



**USFLMD PRO SE HANDBOOK
SECTION VI: GETTING THE CASE STARTED
(ALL-IN-ONE DOCUMENT)**

US DISTRICT COURT, FLORIDA, MIDDLE DISTRICT
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PRO SE HANDBOOK
FROM THE US DISTRICT COURT, FLORIDA, MIDDLE DISTRICT

SECTION VI GETTING THE CASE STARTED

ITEMS 6.01 through 6.03



6.01 | DRAFTING THE COMPLAINT (FIRST STEP)

Every civil case starts with a complaint. A complaint outlines a problem or reason for the lawsuit, which is also known as a claim or cause of action. A complaint (and all other documents filed with the court) needs to be on 8 ½" x 11" paper, double-spaced, and typed using certain typefaces required by the Local Rules. A judge may allow you to file a handwritten document. Here are the things that must be in a complaint and with a complaint.

- **Caption.** A complaint, a motion, a notice, and a similar document filed with the court must have a caption that includes the court's name and division (Fort Myers, Jacksonville, Ocala, Orlando, or Tampa), the parties' names and designations (plaintiff or defendant), the case number if known, and a descriptive title, such as "Complaint". Here is an example of a caption you would see at the top of a complaint:

United States District Court Middle District of Florida Jacksonville Division		
JOHN SMITH		
Plaintiff,		
v.		Case No. 3:13-cv-5555-J-34PDB
SHERIFF OF DUVAL COUNTY,		
Defendant.		
Complaint and Demand for Jury Trial		

- **Subject-Matter Jurisdiction.** A complaint must include a short statement of the basis for subject-matter jurisdiction, which is what gives the court, as a federal court, the authority to hear and resolve your claims. As explained in the above section, "Is This the Right Court to Decide My Dispute," your action must involve a right in the United States Constitution, a federal law, the United States of America or one of its agencies as a party, or a dispute between citizens of different states with an amount in controversy that is more than \$75,000. You must tell the court which category matches your case's facts and how it matches those facts so the court knows that it can hear and resolve your claim.



- **Claim or Claims.** A complaint must include a short statement of the claim or claims showing you are entitled to relief. In this section, you must include the core facts that support each element of your claim. When you write your claim, you must explain what happened by stating facts, not conclusions or what relief you want. For example, do this, "The Commissioner of the Social Security Administration issued a final decision denying my claim for disability benefits on July 27, 1997"; not this, "The Commissioner of the Social Security Administration denied me my right to benefits."

- **Demand for Relief.** A complaint must include a demand for judgment stating the relief sought, such as damages (money), a court order, and possibly a jury trial (you usually must ask for one in your complaint if you want one).

If you are seeking a temporary restraining order (an immediate order prohibiting the other side from doing something or requiring the other side to do something), you must follow the Local Rules and Federal Rules of Civil Procedure addressing a temporary restraining order. If you are seeking a preliminary injunction (an order at the beginning of the action prohibiting a party from doing something or requiring a party to do something pending resolution), you must follow the Local Rules and Federal Rules of Civil Procedure addressing a preliminary injunction. A request for a temporary restraining order, a preliminary injunction, or an injunction must be in the complaint. A request for a temporary restraining order and a preliminary injunction also must be in a motion.

- **Signature Block.** A complaint (and other documents filed with the court, except for exhibits) must include a signature block for each person filing it. A signature block must include a signature, name, address, and phone number. If you change your name, phone number, or address, you must update your information with the court.

- **Attachments.** Any written document referenced in a complaint (a contract or a right-to-sue notice, for example) may be attached to a complaint.

- **Civil Cover Sheet.** A complaint must come with a civil cover sheet. You can get the form from the clerk's office or from the court's website:



Civil Cover Sheet Form JS 44

www.uscourts.gov/sites/default/files/js044.pdf

- **Summons.** A complaint must come with a summons for each defendant. You can get the form from the clerk's office or from the court's website:

Summons/Civil Form AO 440

www.uscourts.gov/sites/default/files/ao440.pdf

The Administrative Office of the United States Courts offers forms for civil complaints and related documents. They are on the United States Court website, www.uscourts.gov/forms/civil-forms:

Form	Name/Description
AO 85	Notice, Consent, and Reference of a Civil Action to a Magistrate Judge
AO 85A	Notice, Consent, and Reference of a Dispositive Motion to a Magistrate Judge
AO 88	Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action
AO 88A	Subpoena to Testify at a Deposition in a Civil Action
AO 88B	Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises
AO 239	Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)
AO 240	Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)
AO 398	Notice of a Lawsuit and Request to Waive Service of a Summons
AO 399	Waiver of the Service of Summons
AO 440	Summons in a Civil Action
AO 441	Summons on Third-Party Complaint
JS 44	Civil Cover Sheet



Form	Name/Description
Pro Se 1	Complaint for a Civil Case
Pro Se 2	Complaint and Request for Injunction
Pro Se 3	Defendant's Answer to the Complaint
Pro Se 4	Complaint for a Civil Case Alleging Breach of Contract
Pro Se 5	Complaint for a Civil Case Alleging Negligence
Pro Se 6	Complaint for a Civil Case Alleging that the Defendant Owes the Plaintiff a Sum of Money
Pro Se 7	Complaint for Employment Discrimination
Pro Se 8	Complaint for Violations of Fair Labor Standards
Pro Se 9	Complaint for Specific Performance or Damages Based on Contract to Convey Real Property
Pro Se 10	Complaint for the Conversion of Property
Pro Se 11	Third Party Complaint
Pro Se 12	Complaint for Interpleader and Declaratory Relief
Pro Se 13	Complaint for Review of Social Security Decision
Pro Se 14	Complaint for Violation of Civil Rights (Prisoner)
Pro Se 15	Complaint for Violation of Civil Rights (Non-Prisoner)



6.02 | FILING THE COMPLAINT (SECOND STEP)

If you are suing, you have to pay a filing fee of \$400 by money order, cashier's check, or in-person credit card. If you cannot afford the filing fee, you can apply to the court for permission to proceed without paying the filing fee up front. That is called proceeding "in forma pauperis." To do so, you must complete and file an affidavit-of-indigency form so the court can consider your finances and whether you cannot afford the filing fee. You can get the form from the clerk's office or the court's website:

Application to Proceed Without Prepayment of Costs-Long Form
AO 239

www.uscourts.gov/sites/default/files/ao239_1.pdf

Filing the form does not guarantee you can proceed without paying the filing fee. The court makes that decision. Even if the court waives the filing fee, you will still be held responsible for other costs of litigation, including costs for photocopies, deposition transcripts, witnesses, and mediation. If your request to proceed in forma pauperis is denied, you have to pay the filing fee or the court will dismiss your action.

You must file your complaint and other court documents by mail or in person at a clerk's office. If you mail your court documents, addresses (and phone numbers) for the Middle District of Florida courts are provided below. File your action in the division that covers the county or counties that have the closest connection to your dispute. See the section above titled "Is this the right court to decide my dispute?" The clerk there will provide a case number.

Fort Myers

Clerk's Office
2110 First St., Rm. 2-194
Ft. Myers, FL 33901
(239) 461-2000



Jacksonville

Clerk's Office
300 N. Hogan St., Rm. 9-150
Jacksonville, FL 32202
(904) 549-1900

Ocala

Clerk's Office
207 N.W. Second St., Rm. 337
Ocala, FL 34475
(352) 369-4860

Orlando

Clerk's Office
401 W. Central Blvd., Ste. 1200
Orlando, FL 32801
(407) 835-4200

Tampa

Clerk's Office
801 N. Florida Ave.
Tampa, FL 33602
(813) 301-5400



6.03 | SERVING THE COMPLAINT (THIRD STEP)

Service of process is the procedure used to notify a defendant of the lawsuit. Because it is fair and important for someone to have an opportunity to respond to allegations and defend against a claim, service of process is required by law, is exacting, and must be done in one of several specific ways. If service of process is not done according to the law, the court may dismiss your complaint. Rule 4 of the Federal Rules of Civil Procedure states the requirements for service of process. (Note that Rule 4 includes special requirements for service when suing the United States, one of its agencies, or one of its employees.)

If you are the one suing, you must fill out a summons forms (one for each defendant) and present it to the clerk's office, where a clerk will sign the form and stamp it with the court's seal. From there, you will need a copy of each official summons (the one with the clerk's signature and seal) and a copy of the complaint and any of its attachments (one copy for each defendant). You must serve those documents on each defendant within 90 days of filing the complaint or risk dismissal of your action.

There are three ways to serve process:

- **Personal Service.** You can tell someone else to personally deliver or serve the summons and complaint. The server must be older than 18 and may not be a party in the action. The server then must complete and sign the back of the original summons form and return it to you so you can file it with the court. That is called the return of service. It is proof to the court that the defendant knows about the action.
- **Waiver of Service.** A defendant may waive service, which means the defendant agrees to respond to the complaint even though you did not personally serve the defendant with the summons and complaint. You can get waiver-of-service forms from the clerk's office or from the court's website:

Form 1:

www.uscourts.gov/sites/default/files/ao398.pdf

Form 2:

www.uscourts.gov/sites/default/files/ao399.pdf



Once you have completed those two forms, you can mail them to each defendant with a copy of the complaint and any of its attachments. If the defendant completes the form and either you or the defendant returns it to the court, you do not have to complete personal service of process.

- **Service by U.S. Marshal.** If the court allows you to proceed in forma pauperis and waives the filing fee, and if the court further finds your complaint is not subject to dismissal (for example, because it is frivolous or the person being sued is immune from liability), the court will direct the U.S. Marshal to complete service of process at no cost to you. But note that for each defendant, you still must provide a completed summons and a copy of complaint to the clerk's office for forwarding to the U.S. Marshal.



APPENDIX



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ORIGINAL SOURCE

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Original Source	https://FLMD.USCourts.gov

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W: www.TextBookDiscrimination.com

Congratulations! You're now ***booked up*** on Section VI of USFLMD's Pro Se Handbook!

