <u> </u>
Date:		Server's signature	
	-	Printed name and title	

Server's address

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA ______DIVISION

		<u>ر</u>	Case No)		
	Plaintiff/Petitioner,			(To be supplied	by the Clerk)	
	VS.	, v			FO PROCEED AYMENT OF F	TEES
	Defendant/Respondent	t.		AND DEC	CLARATION	
fees o	ove-entitled case; that in support of my reque r costs under 28 U.S.C. § 1915 I declare that of said proceeding and that I believe I am entitl	t because	of my p	overty I a	am unable to pa	y the
	support of this motion, I answer the followin			-		
	support of this motion, I was not une following			r ponany	er perjary.	
1.	Are you currently employed?	s	🗆 No			
1.	 Are you currently employed? □ Yes a. If the answer is "yes," state the amount on name and address of your employer: 	of your sa	□ No alary or [•]			
1.	a. If the answer is "yes," state the amount	of your sa	□ No alary or	d the amc	ount of the salar	y and
	 a. If the answer is "yes," state the amount on name and address of your employer: b. If the answer is "no," state the date of last 	of your sa	□ No alary or ment ar	d the amc	ount of the salar	y and
	 a. If the answer is "yes," state the amount on name and address of your employer: b. If the answer is "no," state the date of las wages per month which you received: Have you received within the past twelve 	of your sa st employ months a	□ No alary or ment ar	d the amc	ount of the salar	y and
	 a. If the answer is "yes," state the amount on name and address of your employer:	of your sa st employ months a ployment	□ No alary or ment an any mon	ey from a Yes Yes	any of the follo	y and
	 a. If the answer is "yes," state the amount on name and address of your employer:	of your sa st employ months a ployment yments?	□ No alary or ment ar any mon	ey from a Yes Yes Yes	any of the follo	y and
	 a. If the answer is "yes," state the amount on name and address of your employer:	of your sa st employ months a ployment yments?	□ No alary or ment ar any mon	ey from a Yes Yes Yes Yes Yes	any of the follo	y and
	 a. If the answer is "yes," state the amount on name and address of your employer:	of your sa st employ months a ployment yments?	□ No alary or ment ar	ey from a Yes Yes Yes	any of the follo	y and

3. Do you have any cash or have money in a checking or savings account (include any funds in prison accounts)? □ Yes □ No

If the answer is "yes," state the total dollar amount:

4. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles, or any other thing of value (excluding ordinary household furnishings and clothing)? □ Yes □ No

If the answer is "yes," describe the property and state its approximate value:

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

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

DATE

SIGNATURE OF APPLICANT

Enclosures

- 1. Complaint Guide
- 2. Summons
- 3. Motion to Proceed Without Prepayment of Fees and Declaration
- 4. Civil Cover Sheet
- 5. Local Rules of Practice

M. - -**CIVIL COVER SHEET** SJS 44 (Rev. 12/07) 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 DEFENDANTS (b) County of Residence of First Listed Plaintiff County of Residence of First Listed Defendant (EXCEPT IN U.S. PLAINTIFF CASES) (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) III. CITIZENSHIP OF PRINCIPAL PARTIES(Place an "X" in One Box for Plaintiff (For Diversity Cases Only) and One Box for Defendant) PTF □ 3 Federal Question DEF DEF □ 1 U.S. Government PTF Incorporated or Principal Place **4** (U.S. Government Not a Party) Citizen of This State Plaintiff of Business In This State Ø 4 Diversity Citizen of Another State **D** 2 Incorporated and Principal Place 0505 2 U.S. Government 02 of Business In Another State Defendant (Indicate Citizenship of Parties in Item III) Citizen or Subject of a **D** 3 3 Foreign Nation 0606 Foreign Country NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT TORTS FORFEITURE/PENALTY BANKRUPTCY OTHER STATUTES PERSONAL INJURY 🗖 610 Agriculture 422 Appeal 28 USC 158 □ 110 Insurance PERSONAL INJURY Π 400 State Reapportionment 362 Personal Injury -620 Other Food & Drug 423 Withdrawal □ 120 Marine 310 Airplane 410 Antitrust Π. 28 USC 157 430 Banks and Banking 130 Miller Act n 315 Airplane Product Med. Malpractice 625 Drug Related Seizure 140 Negotiable Instrument Liability 365 Personal Injury of Property 21 USC 881 450 Commerce 🗖 630 Liquor Laws PROPERTY RIGHTS I 150 Recovery of Overpayment 320 Assault, Libel & Product Liability 460 Deportation & Enforcement of Judgmen Slander 368 Asbestos Personal 🗇 640 R.R. & Truck 820 Copyrights 470 Racketeer Influenced and I 151 Medicare Act 330 Federal Employers' Injury Product 650 Airline Regs. 830 Patent **Corrupt Organizations** 480 Consumer Credit I 152 Recovery of Defaulted Liability Liability 660 Occupational 840 Trademark Student Loans σ 340 Marine PERSONAL PROPERTY Safety/Health 490 Cable/Sat TV 690 Other (Excl. Veterans) 345 Marine Product 370 Other Fraud П. 810 Selective Service п. 153 Recovery of Overpayment SOCIAL SECURITY Liability Π. 371 Truth in Lending LABOR П. 850 Securities/Commodities/ 350 Motor Vehicle 710 Fair Labor Standards of Veteran's Benefits 380 Other Personal □ 861 HIA (1395ff) Exchange 875 Customer Challenge σ 355 Motor Vehicle 160 Stockholders' Suits Property Damage Act 862 Black Lung (923) 720 Labor/Mgmt. Relations 3 863 DIWC/DIWW (405(g)) 12 USC 3410 385 Property Damage 190 Other Contract Product Liability 730 Labor/Mgmt.Reporting σ □ 864 SSID Title XVI 890 Other Statutory Actions 195 Contract Product Liability Product Liability П 360 Other Personal & Disclosure Act □ 865 RSI (405(g)) 891 Agricultural Acts □ 196 Franchise Injury **CIVIL RIGHTS** PRISONER PETITIONS 740 Railway Labor Act 892 Economic Stabilization Act REAL PROPERTY FEDERAL TAX SUITS П. 441 Voting 790 Other Labor Litigation 210 Land Condemnation In. 510 Motions to Vacate 370 Taxes (U.S. Plaintiff 893 Environmental Matters. 220 Foreclosure D 442 Employment Sentence 791 Empl. Ret. Inc. or Defendant) 894 Energy Allocation Act 443 Housing/ D 230 Rent Lease & Ejectment Habeas Corpus: Security Act 3 871 IRS-Third Party 895 Freedom of Information D 26 USC 7609 D 240 Torts to Land Accommodations 530 General Act 444 Welfare 900Appeal of Fee Determination IMMIGRATION 245 Tort Product Liability σ 535 Death Penalty Π. σ 462 Naturalization Application 290 All Other Real Property D 445 Amer. w/Disabilities Þ 540 Mandamus & Other Under Equal Access to Justice 463 Habeas Corpus -Employment 550 Civil Rights 950 Constitutionality of n 446 Amer. w/Disabilities h, 555 Prison Condition Alien Detainee Other 465 Other Immigration State Statutes а 440 Other Civil Rights Actions Appeal to District V. ORIGIN (Place an "X" in One Box Only) Transferred from Judge from □ 2 Removed from Remanded from **4** Reinstated or **5** 🗇 6 Multidistrict Original 07 01 03 another district Magistrate Proceeding State Court Appellate Court Reopened Litigation (specify) Judgment Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): VI. CAUSE OF ACTION Brief description of cause: VII. REOUESTED IN CHECK YES only if demanded in complaint: **DEMAND \$** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 JURY DEMAND: 🛛 Yes \square No **COMPLAINT:** VIII. RELATED CASE(S) (See instructions): IF ANY JUDGE DOCKET NUMBER SIGNATURE OF ATTORNEY OF RECORD DATE FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JS 44 Reverse (Rev. 12/07)

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 VI 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.
 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 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.