



## UNITED STATES DISTRICT COURT DISTRICT OF NEW MEXICO

### PROCEDURES FOR HAVING A CIVIL SUMMONS ISSUED

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#### Getting Started

Before a civil summons can be issued by the Court:

- The filing fee must be paid or a motion to proceed *in forma pauperis* granted.
- The online form (a fillable PDF) for AO 440, Summons in a Civil Action, must be used.
- Before the online form can be used, you must have some form of PDF writer software (*i.e.*, Adobe Acrobat Writer) installed on your computer; this software will allow you to edit and save PDF files into new PDF documents. Word Perfect (versions 9 and up), Open Office, and Microsoft Word (2010) each have a PDF writer built in. (Since we cannot recommend any specific software, we suggest you perform a web search using the following terms, “free pdf printer.”) Once installed, the PDF writer application will appear as a printer in your list of available printers.
- The assigned case number and the initials of the assigned judges must be known.
- The party to whom the summons is directed must be a named party in the case.
- The proof of service (page 2 of the form) must accompany the summons.
- If an amended complaint is being served, the words “on Amended Complaint” are required below “Summons in a Civil Case.” The same applies for an alias summons.

#### Preparing the Summons

To obtain the template for AO 440, Summons in a Civil Action:

- Click [here](#) (to open the form) or [here](#) to be redirected to the United States Courts Forms & Fees web page.

- The form will look similar to this:

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

UNITED STATES DISTRICT COURT  
for the

Plaintiff(s)

v.

Defendant(s)

Civil Action No.

**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.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

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- To add district information, click the small down arrow near the top of the form. A drop down box listing all federal districts will display; select District of New Mexico.
- To add the case caption, click in the area directly above the line marked “Plaintiff(s)” and enter the plaintiff’s name. Then, click in the area directly above the line marked “Defendant(s)” and enter the defendant’s name. If the case has multiple plaintiffs and/or defendants, enter only the first party’s name, followed by “et al.,” for each section as appropriate.
- To complete the case number, click in the area to the right of “Civil Action No.,” then enter the case number **and** the assigned judges’ initials—for example, 11cv01234 AB/XYZ. (The summons cannot be issued without the case number **and** the assigned judges’ initials.)

- To add the name and address for the party being served, click in the area to the right of “To: (Defendant’s name and address)” and enter the appropriate information. (Only one party can be added to this section; if there are multiple parties to serve, complete one summons for each party.)
- When the information on page 1 of the summons form has been completed, scroll to the bottom of page 2, “Proof of Service.”

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Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**  
*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (f))*

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*

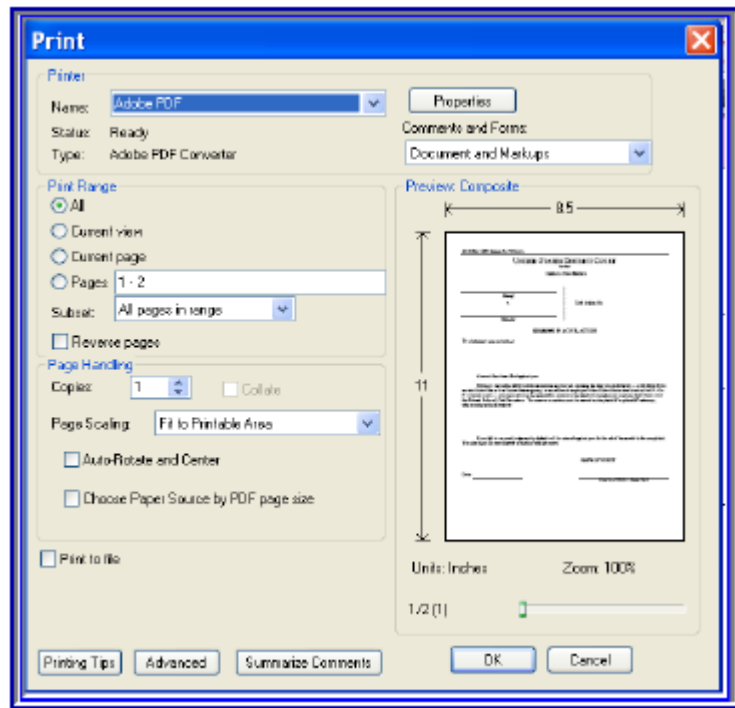
Additional information regarding attempted service, etc:  
 \_\_\_\_\_

**Print**    **Save As...**    **Reset**

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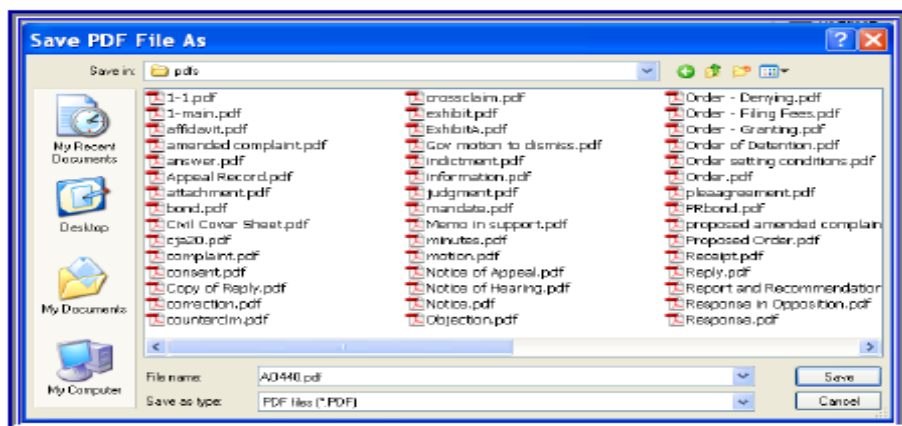
- Click the red “[Print]” button to save pages 1 and 2 as one PDF file (both pages of the summons must be submitted).

- In the dialog box, select the option to change the current printer. Select your PDF writer's printer from the list of printer choices displayed in the drop-down menu.



*Printer dialog box with PDF writer selected as “printer”*

- Click **[OK]** to “Print” the file. The file will not actually print; instead, the option to save the file as a PDF document appears.
- Save the summons by choosing a directory and folder then naming the file (include the extension “.pdf” in the file’s name). (If you click the red **[Save As...]** button instead of the **[Print]** button, you will be taken directly to this step. Both options work, but using **[Print]** is recommended.)



*Dialog box displayed when saving PDF file*

- Note the file's location so it can be found when you are ready to email it to the Clerk's Office. Click **[Save]**.



Please do not print then scan the completed summons form to save it as a PDF file. If this is done, Clerk's Office staff will be unable to affix the appropriate watermark to the document.

### **Emailing the Completed Summons(es) to the Court**

Once a summons for each party being served is prepared and ready for issuance by the Clerk's Office, email the completed summonses to [summons@nmd.uscourts.gov](mailto:summons@nmd.uscourts.gov) in a single email (do not use any other email address for submission of a completed summons).

It is not the responsibility of the Court to make any changes to the summons(es) once submitted for issuance.

When the Clerk's Office performs the quality assurance review, each summons will be watermarked electronically by the Clerk's Office. The issued summons(es) will then be emailed back to the sender (via the email address used to submit the summons(es)) for service. If any problem is encountered, Clerk's Office Staff will contact you to provide further instructions.

### **Service of Process by Marshal**

If service will be made by a United States marshal or deputy marshal, you must complete Form USM-285 unless the Court orders otherwise. The instructions and form are available at the Clerk's Office and at the links provided below:

**[INSTRUCTIONS FOR SERVICE OF PROCESS BY U.S. MARSHAL](#)**

**[Form USM-285](#)**