

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA



PRO SE LITIGANT  
GUIDE

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## INTRODUCTION

**WHO THIS GUIDE IS INTENDED TO ASSIST:** This Guide is designed to assist you if (i) you want to file a lawsuit in federal court or you have an active role, either as a plaintiff or defendant, in a case that you or someone else has already filed in federal court, and (ii) you have elected to proceed without assistance of a trained and licensed attorney.

**SOME BASIC DEFINITIONS:** Plaintiffs and defendants in court cases generally are referred to as “parties” or “litigants.” The plaintiff asserts a claim or right protected by law against the defendant; the defendant denies the claim or right, and the court determines whether the asserted claims or rights have merit. The great majority of litigants who appear in this court are represented by an attorney who has been trained in the law and is familiar with the applicable court rules and procedures. Parties or litigants who are not represented by an attorney and who elect to represent themselves generally are referred to as *pro se* parties or *pro se* litigants.

**HOW THIS GUIDE IS DESIGNED TO HELP YOU:** This guide will not answer all of your questions about how to represent yourself effectively. The guide outlines basic steps required to properly file an **action**, or **lawsuit**, with this court. It also provides some general guidance on the process of litigating the action once you have filed it with the Clerk of Court. You are responsible for following the procedures that govern the court process. Although the staff of the Clerk’s Office can provide you with general information concerning court rules and procedures, they are forbidden as a matter of law from providing legal advice, from interpreting and applying court rules, or otherwise participating, directly or indirectly, in any action. In addition, the judges of this court cannot give you legal advice since they will be ruling on motions submitted by the plaintiff and defendant and may ultimately try the case with or without a jury.

**A WORD OF ADVICE:** Self-representation carries certain responsibilities and risks you should be aware of before you proceed. The court encourages all individuals who are considering self-representation to carefully review the risks associated and to educate themselves regarding potential consequences.

### WARNING

Rule 11 of the Federal Rules of Civil Procedure prohibits filing of lawsuits that are clearly frivolous or filed merely to harass. If after reviewing your complaint, the court determines that you have filed a lawsuit for an improper or unnecessary purpose, it may impose sanctions against you, including ordering you to pay a fine to or pay the legal fees of the person(s) against whom you filed the lawsuit. In all cases, if you lose, you may be required to pay some of the costs the winning party incurred in the course of the lawsuit.

## **SECTION I**

### **IMPORTANT ISSUES YOU SHOULD CONSIDER BEFORE DECIDING TO REPRESENT YOURSELF BEFORE THIS COURT.**

#### **A. IS THIS COURT THE APPROPRIATE COURT TO HEAR YOUR DISPUTE?**

The United States District Court for the Middle District of Georgia is one of 94 trial courts in the federal court system. Federal courts can only hear limited types of cases. This court is authorized only to hear disputes that fall into the following four categories:

1. Those that deal with a question involving the United States Constitution;
2. Those that involve questions of federal law (as opposed to state law);
3. Those that involve the United States of America as a party, whether plaintiff or defendant; or,
4. Those that involve a dispute among residents of different states with an amount in controversy over \$75,000.

If your complaint does not fall into any of these categories, you should not file in this court.

#### **B. IS THERE AN ALTERNATIVE TO REPRESENTING YOURSELF THAT IS AFFORDABLE?**

Most people who file a complaint in federal court hire an attorney who has appeared in court and is familiar with the rules of procedure that govern court processes. Some attorneys are willing to accept your case for an agreed upon percentage of their fee if you win your case and nothing if you do not. Some laws may require the other side to pay for your attorney if you win your case.

Most attorneys screen cases to make sure potential clients have a viable chance of winning. If an attorney rejects your case, it may be because:

- (1) there is no merit to your case;
- (2) you are not able to prove anyone liable for wrong done to you;
- (3) the wrong done to you may not be severe enough to warrant monetary

damages;

- (4) you have no witnesses; or,
- (5) your witnesses are not credible.

If you prefer to have an attorney represent you, but you simply cannot afford to pay legal fees, you may consider contacting Georgia Legal Services whose staff can explain the various options for obtaining and paying for legal services.

If you are unable to find an attorney to represent you, you have the right to pursue your claim(s) in the court by appearing without representation. As a *pro se* litigant, you are representing only yourself and presenting only your claims and defenses. Under the law, you cannot speak for another person, a company, or other entity such as a club or association that includes other individuals. When you appear *pro se*, you must follow the same rules and procedures that licensed attorneys must follow. Generally, judges hold *pro se* litigants to the same standards of professional responsibility as trained attorneys.

**C. IF YOU PLAN TO REPRESENT YOURSELF, WHERE CAN YOU GO TO REVIEW FEDERAL LAWS AND PROCEDURES AND THIS COURT'S LOCAL RULES OF PROCEDURE?**

As a *pro se* litigant, you should be familiar with the [Federal Rules of Civil Procedure](#) and the [Federal Rules of Evidence](#). These rules set forth the general procedural requirements for litigating cases in federal court. Federal laws can be found in the [United States Code](#), abbreviated as U.S.C. The contents of each of these publications can be found on the internet and at most public libraries.

As a *pro se* litigant, you should be familiar with our district court's local rules which apply specifically to proceedings in our court. You can obtain a free copy of the [Local Rules](#) at any of our district court offices or you can access and print a copy of this publication on our court's internet web site at: [www.gamd.uscourts.gov](http://www.gamd.uscourts.gov)

**SECTION II**

**PROCEEDING WITH YOUR CASE**

**A. HOW DO YOU GET YOUR CASE ESTABLISHED IN OUR COURT?**

**Preparing Your Complaint:**

The **plaintiff** or person bringing the lawsuit to court files a **complaint**. The complaint outlines a

problem or reason for the lawsuit, also known as a **cause of action**. When preparing your complaint, you should use 8 ½" x 11" (letter size) paper. The contents should include the following:

- (1) a short statement of the grounds on which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it.
- (2) a short statement of the claim showing that you are entitled to relief; and,
- (3) a demand for judgment for the relief to which you feel you are entitled.

The complaint (and any other pleadings filed such as motions, etc.) should contain a caption including the name of the court, the title of the action, the case number (if known), and a description such as "Complaint." **Refer to [Appendix A](#) for the proper format.**

In stating your claim against defendants, you are only required to state exactly what happened by stating **facts**, not conclusions, and what relief you want. For example, a complaint stating conclusions might read:

"The Commissioner of the Social Security Administration *denied me my right* to Social Security benefits."

whereas, a complaint stating facts would read:

"The Commissioner of the Social Security Administration *issued an unfavorable decision* on July 27, 1997."

Your statement of claim should not contain legal argument or citations of cases. These may be submitted separately from the complaint if desired. You should clearly identify all defendants by name and address. It is your responsibility to determine the identity of any and all defendants you wish to sue. It is usual for the name of one or more defendants to be unknown at the time of filing the complaint. Frequently, plaintiffs will identify a defendant by name of "John Doe" or "Jane Doe". You should file a **Motion to Amend** your complaint, stating the correct name (and address) of any such defendant, if you later determine the proper name.

Make sure that you have included all relevant names, addresses, and dates in your complaint. You may attach as an exhibit any written document you have referred to in your complaint that you would like to make a part of the complaint. You must sign the complaint and state your address and phone number. If there is more than one plaintiff, each must sign the complaint as well as all future pleadings.

### **How to File Documents:**

You may file paper documents by mail or in person at the Clerk's Office. As an alternative, you may request permission to file documents electronically using the Case Management/Electronic Case Filing (CM/ECF) system used by the Middle District.

To obtain permission to electronically file documents, send a request to the Clerk, U.S. District Court, Middle District of Georgia, Post Office Box 128, Macon, Georgia 31202-0128. The request must include your name, telephone number, e-mail address, and mailing address with ZIP Code. If granted permission to file electronically, you must also register for Public Access to Court Electronic Records (PACER). Registration is free and you may view documents (except for transcripts) free of charge once within the first fifteen days of filing.

All documents filed using the CM/ECF filing system, must comply with Rule 11 of the Federal Rules of Civil Procedures and the [Civil Administrative Procedures](#). Failure to abide by the rules of the Middle District could result in termination of your access to CM/ECF.

### **Where to file Your Complaint:**

Generally, you may file a civil case in the district where any defendant resides or where the claim arose (see 28 U.S.C. § 1391) According to Local Rule 3.4, a plaintiff may file a civil case in the division in which the plaintiff resides, the defendant resides, or the claim arose.

The U.S. District Court for the Middle District of Georgia is divided into five divisions: Albany, Athens, Columbus, Macon, and Valdosta. Division offices in this district and associated counties for each are:

- (1) **Albany Division:** Baker, Ben Hill, Calhoun, Crisp, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Schley, Seminole, Sumter, Terrell, Turner, Worth, and Webster;
- (2) **Athens Division:** Clarke, Elbert, Franklin, Greene, Hart, Madison, Morgan, Oconee, Oglethorpe, and Walton;
- (3) **Columbus Division:** Chattahoochee, Clay, Harris, Marion, Muscogee, Quitman, Randolph, Stewart, Talbot, and Taylor;
- (4) **Macon Division:** Baldwin, Bibb, Bleckley, Butts, Crawford, Dooly, Hancock, Houston, Jasper, Jones, Lamar, Macon, Monroe, Peach, Pulaski, Putnam, Twiggs, Upson, Washington, Wilcox, and Wilkinson;
- (5) **Valdosta Division:** Berrien, Brooks, Clinch, Colquitt, Cook, Echols, Irwin, Lanier, Lowndes, Thomas, and Tift.

You must file your complaint by hand-delivering or mailing the paper document to the Clerk's Office or, after approval, by filing through the CM/ECF system. Mailing addresses and phone numbers for each office are below:

U.S. District Court  
Clerk's Office  
P. O. Box 128  
Macon, GA 31202  
Street Address:  
475 Mulberry Street  
Suite 216  
Phone:(478)752-3497

U.S. District Court  
Clerk's Office  
201 W. Broad Ave.  
Albany, GA 31707  
Street Address:  
201 W. Broad Ave.  
Phone:(229)430-8432

U.S. District Court  
Clerk's Office  
P. O. Box 1106  
Athens, GA 30603  
Street Address:  
115 E. Hancock Street  
2<sup>nd</sup> Floor  
Phone: (706)227-1094

U.S. District Court  
Clerk's Office  
P. O. Box 124  
Columbus, GA 31902  
Street Address:  
120 12<sup>th</sup> Street  
Suite 103  
Phone: (706)649-7816

U.S. District Court  
Clerk's Office  
P.O. Box 68  
Valdosta, GA 31601  
Street Address:  
401 North Patterson Street  
Suite 212  
Phone: (229)242-3616

You must submit: (i) the original complaint, (ii) a completed **cover sheet** (blank forms can be obtained from the Clerk's Office or from our court's Internet site at [www.gamd.uscourts.gov](http://www.gamd.uscourts.gov) and (iii) a \$350 filing fee. Although pleadings may be filed in any divisional Clerk's Office within this district, it is recommended that they be filed in the divisional office in where the case file will be maintained as indicated above. Once received in the Clerk's Office, the complaint is given a case number and assigned to a district judge.

### **Service of Your Complaint:**

Each defendant or person you claim is responsible for the problem must be notified of the lawsuit through a process that is specified by law. The responsibility for notifying each defendant rests with the plaintiff and is referred to as **service of process**. Detailed instructions for service of process are described in **Rule 4** of the *Federal Rules of Civil Procedure* and are included at **Appendix E**. If these service of process requirements are not followed correctly, the case can be dismissed for failure to effect proper service. Service of process requirements can be satisfied in one of three ways:

(1) **Personal Service** -

You direct someone else to deliver or serve a copy of the complaint and summons on the defendant(s). Service can be performed by anyone over eighteen years of age who is not a party named in the case.

A standard summons form can be obtained from the Clerk's Office or this court's web site at [www.gamd.uscourts.gov](http://www.gamd.uscourts.gov). After you have completed the form, the

Clerk's Office will officially **issue the summons** by signing the form and embossing it with the official seal of the court. Both the summons and the complaint must then be served on the defendant(s). The person who serves the summons must record on the back of the summons form his or her name, the name of the person who was served, and the date and time of service. This section of the summons form is referred to as the **return of service**, and if not completed, service of process is not complete. The original summons form with the return of service completed must be returned to the court and a copy of the form left with the defendant(s) for service to be complete. After you file your complaint with the Clerk's Office, you have 120 days to serve a copy of it and the summons on the defendant(s). It is your responsibility to effect service; if you fail to do so within the 120 days, your case may be dismissed.

(2) **Waiver of Service** -

Rule 4 permits a defendant to **waive personal service of process**. This means the defendant(s) agrees to respond to your complaint without being personally served with a copy. The Clerk's Office can provide you a waiver form you can mail to the defendant(s) along with the complaint. Alternatively, you can obtain the form from the court's web site at [www.gamd.uscourts.gov](http://www.gamd.uscourts.gov). If the defendant(s) completes and returns the waiver, you will be spared the burden of personal service as described above.

(3) **Service by the U.S. Marshal** -

If a judge approves your application for waiver of the requirement to pay the \$350 case filing fee and otherwise determines that your case should go forward, the judge will direct the U.S. Marshal to serve the summons and complaint at the government's expense.

**IMPORTANT NOTICE:** Although a judge may order that a defendant be served, it may be several weeks from the date of the order directing service before service is complete. When a judge orders that a defendant be served, typically the order will only require that a copy of the complaint and a waiver of service form be mailed to the defendant's last known address (as provided by the plaintiff). If a defendant refuses to waive service, even though a waiver of service form is sent to him/her, that defendant must then be served by personal service.

**B. WHAT HAPPENS ONCE THE DEFENDANT(S) HAS BEEN SERVED?**

Once the defendant(s) has been served with a copy of the complaint, the defendant(s) must file an **answer** or some response within a specified number of days. Under the rules governing service of process, each defendant is required to provide a copy of the response to the plaintiff. Once each defendant named in the lawsuit has filed a response, the case is considered to be **at issue**.

### **C. WHAT HAPPENS WHEN A CASE IS AT ISSUE?**

Once the case is at issue, a number of different actions may occur which include:

#### **Referral to a U.S. Magistrate Judge:**

The district judge to whom the case is assigned may refer the case to a **U.S. Magistrate Judge** for assistance in managing it by issuing an **Order of Referral**. Once a case has been referred to a magistrate judge, subsequent court proceedings may be conducted before that judge.

#### **Filing of Motions and Objections:**

Either the plaintiff or the defendant, may request that the court take specific action related to the case. To do so, the party prepares a formal request or what is referred to as a **motion**. The party must sign the motion, **file** it with the Clerk of Court and send a copy to the opposing party. Unless the assigned judge directs otherwise, every motion must be accompanied by a memorandum of law citing supporting legal authorities (see Local Rule 7). The opposing party may then file with the Clerk of Court an **objection** or **responsive pleading** to the motion. This objection states the reasons why the court should deny rather than grant the motion. You should familiarize yourself with the rules and time limits set forth in Local Rule 7 with regard to motions and responsive pleadings filed in this court.

**Dispositive vs. Non-dispositive Motions Defined:** Motions fall into two categories: dispositive and non-dispositive. If granted, **dispositive** motions, dispose of the case; **non-dispositive** motions, if granted, affect the case but do not dispose of it. District judges have the authority to rule on both kinds of motions. Magistrate judges are authorized to rule only on non-dispositive motions unless all parties in the lawsuit have agreed to allow their case to proceed entirely with the magistrate judge.

#### **Motion Review:**

The district or magistrate judge usually rules on a motion by issuing a written order that either grants, denies, or partially grants and partially denies the relief sought in the motion. The court generally does not schedule hearings in order for the parties to argue the motion or objections.

#### **Filing of Magistrate Judge Report and Recommendation:**

When a case has been referred to a magistrate judge and one of the parties files a dispositive motion, the magistrate judge is authorized to prepare a written **Report and Recommendation**, essentially a recommendation that the motion be either granted or denied and stating the reason(s) why. This Report and Recommendation is sent to the district judge assigned to the case and all parties. As a party, you have a certain number of days to file objections to the Report and Recommendation. All objections that are received within the specified time are forwarded to the district judge. The district judge reviews the Report and Recommendation and any objections that have been filed and issues an order that adopts,

rejects, or adopts in part and rejects in part the magistrate judge's Report and Recommendation. When the judge's order dismisses the complaint, the clerk of court will prepare and enter **judgment** in the case. Such judgment is final and can be appealed to the United States Court of Appeals for the Eleventh Circuit located in Atlanta, Georgia.

**Recusal of Judge:**

Occasionally, parties involved in a proceeding are unhappy with the decision(s) of the judge who is handling their case so they file a motion requesting that the judge recuse himself to allow another judge to hear the case. A party who is considering filing a motion to recuse should note that a judge's ruling(s) on a particular case rarely provides a basis for requiring the judge to recuse himself.

**D. WHAT COURT FEES AND COSTS ARE YOU REQUIRED TO PAY?**

The fee for filing a complaint in any U.S. District Court is \$350. This fee may be paid by money order, personal check, or credit card. If you are unable to pay the filing fee, you may apply for permission of the court to proceed *in forma pauperis*, which is Latin for "in the form of a pauper."

If the court allows you to proceed *in forma pauperis*, you are not exempt from paying other costs associated with your case. For example, if you need copies of original documents in your case file, the Clerk's Office is required to charge the standard rate of \$.50 per page for paper records and \$.10 per page for electronic records. Other expenses you may incur include the costs of preparing the original and copies of the papers you file with the court, and mailing or hand-delivering a copy of each paper to the opposing party to satisfy the requirements of service. If your case goes to trial, you may be responsible for certain costs associated with bringing your witnesses to court.

**E. WHAT IS THE PROCEDURE FOR SUBMITTING DOCUMENTS TO THE COURT?**

As a matter of policy, the court requires parties to submit an **original** of motions or pleadings. Should you need a file-stamped copy of a pleading or motion for your records, submit an extra copy along with the original and a self-addressed stamped envelope for return mailing. The Clerk's Office will file stamp both the original and the copy, place the original in the court's case file, and return the copy to you. You may file pleadings with the court in person or by mail. Our offices are open to the public from 8:30 A.M. until 5:00 P.M., Monday through Friday, except on federal holidays. Electronic filing is available 24 hours a day with the exception of those times the system is brought down for regular maintenance. A pleading is considered filed as of the time the system receives and records it. The time and date are located on the Notice of Electronic Filing (NEF) and the filed date is available on the case docket.

**IMPORTANT NOTICE:** When you submit a pleading to the court, you must also mail or deliver a copy of the pleading to the defendant(s)' attorney, or, if the defendant(s) has no attorney, to the defendant(s). If you are permitted to e-file, service can be made through the

**district's CM/ECF system.** This process saves postage in mailing documents to the Clerk's office as well as to opposing parties registered for CM/ECF, as service of documents is accomplished by a Notice of Electronic Filing (NEF). You are responsible for verifying that all parties are registered to receive service via electronic means and adjusting your service as necessary. As an attachment to your pleading, you must include a **certificate of service** that states the date that you delivered a copy of the pleading to the defendant and the means by which you executed such service. The format to be used for the certificate of service is attached to this guide as [Appendix B](#).

**F. HOW DO YOU OBTAIN INFORMATION ABOUT THE STATUS AND PROGRESS OF YOUR CASE?**

The Clerk's Office maintains an automated record or **docket** for every case. A docket is a chronological summary of all significant events in the history of the case. You may review the docket for your case on the public access terminals located in each of our offices. If you have internet access, you may access the PACER system to review your case documents directly from your computer. In order to use the PACER system, you must register to obtain a login and password at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov) or call 1-800-676-6856. You may print a paper copy of the docket and documents from PACER for \$.08 per page. The first \$10.00 of documents accessed through PACER each quarter are free. Staff of the Clerk's Office can provide copies at a cost of \$.50 per page for paper records and \$.10 per page for electronic records. Clerk's Office staff can also provide basic docket information to you over the telephone.

**G. IS IT POSSIBLE FOR YOU TO SPEAK DIRECTLY TO A JUDGE OR MEMBER OF HIS PERSONAL STAFF ABOUT YOUR CASE?**

As a party appearing *pro se*, you are prohibited from private or *ex parte* communication with the judge to whom your case is assigned. Because of this prohibition, a judge will refuse, with very few exceptions, to speak or otherwise communicate *ex parte* with any party or that party's attorney. Any communication between the assigned judge and a litigant should be in writing, and a copy of the communication should be sent either to the opposing party or that party's attorney.

**H. IF YOU WISH TO APPEAL THE COURTS DECISION IN YOUR CASE, WHAT SHOULD YOU DO?**

The judge may issue an order in your case with which you disagree and which you think an appellate court should review immediately. Most orders issued while a case is still ongoing cannot be appealed immediately and you will have to wait until a final judgment has been entered in your case before the order(s) can be considered by an appellate court. The [Federal Rules of Appellate Procedure](#) explain when an order is appealable and you should familiarize yourself with these rules before filing a notice of appeal. Filing a notice of appeal prematurely will delay final resolution of your case and may add unnecessary expense to your case.

If you file a notice of appeal, you will be required to pay a filing fee of \$455 with the district court

unless you are permitted to proceed *in forma pauperis*. If you wish to proceed *in forma pauperis*, you must file a form with the court to proceed *in forma pauperis on appeal* along with your notice of appeal. The form to be used for this purpose is at [Appendix C](#).

If the appellate court is determined to have jurisdiction over the appeal, it will direct the district court to transmit the record from the district court. If you are permitted to proceed *in forma pauperis* on appeal, you may still be required to pay for certain costs, such as the cost for transcribing any hearings or other proceedings which may have occurred before the judge.

### **SECTION III**

## **EMPLOYMENT DISCRIMINATION CASES**

A very common action filed by *pro se* litigants in federal court is alleged employment discrimination. Prior to filing an employment discrimination complaint, the plaintiff is required to follow specific administrative procedures.

**NOTE: This is not a complete statement of the law on the administrative procedures to follow in an employment discrimination case. The procedures are complicated and it is your responsibility to make sure that all procedures are followed correctly and within the applicable time limit. If the requirements are not followed, your case may be dismissed.**

If you wish to file an employment discrimination case in this court, you must first file your charges with the Equal Employment Opportunity Commission (EEOC) for review. Barring complications, the EEOC will issue you a **Notice of Right to Sue** indicating that (i) the administrative process has been completed, and (ii) no further action will be taken on behalf of the EEOC. Once this notice has been issued, you have a limited time period within which to file your lawsuit; failure to file a complaint within that time period will result in your case being dismissed by the court. A Notice of Right to Sue is not required when the charges allege employment discrimination based on age; however, you must timely file a complaint with the EEOC and wait a prescribed length of time before filing an age discrimination suit in this court.

To assist a party appearing *pro se* in filing an employment discrimination complaint, the Office of the Clerk has established a complaint form to be used specifically for this purpose which is included in this guide as [Appendix D](#). When completing the form, you should ensure the information you enter is neat and accurate to the best of your knowledge. When filing your complaint with the Clerk's Office, **you must present the Right to Sue Notice** which will be included as part of your case file.

## SECTION IV

### **MOTION TO PROCEED WITHOUT PRE-PAYMENT OF FEES AND AFFIDAVIT (*in forma pauperis*)**

Filing a case in this court requires the plaintiff to pay a \$350 filing fee at the time the new case is filed. If you are unable to pay the fee, you may apply to have payment of the fee waived. You can apply for waiver of the fee only after your action is filed. The Clerk's Office will accept your case without payment if, at the time you file it, you also file a form for waiver of the fee. If the judge denies your motion, you will be required to pay the fee; if you do not pay it within a specified time period, your case will be dismissed.

This process requires that you complete and submit a **Motion to Proceed Without Prepayment of Fees and Affidavit**. This form is included as [Appendix C](#) of this guide. Instructions for completion are as follows:

- (1) At the top of the form, you must note the name of the case or case **caption**. The case name consists of your name as plaintiff above the **v.** and the name of the defendant(s) below the **v.** The Clerk's Office will enter the case number on the form at the time your case is filed.
- (2) You must answer all questions truthfully and completely. If you own real estate or automobiles, you should be very specific about your debt balance so the magistrate judge who reviews the application has accurate information as to the property's value. You must sign the statement under penalty of perjury.

The completed form should be delivered to the Clerk's Office. It will be submitted along with your complaint to a magistrate judge for review. If the magistrate judge grants the motion, it will be returned to the Clerk's Office for processing. This does not mean you may not be required to pay the fee at the conclusion of the case in the event the court determines that you then have sufficient funds. The court may direct you to pay the full amount immediately, pay a portion of the filing fee, or pay the fee in installments.

Before directing the U.S. Marshal to serve the complaint and summons at government expense, the magistrate judge will review your complaint to determine which, if any, claims may go forward and which, if any, defendant(s) should be served with a copy of the complaint.

## **SECTION V**

### **APPOINTMENT OF COUNSEL**

You may ask the court to appoint an attorney for you in a civil case. However, counsel is only appointed in a rare cases where representation by an attorney is particularly appropriate or necessary. In a civil matter, you have no right to be represented by court-appointed counsel and the Court has no funds to pay appointed counsel. If you would like to request that the court appoint counsel to represent you in your lawsuit, you must file a Motion for Appointment of Counsel along with your complaint. You should explain why you think you need the assistance of an attorney.

## **SECTION VI**

### **REQUIREMENT TO DILIGENTLY PROSECUTE YOUR CASE**

It is important that you understand your obligation to prosecute your case once it is filed.

- (1) You are required to diligently prosecute your lawsuit. Unless and until you hire an attorney to represent you, it is your responsibility to do everything necessary to prepare your case for trial.
- (2) If you fail to follow established procedures, your case may be dismissed for failure to prosecute (see Rule 41(b) of the [\*Federal Rules of Civil Procedure\*](#)).
- (3) Pursuant to Local Rule 5, disclosures as addressed in the [\*Federal Rules of Civil Procedure\*](#) Rule 26(a)(3) must be promptly filed. Disclosures as addressed in the [\*Federal Rules of Civil Procedure\*](#), Rule 26(a)(1) or (a)(2) and the following discovery requests and responses must not be filed until they are used in a proceeding or the court orders filing: (a) depositions, (b) interrogatories, (c) requests for documents or to permit entry upon land, and (d) requests for admission. Except with prior written permission of the court, interrogatories (see Local Rule 33.1) may not exceed twenty-five pages, requests for production (see Local Rule 34) may not exceed ten pages and requests for admissions (see Local Rule 36) may not exceed fifteen pages. All discovery must be addressed to a specific defendant if there is more than one defendant named in your case.
- (4) You are required to serve the attorney representing the defendant(s) with copies of all pleadings and motions filed with the court. Counsel for the defendant(s) is

required to serve you with copies of all pleadings and motions filed on behalf of the defendant(s).

- (5) It is your responsibility to serve the defendant(s), not the Clerk's Office.
- (6) You should familiarize yourself with the rules and time limits set forth in Local Rule 7 with regard to motions and responsive pleadings filed with this court. It is possible for a motion to be denied because response or reply briefs to the motion are not filed with the court in a timely manner.
- (7) It is your responsibility to keep the court informed at all times of your current mailing address. If you have a change of address while your case is pending, you must notify the court and all parties to the case **in writing** stating your new address.

**IN THE UNITED STATES DISTRICT COURT**  
**MIDDLE DISTRICT OF GEORGIA**  
**\_\_\_\_\_ DIVISION**

---

<b>Plaintiff</b>	:	
<b>vs.</b>	:	<b>Civil Action No.</b>
<b>Defendant</b>	:	
	:	
	:	
	:	
	:	

---

**COMPLAINT**  
(Double space text of complaint)

**Now comes the above plaintiff and shows the Court the following:**

1.

(Show plaintiff's residence or address.)

2.

(Show defendant(s) address(es).)

3.

(State briefly your legal claim or your reason for filing suit. Include the statute under which the suit is filed.)

4.

(Give a brief, concise statement of the specific facts involved in your case.)

5.

(State the relief you are requesting.)

---

(Signature and date)

---

(Address)

---

(Phone Number)

**APPENDIX B**  
**CERTIFICATE OF SERVICE FORMAT**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing \_\_\_\_\_  
(Name of pleading)

was mailed/delivered to \_\_\_\_\_ at \_\_\_\_\_  
(Name of defendant(s) or (Physical or E-Mail Address)  
defendant's attorney)

on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature and Date)

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

\_\_\_\_\_  
(Phone Number)

**UNITED STATES DISTRICT COURT**  
for the  
Middle District of Georgia

Plaintiff/Petitioner	)	
v.	)	Civil Action No.
Defendant/Respondent	)	

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

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

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

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

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

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

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

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

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

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

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

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

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

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

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

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

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

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

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

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

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

Other ( <i>specify</i> ):	\$	\$
<b>Total monthly expenses:</b>	\$	\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?  
 Yes     No    If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form?  Yes     No  
 If yes, how much? \$ \_\_\_\_\_  
 If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (*such as a paralegal or a typist*) any money for services in connection with this case, including the completion of this form?     Yes     No  
 If yes, how much? \$ \_\_\_\_\_  
 If yes, state the person's name, address, and telephone number:

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

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

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

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

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



- (C) \_\_\_\_\_ Failure to promote me.
- (D) \_\_\_\_\_ Other Acts as specified below:

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5. Plaintiff is:

- (A) \_\_\_\_\_ presently employed by the defendant(s).
- (B) \_\_\_\_\_ not presently employed by the defendant(s).

The dates of this employment were \_\_\_\_\_

Employment was terminated because:

- (1) \_\_\_\_\_ plaintiff was discharged.
- (2) \_\_\_\_\_ plaintiff was laid off.
- (3) \_\_\_\_\_ plaintiff left the job voluntarily.

6. Defendant(s) conduct is discriminatory with respect to the following:

- (A) \_\_\_\_\_ my race.
- (B) \_\_\_\_\_ my religion.
- (C) \_\_\_\_\_ my sex.
- (D) \_\_\_\_\_ my national origin.
- (E) \_\_\_\_\_ other as specified below:

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7. The name(s), race, sex, and the position or title of the individual(s) who allegedly discriminated against me during the period of my employment with the defendant(s) company is (are) \_\_\_\_\_

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8. The alleged discrimination occurred on or about \_\_\_\_\_

9. The nature of my complaint, i.e., the manner in which the individual(s) named above discriminated against me in terms of the conditions of my employment, is/are as follows:

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10. The alleged illegal activity took place at \_\_\_\_\_

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11. I filed charges with the Equal Employment Opportunity Commission regarding defendant(s)' alleged discriminatory conduct on or about \_\_\_\_\_. I have attached a copy of the Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission. This letter was received by me on \_\_\_\_\_

12. I seek the following relief:

- (A) \_\_\_\_\_ recovery of back pay.
- (B) \_\_\_\_\_ reinstatement to my former job or position.
- (C) \_\_\_\_\_ front pay (where reinstatement is not suitable).
- (D) \_\_\_\_\_ damages (damages are recoverable only in age discrimination cases and only for "willful violations" of the Act).
- (E) \_\_\_\_\_ injunctive relief.
- (F) \_\_\_\_\_ expenses and attorney's fees.
- (G) \_\_\_\_\_ other (describe below):

---

---

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Plaintiff

Address of Plaintiff:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

Attachment: Right to Sue Notice

**FORMS FOR SERVING A COMPLAINT UNDER RULE 4**

Rule 4 of the Federal Rules of Civil Procedure provides that service on a defendant can be accomplished either through “personal service” of a complaint and summons or mail service through a procedure called “waiver of service of summons.”

**PERSONAL SERVICE**

Under this method, a copy of the complaint and summons are personally handed to the defendant by any person who is not a party and who is at least 18 years of age. Contact the Clerk’s Office to obtain a summons and consult Rule 4 for additional information.

**WAIVER OF SERVICE OF SUMMONS**

Under this method, a plaintiff must mail by first-class mail to each defendant:

1. Two copies of the “Notice of Lawsuit and Request for Waiver of Service of Summons”;
2. A “Waiver of Service of Summons”;
3. A copy of the complaint; and,
4. A postage prepaid envelope for returning the waiver form to the plaintiff .

Copies the necessary forms are attached.



United States Code Annotated [Currentness](#)

Federal Rules of Civil Procedure for the United States District Courts ([Refs & Annos](#))

▢ [Title II](#). Commencing an Action; Service of Process, Pleadings, Motions, and Orders

→ **Rule 4. Summons**

**(a) Contents; Amendments.**

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

**(A)** name the court and the parties;

**(B)** be directed to the defendant;

**(C)** state the name and address of the plaintiff's attorney or--if unrepresented--of the plaintiff;

**(D)** state the time within which the defendant must appear and defend;

**(E)** notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint;

**(F)** be signed by the clerk; and

**(G)** bear the court's seal.

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

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

**(c) Service.**

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

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

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

**(d) Waiving Service.**

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

**(A)** be in writing and be addressed:

**(i)** to the individual defendant; or

**(ii)** for a defendant subject to service under Rule 4(h), to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process;

**(B)** name the court where the complaint was filed;

**(C)** be accompanied by a copy of the complaint, two copies of a waiver form, and a prepaid means for returning the form;

**(D)** inform the defendant, using text prescribed in Form 5, of the consequences of waiving and not waiving service;

**(E)** state the date when the request is sent;

**(F)** give the defendant a reasonable time of at least 30 days after the request was sent--or at least 60 days if sent to the defendant outside any judicial district of the United States--to return the waiver; and

**(G)** be sent by first-class mail or other reliable means.

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

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

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

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

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

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

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

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

(2) doing any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) **State or Local Government.** A state, a municipal corporation, or any other state-created governmental

organization that is subject to suit must be served by:

- (A) delivering a copy of the summons and of the complaint to its chief executive officer; or
- (B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant.

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

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

- (A) who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located;
- (B) who is a party joined under [Rule 14](#) or [19](#) and is served within a judicial district of the United States and not more than 100 miles from where the summons was issued; or
- (C) when authorized by a federal statute.

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

- (A) the defendant is not subject to jurisdiction in any state's courts of general jurisdiction; and
- (B) exercising jurisdiction is consistent with the United States Constitution and laws.

**(l) Proving Service.**

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

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

- (A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or
- (B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

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

**(m) Time Limit for Service.** If a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

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

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

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

CREDIT(S)

(Amended January 21, 1963, effective July 1, 1963; February 28, 1966, effective July 1, 1966; April 29, 1980, effective August 1, 1980; amended by [Pub.L. 97-462](#), § 2, January 12, 1983, 96 Stat. 2527, effective 45 days after January 12, 1983; amended March 2, 1987, effective August 1, 1987; April 22, 1993, effective December 1, 1993; April 17, 2000, effective December 1, 2000; April 30, 2007, effective December 1, 2007.)

Amendments received to 5-1-11

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UNITED STATES DISTRICT COURT

for the

Middle District of Georgia

Plaintiff v. Defendant Civil Action No.

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: (Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within \_\_\_ days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date:

Signature of the attorney or unrepresented party
Printed name
Address
E-mail address
Telephone number

# UNITED STATES DISTRICT COURT

for the

Middle District of Georgia

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

## WAIVER OF THE SERVICE OF SUMMONS

To: \_\_\_\_\_  
*(Name of the plaintiff's attorney or unrepresented plaintiff)*

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from \_\_\_\_\_, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

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

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*

\_\_\_\_\_  
*Printed name of party waiving service of summons*

\_\_\_\_\_  
*Printed name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*E-mail address*

\_\_\_\_\_  
*Telephone number*

### Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.