

GUIDE FOR PRO SE LITIGANTS



**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

November 2019

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Introduction

Parties or litigants who are not represented by a licensed attorney and are representing themselves are referred to as *pro se* parties, *pro se* litigants, or appearing *pro se*. These instructions are designed to provide *pro se* litigants with general information about filing a civil action, or participating in a civil action, in federal court.

These instructions do not cover all circumstances or all types of cases. Special forms and instructions are available from the Clerk's Office if you are filing a prisoner civil rights action under 42 U.S.C. § 1983, a habeas corpus petition under 28 U.S.C. § 2241 or § 2254, or a motion to vacate or set aside sentence under 28 U.S.C. § 2255. These forms are also available from the court's website at <http://www.nmd.uscourts.gov/forms>.

Court staff will provide general assistance with the filing of necessary papers and pleadings. However, under no circumstances can any type of legal advice be given as to what should or should not be done in any particular case. **Any legal advice by a member of the court's staff is strictly prohibited.**

Generally, *pro se* litigants are held to the same standards of professional responsibility as trained attorneys. It is a *pro se* litigant's responsibility to become familiar with and to comply with the *Federal Rules of Civil Procedure* and the *Local Rules of the United States District Court for the District of New Mexico* (the "Local Rules"). These rules set forth the general procedural requirements for litigating cases in federal court. Federal laws and statutes are located in the *United States Code* ("U.S.C."). The *Federal Rules of Civil Procedure* and the *United States Code* are available for review at local law libraries. The Local Rules are available from the Clerk's Office and this court's website at <http://www.nmd.uscourts.gov>.

Information about the Court

The U.S. District Court for the District of New Mexico is a general trial court that is part of the federal judicial system comprising 94 judicial districts. The District of New Mexico has offices in Albuquerque, Santa Fe, and Las Cruces. At this time, the court has seven District Judges and twelve Magistrate Judges.

The Clerk of Court for the District of New Mexico oversees the operations and functions of the Clerk's Office and serves the court. The clerk is committed to quality service to all patrons of the court and strives to provide efficient, easy access to court information and services whenever possible.

The Clerk's Office is open Monday through Friday, 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m. It is closed on all federal holidays.

As mentioned above, the District of New Mexico has offices in three locations. The main office is in Albuquerque, with divisional offices in Santa Fe and Las Cruces. Unless otherwise directed, all communication to the court should be addressed to the Clerk of Court, United States District Court, District of New Mexico, using the address for the division where the subject case has been assigned. The three addresses are:

Albuquerque	Pete V. Domenici United States Courthouse 333 Lomas Blvd. NW Suite 270 Albuquerque, NM 87102-9843
Las Cruces	United States Courthouse 100 N. Church Street Suite 280 Las Cruces, NM 88001
Santa Fe	Santiago E. Campos United States Courthouse 106 South Federal Place Santa Fe, NM 87501

The forms referred to in this guide are available from the Clerk’s Office. Many of the forms can also be downloaded from the court’s website at <http://www.nmd.uscourts.gov/forms>.

Forms are also available from the website for the United States Courts at <http://www.uscourts.gov/services-forms/forms>.

Additional information about the federal courts can be found at:

Understanding the Federal Courts <http://www.uscourts.gov/about-federal-courts>

Inside the Federal Courts <http://www.fjc.gov/federal/courts.nsf>

Law Library Resources

The following is a list of the law libraries available to the public.

Albuquerque	Santa Fe	Las Cruces
University of New Mexico School of Law 1117 Stanford NE	New Mexico Supreme Court 237 Don Gaspar	New Mexico State University Zuhl Library 2911 McFie Circle University of Texas El Paso University Library 500 W. University Ave, El Paso, TX

Resources for Legal Representation

If you can afford to hire an attorney but cannot locate one, many local bar associations have lawyer referral services. Some of these services offer consultations with attorneys at reduced rates. There are also a number of organizations which may provide legal assistance at no cost - or *pro bono*. Most of these organizations have income eligibility requirements and many only provide assistance with specific types of cases. **Court staff cannot recommend individual attorneys.** Below is a listing of some of the lawyer referral services in New Mexico.

Resource	Contact Information
American Civil Liberties Union of New Mexico	505-266-5915
Client/Attorney Assistance Program	505-797-6000, 800-876-6227
Lawyers Assistance Hotline	505-228-1948, 800-860-4914
Lawyers Care Referral Program	505-797-6066, 800-876-6227
Lawyer Referral for the Elderly Program (Serves all counties with limited services in Bernalillo County)	505-797-6005, 800-876-6657
Legal Facs (Volunteer Lawyers) (Mostly civil/domestic matters; serves Bernalillo County)	505-256-0417
Native American Protection & Advocacy Project	505-566-5880, 800-862-7271
NM Legal Aid/Albuquerque Office	505-243-7871
NM Legal Aid/Gallup Office	505-722-4417, 800-524-4417
NM Legal Aid/Las Cruces Office	575-541-4800, 866-515-7667
NM Legal Aid/Santa Fe Office	505-982-9886, 866-416-1934
San Juan County Legal Services, Inc. (Serves San Juan County)	505-325-8886, 800-789-7997
Senior Citizens' Law Office, Inc. (Serves Bernalillo County)	505-265-2300

Interpreter Services

Interpreter services needed to assist parties to civil proceedings, both in court and out of court, are the responsibility of the parties to the action.

Upon request of a party to a case, a roster with contact information for locally available interpreters will be made available to that party. The roster should not be construed as a recommendation by the Court for specific contract interpreters and should only be used for locating interpreter

resources. Verification of interpreter's credentials is the responsibility of the parties. To request access to the interpreter, roster parties must submit a request to the Interpreter Section by phone at 505-348-2119, via email at NMDCourt_Interpreter@nmcourt.fed.us or via postal mail at:

Clerk of Court
Pete V. Domenici United States Courthouse
Interpreter Section, Suite 270
333 Lomas Blvd NW
Albuquerque, NM 87102

In limited circumstances, the presiding judge or the clerk or designee may make the services of an interpreter available to that person on a cost-reimbursable basis and require the prepayment of the estimated expenses of providing such services. Interpreter services should be provided on a cost-reimbursable basis only in limited circumstances when no other options are available.

Services to the Hearing Impaired and Others with Communication Disabilities

Under Judicial Conference policy, a court must provide sign language interpreters or other auxiliary aides and services to participants in federal court proceedings who are deaf, hearing-impaired or have communication disabilities and may provide these services to spectators when deemed appropriate.

Jurisdiction of This Court

Federal courts can only hear certain types of cases. Like all other federal trial courts, this court is only authorized 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, as opposed to state law;
3. Those that involve the United States of America as a party, whether plaintiff or defendant; and
4. Those that involve a dispute among residents of different states with an amount in controversy over \$75,000.

Form of Papers

A paper presented for filing with the court must be on 8 ½" by 11" white, opaque, unglazed paper of good quality and be typewritten or legibly printed on one side. Except for footnotes and quotations, the text of all papers must be double spaced. The first page of each paper must have

the names of the parties, case file number, and except the complaint, must have the initials of the assigned judge.

The title of a paper must clearly identify what it is--like a complaint, motion, or a response. The title of a response or a reply must identify, by title and approximate date of filing, the paper to which it responds.

The Clerk will not refuse to file any paper because it is not in proper form. However, any paper filed without a signature will be stricken unless it is signed within 14 days after the omission is called to the party's attention. Also, the Clerk will give to the submitting party written notice of any other deficiency and a deadline for correcting the deficiency. The Clerk will also provide any applicable forms and instruction sheets. Failure to remedy a deficiency or to show good cause for noncompliance within the deadline may result in a dismissal of the action.

All attorneys of record and parties appearing *pro se* have a continuing duty to notify the Clerk, in writing, of any change in their mailing address, e-mail address, or telephone number.

Filing Fees

The Clerk will file a civil action only if a filing fee is paid or an application to proceed *in forma pauperis* is filed. The current fee schedule is available on the court's website at <http://www.nmd.uscourts.gov/schedule-fees>. The fee must be paid at the time the complaint is filed. If the fee is paid by check or money order, it should be made payable to "Clerk, U.S. District Court." The court also accepts cash (exact amount only) or payment made with Visa or MasterCard.

If the filing fee cannot be paid, a motion for leave to proceed *in forma pauperis* ("IFP") may be filed (see Attachment 1). IFP forms are also available from the Clerk's Office and the court's website. When completing the forms, all questions relating to income, assets, and liabilities must be answered. If complete and accurate information is not provided, the request may be denied, or additional information may be required before a decision can be made. If the court grants the request, the filing fee will not have to be paid at the time the complaint is filed. If the request is denied, a reasonable opportunity to pay the fee will be allowed. Summons will not be issued until the Court has screened the complaint under 28 U.S.C. § 1915(e)(2) and ruled on the motion to proceed IFP.

Preparing a Complaint

Generally, the first step in filing a lawsuit is to prepare a complaint. The person who is bringing the lawsuit to court and filing the complaint is called the "plaintiff." The person who is being sued is called the "defendant." If the lawsuit is about a violation of civil rights, the court has complaint

forms available (see Attachment 2). The court does not require that these forms be used, but they are helpful. Other forms of complaint are available at the website for the United States Courts at <http://www.uscourts.gov/services-forms/forms?k=&c=841>.

Rule 11 of the *Federal Rules of Civil Procedure* prohibits the filing of lawsuits that state facts that are not true or have no evidentiary support, that are clearly frivolous or filed merely to harass someone. If, after reviewing the complaint, the court determines that the lawsuit was filed for an improper or clearly unnecessary purpose, sanctions against the person filing the lawsuit may be imposed. Sanctions include, but are not limited to, payment of a fine and/or payment of the legal fees of the person or persons against whom the lawsuit was filed.

The complaint begins with the case caption. The case caption includes the name of the court, the full names of all the parties (the plaintiff[s] and the defendant[s]), and a blank space for the case number. When the complaint is filed and a *pro se* litigant has paid the filing fee, a court staff member will assign a case number and two judges: the presiding judge and the referral magistrate judge. When a complaint is filed and a *pro se* litigant is proceeding *in forma pauperis*, a court staff member will assign a case number and a referral magistrate judge. Once the motion to proceed *in forma pauperis* is granted to the *pro se* litigant, a court staff member will also assign a presiding judge. All subsequent papers filed with the court will contain the same case caption, the case number, and the initials of the judge(s). Everything from the court about the case will have the case number on it. On pleadings, motions, and papers other than the complaint, a shortened version of the caption--*i.e.*, only the names of the first plaintiff and first defendant--may be used.

The body of the complaint consists of numbered paragraphs. The numbered paragraphs state the legal basis for the claim, why this court has jurisdiction (or authority) to decide the claim, the facts of the claim or reasons for the lawsuit, and what relief is being sought. It is not necessary to cite specific case law. At the end, the complaint is signed and dated. The complaint, and each paper filed with the court, will legibly state the mailing address and telephone number below the plaintiff's signature.

Filing a Complaint

The complaint can be filed by hand-delivering it or mailing it to the Clerk's Office. Whether the complaint is hand-delivered or mailed, the original must be submitted with the filing fee or the completed application to proceed *in forma pauperis*. The current fee schedule is available on the court's website at <http://www.nmd.uscourts.gov/schedule-fees>.

Preparing the Summons

Upon or after the complaint is filed, the plaintiff must prepare a summons on a form available from the Clerk's Office (see Attachment 3). The form is also available on the court's website. A separate summons form, with one copy, is submitted for every named defendant. However, if more than one defendant is named and the time for each defendant to file an answer is the same, the defendants can be listed on one summons as long as a copy for each defendant is provided.

The form of the summons will identify the court and the parties, be directed to the defendant, and state the name and address of the *pro se* plaintiff. It will also state the number of days within which the defendant must appear and defend, and notify the defendant that failure to appear and defend may result in a judgment by default against the defendant for the relief demanded in the complaint. The number of days a defendant has to respond to the complaint can be found in Rule 12 of the *Federal Rules of Civil Procedure*. After the summons form is properly completed and a filing fee has been paid or the court grants the motion to proceed IFP, a court staff member will issue the summons, meaning it will be signed and embossed with the court seal, for service on the defendant.

If leave to proceed *in forma pauperis* is granted, officers of the court will serve process (summons and complaint). The court will provide forms to the plaintiff, and the plaintiff must return the forms with an address where service can be made on each defendant. The United States Marshal does not serve summonses and complaints in cases where the motion to proceed *in forma pauperis* has been denied. However, a litigant may pay to have the United States Marshal perform service. Forms for service by the United States Marshal are available from the Clerk's Office.

Consent to Proceed Before a Magistrate Judge

New civil cases, excluding inmate cases and bankruptcy appeals, are randomly assigned to a Magistrate Judge, rather than a District Judge, to preside over all dispositive motions, evidentiary hearings and trial, upon consent of the parties. This Magistrate Judge is called the "trial Magistrate Judge." For each such case, another Magistrate Judge will be assigned to hear and decide all non-dispositive pretrial matters. This Magistrate Judge is called the "pretrial Magistrate Judge."

At the time the complaint is filed, if the case is assigned to a Magistrate Judge to act as the trial Magistrate Judge, the Clerk will provide a form entitled "Consent to Proceed / Refusal to Consent to Proceed before a United States Magistrate Judge" (see Attachments 4 and 5). It is the responsibility of the case filer to serve, with the summons and the complaint, a copy of the consent form upon all parties. Counsel and *pro se* parties are required to return the consent form to the Clerk's Office, within the time specified on the form, to indicate whether they consent to proceed before a Magistrate Judge instead of a District Judge.

Serving the Summons and Complaint

The plaintiff is responsible for making sure the summons and complaint are served on every defendant within 90 days of the filing of the complaint. This is called "service of process," and it is the method used to notify the defendant that a lawsuit is pending. Detailed instructions on how to serve a summons and complaint can be found in Rule 4 of the *Federal Rules of Civil Procedure*. **If these instructions are not followed correctly, the case can be dismissed for failure to comply with the rule.**

The person who serves the summons and complaint is expected to file with the court a “return of service.” The return of service is a statement, made under oath, explaining when and how service was made.

After the defendant is served with the summons and complaint, the defendant has a period of time, specified in the summons, within which to answer or respond to the complaint. The time for filing an answer runs from the date the complaint and summons are served, not the date the summons is issued.

Request for Appointment of Counsel

A *pro se* litigant has no right to be represented by court-appointed counsel, and the court has no obligation to appoint counsel. However, the court may appoint an attorney who agrees to appear in an exceptional case. To request that the court appoint counsel, a “motion for appointment of counsel” may be filed with the complaint.

Obtaining Information about a Case

The Clerk’s Office maintains an automated record, or docket, for every case that is filed with this court. The docket is a chronological summary of all significant events in the history of the case. For example, each time a pleading or paper is filed or a hearing is held, an entry summarizing the event is added to the case docket. The docket can be reviewed for free on the public-access terminals located in the Clerk’s Office in Albuquerque, Santa Fe, and Las Cruces.

Alternatively, the public can access case information via the internet by obtaining an account through the Public Access to Court Electronic Records (PACER) Service Center. The PACER Service Center hours are 8:00 a.m. to 5:00 p.m. (CT), Monday through Friday. The PACER Service Center can be reached via phone at (800) 676-6856, via email at pacer@psc.uscourts.gov or via postal mail at P.O. Box 780549, San Antonio, TX, 78278.

The staff of the Clerk’s Office does not know, and cannot provide you with, the reasons for a judge’s decision nor is the Clerk’s Office in a position to know when a judge will respond to a motion or issue a ruling in a case. The judge’s courtroom deputy can respond to specific questions regarding scheduling.

Attorneys and *pro se* parties are prohibited from all *ex parte* communication with the judge or judge’s staff. *Ex parte* communication occurs when one of the parties to a lawsuit exchanges information with the assigned judge (1) without the opposing party being present, or (2) without the knowledge and consent of the opposing party.

Any communication between the assigned judge and a *pro se* litigant should be in writing, and a copy of the communication should be sent to the opposing party or, if represented, to that party’s attorney. The letter to the judge should indicate that a copy has been sent to the opposing party.

Telephone or personal contact with the judge's staff should be limited to specific scheduling inquiries.

Filing Motions

Any party to the lawsuit may file a motion, if there is a request for the court to take specific action related to the case. A motion must be in writing and must specifically state the grounds for the motion and the relief sought. The party filing the motion (the "movant") must request concurrence of each party at least three working days before filing the motion. The movant must recite that concurrence was refused or explain why concurrence could not be obtained. A motion that omits recitation of a good-faith request for concurrence may be denied.

For opposed motions, the movant must file and serve on all parties copies of the motion, supporting brief or memorandum (a summary of the law supporting the motion) and affidavits and other papers related to the motion. The motion must include a statement indicating when and to whom service was made. The response and reply must also be filed and served on all parties. Timing of the response and reply must conform to Rule 7.4 of this court's local rules.

Failure to serve and file a response in opposition to any motion constitutes consent to grant the motion.

The combined length of a motion and supporting brief must not exceed 27 double-spaced pages. A response brief must not exceed 24 double-spaced pages; a reply brief must not exceed 12 double-spaced pages.

A motion will be decided on the briefs unless the court sets it for hearing. If the court sets the motion for hearing, a notice of hearing will be sent to all attorneys and *pro se* parties. When a decision has been made on a motion, the court will issue a written order that grants, denies, or partially grants and denies the motion.

Subpoenas

The Clerk cannot give blank subpoenas to persons appearing *pro se* in a case filed in the District Court. If subpoenas are needed, a *pro se* litigant must bring a completed subpoena form to the Clerk's Office for processing. A subpoena form is available from the following website at <http://www.uscourts.gov/services-forms/forms>.

Appeals

A final decision of this court may be appealed to the United States Court of Appeals for the Tenth Circuit in Denver. To file an appeal, a notice of appeal must be filed with the Clerk of this court, with one copy for the court and one copy for each attorney or *pro se* party in the case. The filing fee or a motion for leave to proceed *in forma pauperis* must also be submitted to the Clerk of this

court. The current fee schedule is available on the court's website at <http://www.nmd.uscourts.gov/schedule-fees>. The notice of appeal should be legibly handwritten or typed and filed with the Clerk of this court within thirty (30) days after the judgment or order appealed from is entered. When the United States or its officer or agency is a party, the notice of appeal may be filed by any party within sixty (60) days after the judgment or order appealed from is entered. How to appeal a final judgment or order of a district court is explained further in Rules 3 and 4 of the *Federal Rules of Appellate Procedure*.

Like the trial court, litigation in the appeals court is a complex process. It is the responsibility of the *pro se* litigant to follow the *Federal Rules of Appellate Procedure* and the local rules of the circuit court.

Electronic Filing

A *pro se* litigant may register for a Case Management/Electronic Case Files (CM/ECF) electronic filing account. Once an account has been approved and established, the *pro se* litigant will have the ability to electronically file documents and receive notices electronically in their cases (with a valid email address). However, approval to electronically file documents within a case must be granted by the presiding judge for each case in which the *pro se* litigant wishes to file using their CM/ECF account. Account registration forms, procedure manuals, and other information can be obtained at the court's website at <http://www.nmd.uscourts.gov/filing-information>.

Noticing Consent

Upon opening of a case or being added to the case, a *pro se* litigant will receive a *CM/ECF Pro Se Notification Form* (see Attachment 6). This form indicates the *pro se* litigant's choice of notification method for activity in cases filed in the District Court. The following forms of delivery are available: e-mail, fax, or postal mail. The completed and signed *CM/ECF Pro Se Notification Form* must be returned to the District Court for processing.

Attachments

1. Motion to Proceed In Forma Pauperis
2. Civil Rights Complaint Form
3. Summons Form
4. Consent to Proceed Before a U.S. Magistrate Judge Form (21 day)
5. Consent to Proceed Before a U.S. Magistrate Judge Form (14 day)
6. CM/ECF Pro Se Notification Form

UNITED STATES DISTRICT COURT

for the

_____ District of _____

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

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

Affidavit in Support of the Application	Instructions
<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	\$	\$	\$	\$

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

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

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.

Assets owned by you or your spouse	
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.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$

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

Name (or, if under 18, initials only)	Relationship	Age

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	\$	\$

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Regular expenses for operation of business, profession, or farm (<i>attach detailed statement</i>)	\$	\$
Other (<i>specify</i>):	\$	\$
Total monthly expenses:	\$	\$

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 spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? Yes No

If yes, how much? \$ _____

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

12. 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: _____

Name

Address

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

_____, Plaintiff
(Full Name)

CASE NO. _____
(To be supplied by the Clerk)

v.

_____, Defendant(s)

CIVIL RIGHTS COMPLAINT
PURSUANT TO 42 U.S.C. §1983

A. JURISDICTION

1) _____, is a citizen of _____
(Plaintiff) (State)
who presently resides at _____
(Mailing address or place of confinement)

2) Defendant _____ is a citizen of _____
(Name of first defendant)
_____, and is employed as _____
(City, State)
_____. At the time the claim(s)
(Position and title, if any)
alleged in this complaint arose, was this defendant acting under color of state law?
Yes No If your answer is "Yes", briefly explain:

- 3) Defendant _____ is a citizen of
(Name of second defendant)
_____, and is employed as
(City, State)
_____. At the time the claim(s)
(Position and title, if any)
alleged in this complaint arose, was this defendant acting under color of state.
Yes No If your answer is "Yes", briefly explain:

(Use the back of this page to furnish the above information for additional defendants.)

- 4) Jurisdiction is invoked pursuant to 28 U.S.C. §1343(3), 42U.S.C. §1983. (If you wish to assert Jurisdiction under different or additional statutes, you may list them below.)

B. NATURE OF THE CASE

- 1) Briefly state the background of your case.

C. CAUSE OF ACTION

- 1) I allege that the following of my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary, you may attach up to two additional pages (8 1/2" x 11") to explain any allegation or to list additional supporting facts.

A)(1) Count I:

(2) Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

B)(1) Count II:

(2) Supporting Facts:

C)(1) Count III:

(2) Supporting Facts:

D) PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1) Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?
Yes No If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

a) Parties to previous lawsuit.

Plaintiffs: _____

Defendants: _____

b) Name of court and docket number:

c) Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

d) Issues raised: _____

e) Approximate date of filing lawsuit: _____

f) Approximate date of disposition: _____

2) I have previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C. Yes No If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No," briefly explain why administrative relief was not sought.

E. REQUEST FOR RELIEF

1) I believe that I am entitled to the following relief:

Signature of Attorney (if any)

Signature of Petitioner

Attorney's full address and telephone number.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1746. 18 U.S.C. Sec. 1621.

Executed at _____ on _____ 20___.
(Location) (Date)

(Signature)

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:

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

Plaintiff(s),

-vs-

Civil No. _____

Defendant(s).

**CONSENT TO PROCEED / REFUSAL TO CONSENT TO PROCEED
BEFORE A UNITED STATES MAGISTRATE JUDGE**

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the above-entitled action has been assigned to United States Magistrate Judge:

to conduct dispositive proceedings in this case, including motions and trial, entry of final judgment, and all post-judgment proceedings. Exercise of this jurisdiction by a U.S. Magistrate Judge is permitted only if all parties consent. **Indicate below if you consent to the assignment or if you refuse to consent:**

Consent

Refuse

Party(s)

Party(s)

Signature

Date

Signature

Date

If you are a *pro se* litigant, return this form to the Clerk's Office no later than 21 days after entry of the Order setting the Rule 16 Initial Scheduling Conference. If you are an attorney/e-filer, please visit our Web site at www.nmcourt.fed.us for e-filing instructions. If consent by each party is not timely received, the matter will be reassigned to a district judge who will serve as the presiding judge.

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

Plaintiff(s),

-vs-

Civil No. _____

Defendant(s).

**CONSENT TO PROCEED / REFUSAL TO CONSENT TO PROCEED
BEFORE A UNITED STATES MAGISTRATE JUDGE**

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the above-entitled action has been reassigned to United States Magistrate Judge:

to conduct dispositive proceedings in this case, including motions and trial, entry of final judgment, and all post-judgment proceedings. Exercise of this jurisdiction by a U.S. Magistrate Judge is permitted only if all parties consent. **Indicate below if you consent to the reassignment or if you refuse to consent:**

Consent

Refuse

Party(s)

Party(s)

Signature

Date

Signature

Date

If you are a *pro se* litigant, this form must be returned to the Clerk's Office within 14 days from the date the new trial magistrate judge was assigned. If you are an attorney/e-filer, please visit our Web site at www.nmcourt.fed.us for e-filing instructions. If consent by each party is not timely received, the matter will be reassigned to a district judge who will serve as the trial judge.

**UNITED STATES DISTRICT COURT
District of New Mexico**

CM/ECF PRO SE NOTIFICATION FORM
Case Management/Electronic Case Files

This form is used to elect the type of notification of filing to be received from the Court's Case Management/Electronic Case File (CM/ECF) system. Please select only **ONE** type of notification and complete the necessary information.

PLEASE TYPE or PRINT

Please enter party information	
Case Number:	
First/Middle/Last Name:	
Contact Phone Number:	(Include Area Code)
Complete the following information for either a P.O. Box or physical address, not both.	
Address:	
City/State/Zip:	
Please choose the method of notification (select only one)	
<input type="radio"/>	I elect to receive notification via postal mail (Using the address entered above, either a P.O. Box or physical address.)
<input type="radio"/>	I elect to receive notification via E-Mail ** (Complete the following information)
E-Mail Address:	
<input type="radio"/>	I elect to receive notification via Fax ** (Complete the following information. Failures due to invalid or busy fax numbers will be delivered via postal mail to the address above)
FAX Number:	(Include Area Code)

****For Fax or E-mail, by submitting this notification form, the undersigned consents to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) via the Court's electronic filing system. Repeated failures, of either the fax number or e-mail address, will result in the information being removed from the case and subsequent notifications will be delivered via postal mail.**

Signature

Date

Submission: You may submit this completed **AND** signed form via one the following:

Mail	Fax	E-Mail
United States District Court ATTN: CM/ECF Notifications 333 Lomas Blvd NW, Suite 270 Albuquerque, NM, 87102	505-348-2028	cmecf@nmcourt.fed.us (Scan to PDF file format)

Note: Questions regarding this form may be directed to our CM/ECF Help Desk at (505) 348-2075 or via email (at the above email address).