

3.06 | PROCEEDING IN FORMA PAUPERIS ("IFP")

If you cannot afford to pay the filing fee, you may request to waive the fee by filing an application to proceed without paying fees or costs, or "in forma pauperis." To apply for in forma pauperis status, you must present the following documents to the Clerk's Office:

1. Application to Proceed In Forma Pauperis;
2. Civil Cover Sheet;
3. Original complaint with copies for service on each of the defendants;
4. All service forms, which includes the summons and USM 285 or Waiver of Service of Summons (see below).

You can obtain an in forma pauperis application on the District Court's website or from the Clerk's Office. The in forma pauperis application asks you to provide information about your (and your spouse's) finances (e.g., your income, assets and liabilities). In filling out the in forma pauperis application, you must answer all questions truthfully and completely. You must also sign the statement under penalty of perjury. In addition to waiving the obligation to pay the filing fee, if you are granted permission to proceed in forma pauperis, you are also entitled: (1) to submit a motion for appointment of counsel; and (2) to have your complaint served on the defendant by the U.S. Marshals Service.

If your in forma pauperis application is approved, the Court will arrange for the Clerk's Office or the U.S. Marshal Service to complete service of process on your behalf. In in forma pauperis cases, the summons will not be issued until after the judge reviews the complaint. If the Court determines, based upon the facts stated in your complaint, that you will not be successful in your case (e.g., you fail to state a claim upon which relief may be granted, your lawsuit is frivolous or malicious, or the named defendant is immune from liability), the Court can dismiss your case at that stage. See 28 U.S.C. § 1915(e)(2). Likewise, the Court can dismiss your complaint at any time if you were granted IFP status and the Court later determines that your allegation of poverty was untrue.

However, if after conducting a preliminary review of the complaint, the judge finds that the complaint states a claim upon which relief may be granted, the judge will then order that a summons form be issued against the defendant. The judge will also appoint the Clerk



of Court or the **United States Marshals Office** to make service. In all instances, however, you are responsible for completing and providing the Clerk's Office with the appropriate service forms. This consists of the following service documents **for each named Defendant**:

1. A copy of the complaint you filed for each Defendant;
2. One summons form for each Defendant;
3. One U.S. Marshal Form for each Defendant.^{[10](#)}

Once the forms are properly completed and filed, the Clerk's Office will officially issue the summons (e.g., an authorized Court employee signs the form and embosses it with the Court's official seal). The Clerk's Office will then deliver the summons and other materials to the **U.S. Marshal Service**, which will serve the defendant on your behalf. You will be notified when service has been accomplished.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)

Footnotes

¹⁰ These forms can be found on the District Court's website or obtained from the Clerk's Office.

