

INSTRUCTIONS FOR PRO SE LITIGANTS IN THE
UNITED STATES DISTRICT COURT, DISTRICT OF NEW MEXICO

The following instructions apply to a:

- U civil rights complaint pursuant to 42 U.S.C. §1983. (Note: If appropriate, a civil rights complaint from a federal prisoner will be construed filed pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971) and 28 U.S.C. §1331); or,
- U when there is no pre-printed form for the type of legal action you want to file and you must draft your own complaint or petition.

Additionally, the following forms may be required and, if so, are explained:

- U Applications to proceed *in forma pauperis*. (*In forma pauperis* (IFP) means the Court has excused you from paying the filing fee and service of process costs in your case. If the Court grants your application to proceed IFP, you will not be required to pay the filing fee or the cost of service of process in your case, and the Court Clerk will arrange for service of the complaint on the defendants, if you provide the necessary information;
- U Summons and USM 285 forms. The Summons form is an official court document that notifies a defendant or respondent that he or she is being sued. It is “served” on the defendant or respondent with a copy of the complaint or petition that you filed. The USM 285 is a United States Marshal service of process receipt form. The U.S. Marshal Service, under the direction of the Court, arranges service of process in all IFP cases. You are required to complete one (1) Summons form and one (1) USM 285 for each named defendant or respondent in your case. It is required that you provide complete and correct names and addresses for all named defendants/respondents.

Forms that are typed or hand printed in black ink are preferred. Please submit copies necessary for service of your pleading. (One copy for each named defendant or respondent.) See Fed.R.Civ.P. 4. Note the following information concerning the filing of pleadings.

- g The original and one copy of each pleading are required by the Court for internal Court records;
- g One copy of each pleading must be served on each defendant/respondent named in your case. If you are proceeding IFP, you must provide the Court sufficient copies of the complaint or petition to serve on all defendants;
- g Except for the complaint or petition, which must be served by a process server, any pleadings filed later in the case should be mailed by first class mail to each defendant/respondent (or to their attorneys);

- I. No exhibits may be attached to a complaint or petition. Exhibits may be attached to a motion, subject to page limitations and other requirements of the Local Rules.
- II. Except for the complaint or petition, each pleading you file in your case must include, at the end of the pleading (after your signature), the following paragraph:

“I hereby certify that a copy of the foregoing pleading was mailed to opposing counsel/parties of record on this _____ day of _____, 19____.”

(Your signature here)

WHAT IS A “PRO SE LITIGANT”

"Pro Se" is Latin for "for himself." "Litigant" means a party in a legal case (litigation.) "Pro Se Litigant" means you are pursuing or defending a case in court without having your own attorney.

The Court attempts to help pro se litigants with certain basic information concerning the filing and development of their cases. The Court cannot, however, give you legal advice or represent you (cannot act as your lawyer). This includes all employees of the Court. You are responsible for educating yourself in the law that applies to your case, including all applicable federal and local rules of procedure.

Some important legal information resources available to you include:

Law Libraries. One of the best law libraries in the state is located at the University of New Mexico School of Law, 1117 Stanford, NE., Albuquerque, NM. It is open to the public. Resource librarians at law libraries can direct you to the books and publications you need to consult for your particular case.

The Federal Rules of Civil Procedure. Available in a single volume (soft or hardcover), the Federal Rules of Civil Procedure are the rules governing all civil cases in courts of the United States. The rules are available at any law library.

The Local Rules of the United States District Court, District of New Mexico. These rules are supplemental to the Federal Rules of Civil Procedure and apply only to this court. A copy is available upon request from the Clerk's office. Although supplemental to the Federal Rules, the Local Rules are nonetheless very important, and you should familiarize yourself with them.

Legal resource books. Many different legal resource books are available at law libraries or direct from publishers. In addition to law libraries, any public library should have at least some legal resource texts.

CAPTIONING OR PLEADINGS

Each pleading filed in this court must be “captioned” for the Court. The caption appears at the top of the first page of the pleading and looks like this:

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

(YOUR NAME IN CAPITAL LETTERS),

Plaintiff,

vs.

No.

(NAME OF EACH DEFENDANT, IN CAPITAL LETTERS). (Except on the complaint, if you have a long list of defendants, name the first defendant, followed by the abbreviation, “et al. (which means “and others”)) The caption of the complaint must name all defendants.),

Defendant(s)

TITLE OF PLEADING (e.g., “MOTION FOR APPOINTMENT OF COUNSEL”)

Leave the “number” line blank on your complaint or petition. The Clerk’s office will assign a number when your case is filed. Include this number of all pleadings filed after the complaint or petition has been filed.

TEXT OF PLEADINGS:

The body of your pleadings should be typed or printed in black ink and double-spaced. Your statement of facts and legal argument should be short and to the point. Please remember that the Court, including all Court employees cannot give you legal advice (cannot suggest what you should say in your pleadings.) The conventional way to end a pleading is to begin the last paragraph with “WHEREFORE,” followed by a brief statement of what you are asking the Court to do.

SIGNATURE REQUIREMENTS

At the end of each pleading, you are required to place your signature. Your signature certifies that you are a party in the case, and that your pleading is filed for proper legal reason and not for purposes of delay or harassment of opposing parties. See Federal Rules of Civil Procedure, Rule 11. Violation of Rule 11 can result in the imposition of a fine or other sanctions by the Court. In addition to your signature at the end of each pleading, each pleading (except the complaint or petition) must include a “certificate of service” and your signature a second time, as described above.

The end of each pleading should look something like this:

Respectfully Submitted:

Your Signature

I hereby certify that a copy of the foregoing pleading was mailed to opposing counsel/ parties of record this _____ day of _____, 19____.

(Your signature a second time)

A copy of all pleadings must be mailed to opposing parties or their attorneys:

You are required to mail a copy of all pleadings (except the complaint or petition, which is served on the opposing parties) to all named defendants/respondents or their attorneys. If your case has already been filed and served, the correct addresses for all attorneys in the case can be obtained from court records. If you are just beginning your case, it is your responsibility to obtain complete and accurate address information for all named parties.

Filing a Complaint or Petition:

If you have been supplied with a pre-printed complaint or petition form, follow the instructions provided with the form. If there is no pre-printed form available for the type of case you want to file, the following minimum requirements must be satisfied by your complaint or petition:

1. Caption the complaint or petition as per the instructions above;
2. Name all defendants in the caption
3. Paragraphs in the complaint or petition should be numbered;
4. State, in the first paragraph, the nature of your case. (For example, “This is a complaint for employment discrimination.”);
5. Identify yourself and your state of residency in the second paragraph;
6. In sequentially numbered, separate paragraphs, identify each defendant by name, by official capacity (if it applies to your case), and by state of residency. If applicable to your case, state whether each defendant is sued in his or her individual (Private) capacity, official capacity, or both;
7. In one or two paragraphs, state the basis for jurisdiction in the United States District Court for the District of New Mexico. (This is a very important part of the complaint. Federal Courts are courts of “limited jurisdiction”, and can hear only certain types of cases, as prescribed by United States Law. You should consult legal references and determine the basis for jurisdiction before you file your lawsuit. This is a legal question, and the Clerk’s office and Court employees cannot give your advice concerning the basis for jurisdiction.);
8. State the facts of your case, naming each defendant who took part in the particular facts. Do not include legal argument or elaborate descriptions. The opportunity to present legal argument comes later in the case. Your statement of facts should be concise and brief, but thorough (state all relevant facts);
9. Where you are alleging several different legal actions, divide your complaint or petition into “Counts” (Count I, Count II, etc.). A “count” is a separate legal theory on which you are suing one or more of the named defendants;
10. End your complaint by starting the last paragraph with “WHEREFORE,” and state very clearly what it is you are asking for as legal relief. Examples of what may be requested included:
 - A. Money Damages (you may state the amount or state “in an amount to be established at trial”). (NOTE: The amount of money damages may have bearing on the Court’s jurisdiction in diversity-of-citizenship lawsuits. You should consult legal references to obtain more information about this.);
 - B. Injunctive relief. An “injunction” is a court order directing a party to do

something. (For example, to restore the plaintiff's job and seniority.);

C. Declaratory relief. "Declaratory Judgment" is a type of court order that makes findings regarding the legal standing of the parties with respect to the subject matter of the lawsuit. It is a relatively rare form of relief, and subject to several legal prerequisites. You should consult legal references and be sure of your legal basis and the Court's jurisdiction before asking for this or any other type of court action;

11. At the end of your complaint or petition, type or print "Respectfully Submitted," followed by a line for your signature. The original of your complaint or petition must include your original signature. Copies may include a photocopied signature. A photocopied signature is not acceptable on the original complaint or petition.
12. The "certificate of service," described above, is not required on the complaint or petition. It is required on all other pleadings you may file in your case.

NOTE: Local Rule 83.8 imposes a continuing duty to notify the Clerk IN WRITING, of all changes in your mailing address. Failure to do so may result in dismissal of your case.

YOUR RESPONSIBILITIES AS A PRO SE LITIGANT

The Court is aware that you are not a lawyer, and you are not expected to know everything that a lawyer would know or do everything that a lawyer would do. However, you are expected to make every effort to educate yourself in the law governing your case, including applicable local and federal rules of procedure, and to attempt to comply with those laws and rules. The Court cannot give your legal advice, but will provide basic procedural information, if needed.