UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA
www.okwd.uscourts.gov

CARMELITA REEDER SHINN
CLERK OF COURT

200 N.W. 4th Street, Room 1210
Oklahoma City, OK 73102
(405) 609-5000 Fax (405) 609-5099

TO ANY PARTY/PERSON WISHING TO FILE A COMPLAINT PRO SE

The following instructions have been compiled to assist with filing a complaint in this court. You must comply with the Local Court Rules for the Western District of Oklahoma. Copies of these rules are available at the Court Clerk's Office or at www.okwd.uscourts.gov. You must also comply with the Federal Rules of Civil Procedure, which are available at a public library or at www.uscourts.gov. Although court personnel are available to assist you with questions concerning procedures in our court, they CANNOT advise you on matters of law or give legal advice.

PRO SE

Pro Se status means you are representing yourself and acting on your own behalf without counsel. The following requirements must be met in order to file a complaint in Pro Se status:

1. **Filing Fee**: A $400.00 filing fee is required when filing a complaint. Prisoners filing a non-habeas action who have been granted *in forma pauperis* status will pay $350.

2. **Civil Cover Sheet**: A Civil Cover Sheet, form JS 44, is required and must be filled out completely. Only an original is required for filing. (See Sample #1)

3. **Complaint**: The complaint can be typed or handwritten. Your complaint should be legible. Clearly set out your grievance, against whom, and what you would like the Court to do to correct the situation. Your signature, address and phone number are required at the end of your complaint. You should take care in its preparation. For your convenience, an example is included in this package. Only an original is required for filing. If you require file stamped copies, please provide them at the time of filing. (See Sample #2)

4. **Pro Se Litigant's Request for Issuance of Summons**: Written request to issue the summons must be filed with the Clerk. Only the original is required. (See Sample #4)

5. **Summons**: **YOU** must complete the Summons (See Sample #3). The Clerk's Office will issue a summons. Those who proceed *in forma pauperis* must also complete their own summons.

6. **Service:** You are responsible for the proper service of both the summons and complaint. In addition, you are responsible for the timely movement of your case once it is filed. Federal Rule of Civil Procedure 4 is attached. Only a non-party can

serve the Summons and Complaint. Specifically, *see Constien v. United States*, 628 F.3d 1207, 1213-14 (10th Cir. 2010)

> Federal Rule of Civil Procedure 4(c), entitled "Service," limits who can be used to serve process. Rule 4(c)(2) states: "By Whom. Any person who is at least 18 years old and not a party may serve a summons and complaint." (Also, Rule 4(c)(3) specifically permits service by "a United States marshal or deputy marshal or by a person specially appointed by the court.") Even when service is effected by use of the mail, only a nonparty can place the summons and complaint in the mail. Although one could question the wisdom of this requirement, see 4B Charles A. Wright & Arthur R. Miller, Federal Procedure & Practice § 1106 n. 15 (3d ed. 2002), the rule contains no mailing exception to the nonparty requirement for service. And the limited history surrounding the relevant rules provisions confirms this reading.

7. **Notice of Lawsuit and Waiver of Summons:** (See Samples #7 and #8) Generally, a plaintiff will send a notice of commencement of the action and a request for waiver to the defendant. The defendant signs the waiver of service and returns it to the plaintiff. When the waiver is filed with the Clerk's Office, the action proceeds as if service of summons and complaint had been made.

A defendant within the United States who waives service has sixty days from the date the request was sent to answer the complaint. A defendant outside the United States has ninety days to answer.

Rule 4(d)(2) requires that the Notice of Lawsuit (Sample #7):

(1) be in writing and addressed to defendant (or to the proper representative if defendant is not a person);

(2) identify the court in which the action has been filed;

(3) inform the defendant of the consequences of compliance and failure to comply;

(4) set forth the date on which the request is sent; and

(5) allow the defendant a reasonable time to return the waiver (at least 30 days from the date on which the Notice was sent).

In order to request a waiver, the plaintiff must send through first class mail or other reliable means, the following four items to the defendant:

(1) Notice of Lawsuit and Request to Waive Service of Summons;

(2) a copy of the complaint with an identification of the court in which it was filed;

(3) Waiver of Service of Summons and an extra copy of this form;

(4) a prepaid means of compliance with the request in writing (e.g. a self-addressed and stamped envelope). The Notice (Sample #7) must be sent through first class mail or other reliable means.

The plaintiff will file the completed Waiver of Service (Sample #8). Under Rule 4(d)(4), that filing date is equivalent to the date of service of summons and complaint.

The United States is not covered by the Waiver of Service provisions. However, service has been made easier by allowing service by delivery to the U.S. Attorney, an assistant U.S. Attorney or designated support employee of the U.S. Attorney's Office.

8. **Pro Se Change of Address**: (See Sample #9) All papers shall contain the name, mailing address, daytime telephone number and e-mail address, if any, of the pro se litigant. If any of this information changes, the pro se litigant must notify the court by filing the pro se Change of Address form (LCvR5.4(a)).

9. **Certificate of Service**: (See Sample #10) Proof of service of any papers required to be served shall be made by the certificate of any pro se litigant, or if made by any other person, the affidavit of such person (LCvR5.4(b)).

IN FORMA PAUPERIS

In *in forma pauperis* status, you can be represented by counsel or act on your own behalf. When filing in this status, you are requesting permission from the Court to pursue your lawsuit without payment of the filing fee. In addition, you may obtain service of process by the U.S. Marshal's Office without payment of the Marshal's fee. The following documents are required when filing *in forma pauperis* status:

1. **Application**: When requesting waiver of the filing fee, an Application to Proceed Without Prepaying Fees or Costs, Declaration in Support Thereof must be completed so that the Court can make a determination of your inability to pay the filing fee. (See Sample #5a for non-prisoner case or Sample #5b for prisoner case). If your application is denied, you will have 21 days, unless a different time is specified by the Court, to pay the filing fee. (See LCvR3.3(e)).

2. **Civil Cover Sheet**: (See Sample #1).

3. **Complaint**: (See Sample #2).

   If you are ready to serve your Complaint, you must provide the Court Clerk's Office with the following documents:

4. **Pro Se Litigant's Request for Issuance of Summons**: (See Sample #4).

5. **Summons**: (See Sample #3). Please furnish one (1) summons for each defendant.

If you desire to pursue your complaint without the issuance of a summons, you must complete the following documents:

6. **Waiver of Summons**: (See Sample #8) If you are requesting the U.S. Marshal's Office to serve your complaint with a Notice of a Lawsuit and Request to Waive Service of a Summons, you **MUST** complete a U.S. Marshal's Return and provide copies of the complaint, Notice of a Lawsuit and Request to Waive Service of a Summons, and Waiver of the Service of Summons forms for service.

7. **U.S. Marshal's Return**: (See Sample #6) Form USM-285.

It is very important that you give us a phone number so that the Court can contact you in the event it is necessary to obtain further information or clarification, or advise you of any changes in hearing schedules. If you do not provide us with a contact phone number, the court will not be responsible for untimely notification of emergency changes in hearing schedules. If your contact information changes, you must notify the Court. (See Sample #9)

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, 2 copies of a waiver form, and a prepaid means for returning the form;

(D) inform the defendant, using the waiver form, 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 JUDICAL 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 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 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 90 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) or to service of a notice under Rule 71.1(d)(3)(A).

(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.

JS 44 (Rev. 11/15)

SAMPLE #1

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys *(If Known)*

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities Employment
- ☐ 446 Amer. w/Disabilities Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729 (a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.)**

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA .

	)	
	)	
	)	
Plaintiff(s)	)	
	)	
vs.	)	CASE NO._____
	)	
	)	
	)	
Defendant(s)	)	
	)	

COMPLAINT

NOTE: *Your signature, address and phone number must appear at the end of each pleading.*

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Oklahoma

_____ *Plaintiff(s)*	)	
v.	)	Civil Action No.
_____ *Defendant(s)*	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — 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 or plaintiff's attorney, whose name and address are:

If you fail to respond, 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.

Signed and sealed by the Clerk of the Court or Deputy Clerk.

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____ , a person of suitable age and discretion who resides there,
on *(date)* _____ . , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____
_____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

SAMPLE #4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

	)	
	)	
	)	
Plaintiff(s)	)	
vs.	)	CASE NO._____
	)	
	)	
	)	
Defendant(s)	)	

PRO SE LITIGANT'S REQUEST FOR ISSUANCE OF SUMMONS
(Required by LCvR 3.1)

TO THE CLERK OF SAID COURT: Please issue summons in this case for the persons listed below.

Name of Defendant(s)	Service Agent (if any)	Address for Service	Type of Service

_____
Name of Plaintiff (Please Type or Print)

_____
Signature (Plaintiff)

_____
Mailing Address

_____
City & State Zip Code

_____
Phone No.

FEES

In forma pauperis applies only to the initial filing fee. You are responsible for any other fees, including **copy fees**, charged by the Court Clerk's office.

A Fee Schedule is available at the Court Clerk's office and on our website at www.okwd.uscourts.gov

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

_____ **Plaintiff**	)	
v.	)	**CASE NO.:** _____ *(To be supplied by the Clerk)* *(Non-Prisoner form)*
_____ **Defendant**	)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff 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.

In support of this application, I answer the following questions under penalty of perjury:

1. If I am employed, my employer's name and address are:

_____

_____

_____

My gross pay or wages are: $_____ , and my take-home pay or wages are: $_____ per *(specify pay period)* _____ .

2. *Other Income.* In the past 12 months, I have received income from the following sources *(check all that apply)*

(a) Business, profession, or other self-employment	☐YES	☐NO
(b) Rent payments, interest, or dividends	☐YES	☐NO
(c) Pension, annuity, or life insurance payments	☐YES	☐NO
(d) Disability or worker's compensation payments	☐YES	☐NO
(e) Gifts or inheritances	☐YES	☐NO
(f) Any other sources	☐YES	☐NO

If you answered "Yes" to any questions above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

_____

_____

_____

3. Amount of money that I have in cash or in a checking or savings account: $ _____ .

4. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*

_____

_____

_____

5. Any housing, transportation, utilities, loan payments, or other regular monthly expenses *(describe the amount of the monthly expense)*

_____

_____

_____

6. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

_____

_____

_____

7. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*

_____

_____

_____

_____

I understand that a false statement or answer to any question in this declaration could subject me to penalties of perjury and/or may result in the dismissal of all my claims pursuant to 28 U.S.C. § 1915 (e)(2)(A).

Date: _____ _____

(Applicant's signature)

_____

(Printed name)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

_____ **Plaintiff/Petitioner**	)	
v.	)	**CASE NO.:** _____ *(To be supplied by the Clerk)* *(Prisoner form)*
_____ **Defendant/Respondent**	)	

APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS
and supporting affidavit (pursuant to 28 U.S.C. § 1915 and 28 U.S.C. § 1746 for prisoner cases)

I hereby apply for leave to: (check one)

☐ Commence this action for habeas corpus relief.

☐ Commence this action for civil rights relief.

without prepayment of fees and costs or giving security therefor.

In support of my application, I answer the following questions under penalty of perjury:

1.) I am the party initiating said action and I believe that I am entitled to relief.

2.) The nature of said action is: _____

_____

_____

_____

3.) I am unable to prepay the costs of this action or give security therefor because of my poverty.

4.) I have no assets or funds which could be used to prepay the fees or costs, except:

_____

_____

_____

(Write "none" above if you have nothing; otherwise list your assets.)

5.) I am presently employed: ☐YES ☐NO

(a) If the answer is "Yes," state the amount of your salary or wages per month , and give the name and address of your employer:

_____

_____

(b) If the answer is "No," state the date of last employment and the amount of the salary and wages per month which you received:

_____

_____

6.) Within the past twelve months I have received money from the following sources:

(a) Business, profession, or form of self-employment?

☐YES ☐NO

(b) Rent payments, interest, or dividends?

☐YES ☐NO

(c) Pensions, annuities, or life insurance payments?

☐YES ☐NO

(d) Social security, Veterans Administration, disability pensions, workmen's compensation, or unemployment benefits?

☐YES ☐NO

(e) Gifts or inheritances?

☐YES ☐NO

(f) Any other sources?

☐YES ☐NO

If the answer to any of the above is "Yes," describe each source of money and state the amount received from each during the past twelve months:

_____

_____

_____

7.) I own cash, including funds in my prison/jail accounts, including any mandatory institutional savings accounts:

☐YES ☐NO

If the answer is "Yes," state the total amount of cash owned:

_____

_____

8.) I own real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing).

☐YES ☐NO

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

_____

_____

9.) The following is additional financial or other information regarding my ability to pay the costs of this action (for example, persons who are dependent on you for support):

_____

_____

I hereby authorize the agency having custody of me to collect from my prison/jail account(s) and forward to the Clerk of the United States District Court payments assessed by the Court in accordance with 28 U.S.C. § 1915.

I understand that a false statement or answer to any question in this declaration could subject me to penalties of perjury and/or may result in the dismissal of all my claims pursuant to 28 U.S.C. § 1915(e)(2)(A).

Executed at _____ on _____

(Location) (Date)

_____

(Signature)

REQUIRED CERTIFICATION

You **MUST ATTACH** to this application and affidavit a **certified copy** of your institutional account statement (or institutional equivalent) for the six-month period immediately preceding the filing of this action. **You must obtain the certified copy of your institutional account statement** (or institutional equivalent) **from the appropriate official of each penal institution or jail at which you are or were confined during the six-month period immediately preceding the filing of this action.**

STATEMENT OF INSTITUTIONAL ACCOUNTS

I hereby certify that on _____ , _____ (name of prisoner) had $ _____ in his/her institutional account(s). I further certify that the average monthly deposits to the prisoner's accounts for the six-month period (continued on next page)

immediately preceding the filing of this action was: $ _____ x 20% = $ _____ .
The average monthly balance in the prisoner's account(s) for the six-month period immediately preceding the filing of this action was: $ _____ x 20% = $ _____ .
I further certify that the above referenced amounts were calculated pursuant to the prisoner's institutional account(s) a **copy of which is attached hereto.**

_____
(Authorized Prison Official)

_____
(Title)

SERVICE OF PROCESS BY THE U.S. MARSHAL

If you request service of process by the U.S. Marshal's office, an original Form USM-285 ("Process Receipt and Return") must be completed for each defendant.

The Marshal's office requires two (2) copies of the Complaint and three (3) copies of the Summons for *each* defendant.

You are responsible for providing the correct number of copies. If you request copies be made by the clerk's office, you will be charged .50 per page. *In forma pauperis* does not apply to copy fee

SAMPLE #6

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF	COURT CASE NUMBER
DEFENDANT	TYPE OF PROCESS

SERVE AT NAME OF INDIVIDUAL, COMPANY, CORPORATION. ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

ADDRESS *(Street or RFD, Apartment No., City, State and ZIP Code)*

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW		
THIS IS A SAMPLE FORM. Original forms must be completed and are available at the Court Clerk's Office	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):***

Fold Fold

Signature of Attorney other Originator requesting service on behalf of:	☐ PLAINTIFF ☐ DEFENDANT	TELEPHONE NUMBER	DATE

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. *(Sign only for USM 285 if more than one USM 285 is submitted)*	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
		No.	No.		

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 on the on the individual, company, corporation, etc. shown at the address inserted 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 *(if not shown above)*	☐ A person of suitable age and discretion then residing in defendant's usual place of abode
Address *(complete only different than shown above)*	Date / 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:

DISTRIBUTE TO:
1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

Form USM-285
Rev. 11/13

INSTRUCTIONS FOR COMPLETING USM-285, PROCESS RECEIPT AND RETURN

- The Form USM-285 is a five-copy form set designed as a control document for process served by a U.S. Marshal or designee. Process may include, but is not limited to, a summons and complaint, subpoena, writ, or court order. The United States Marshals Service (USMS) is authorized by law (28 U.S.C. §1921) to charge fees for the service of process. The amount of fees charged is established by regulation (28 C.F.R. § 0.114). Except in cases where the litigant has been granted permission by the court for waiver of prepayment of fees and costs, the USMS must request advance payment of the estimated fees and expenses for service of process.

- Please type or print legibly. Submit one copy of the Form USM-285 and one copy of each process for each individual, company, corporation, government agency, etc., to be served or property to be seized.

- In cases where the court has directed the USMS to effect service of a summons and complaint upon an officer or agent of the United States Government, submit a copy of the summons and complaint and Form USM-285 for each officer or agent upon whom service is desired. Submit two (2) additional copies of the summons and complaint for service upon the Government of the United States. The U.S. Marshal or designee will serve one copy upon the U.S. Attorney and will forward the other copy to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or designee certifies service on the U.S. Attorney and the U.S. Attorney General, regardless of whether other defendants on the summons were served). Failure to provide sufficient copies will delay service of the summons.

- Mark all applicable check boxes and use the "Special Instructions" to advise of any information that will assist the USMS in expediting service. You are responsible for providing accurate and sufficient information that will identify the individual or entity to be served or the property to be seized.

- If more than one item of process and Form USM-285 is submitted on a single case, the U.S. Marshal or designee will receipt for all of them on the first Form USM-285. You will receive for your records the "Acknowledgment of Receipt" copy for all the USM-285 forms you submit. When the process is served, you will receive the "Notice of Service" copy. This copy will be identical to the return to the Clerk of the U.S. District Court.

- Upon completion of all services, you will receive a "Billing Statement" copy of Form USM-285. You should return this "Billing Statement" copy to the USMS, together with your payment, in the form of a certified or bank check payable to the U.S. Marshal, for any amounts still owed. Alternatively, the USMS will accept cash. The USMS will not accept personal checks.

- Additional USM-285 forms may be obtained, without cost, from the Clerk of the U.S. District Court, U.S. Marshal, or printed from http://www.usmarshals.gov/process/usm 285.pdf.

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the

Western District of Oklahoma

_____ *Plaintiff*	)	
v.	)	Civil Action No.
_____ *Defendant*	)	

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

SAMPLE #8

AO 399 (01/09) Waiver of the Service of Summons

UNITED STATES DISTRICT COURT

for the

Western District of Oklahoma

_____	)	
Plaintiff	)	
v.	)	Civil Action No.
_____	)	
Defendant	)	

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.

SAMPLE #9

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

	)	
	)	
	)	
Plaintiff(s)	)	
vs.	)	CASE NO._____
	)	
	)	
	)	
Defendant(s)	)	

PRO SE NOTICE OF CHANGE OF ADDRESS

To the Clerk of this court and all parties of record:

Please note my change of address in the above styled case:

_____
Print Name

_____
New Address

_____
City State Zip Code

_____
Signature

Pro Se Litigant's Certificate of Service

☐ I hereby certify that on (date) _____, I filed the attached document with the Clerk of Court. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the Electronic Case Filing System.

☐ I hereby certify that on (date) _____, I filed the attached document with the Clerk of Court and served the attached document by (service method) _____ on the following, who are not registered participants of the Electronic Case Filing System: (insert names and addresses)

_____
Signature