

CIVIL FORMS INDEX

Instructional/Informational Brochures

1. **Requirements for Filing a Civil Action**
2. **Requirements for Filing a Civil Action When the United States is a Defendant**
3. **Federal Rules of Civil Procedure - Rule 4** (Commencement of Action and Service of Process)
4. **Kansas Statutes Annotated 60-303** (Civil Procedure, Service of Process)

Civil Forms

(These forms should be completed as they pertain to your particular type of case. Please complete and file these forms in the order in which they are listed below.)

1. **Civil Cover Sheet** (form JS-44)
2. **Civil Complaint** (to be completed if case is not based on discrimination charges)
3. **Civil Complaint Pursuant to Title VII of the Civil Rights Act of 1964** (completed if case is based on discrimination claim, such as job, age, sex, race, etc.)
4. **Application for Leave to File Action Without Payment of Fees, Costs , or Security, With Affidavit of Financial Status in Support**
5. **Application for Appointment of Counsel in an Action Under Title VII of the Civil Rights Act of 1964, as Amended, Section 2000e-5(f) of Title 42 U.S.C.**
6. **Affidavit of Financial Status In Support of Application for Appointment of Counsel**
7. **Notice of Lawsuit and Request for Waiver of Service of Summons** (form AO 398)
8. **Waiver of Service of Summons** (form AO 399)
9. **Summons in a Civil Action** (form AO 440) (The clerk's office will complete this form if pltf is allowed to file case without payment of fees)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

REQUIREMENTS FOR FILING A CIVIL ACTION

1. **FILING FEE:** A \$150.00 filing fee is required when filing a complaint.
2. **CIVIL COVER SHEET:** A cover sheet, form JS-44, is required and must be filled out completely and signed by the attorney of record or pro se litigant.
3. **COMPLAINT:** A short and plain statement with the important information about the claim(s) of the plaintiff(s) and the identity of each defendant (Rule 8(a) FRCvP) which shall bear the genuine signature of an attorney or such pro se party.
4. **DESIGNATION OF PLACE OF TRIAL:** The Plaintiff, at the time of filing the complaint, shall file a request showing the name of the city where he desires the trial to be held.
5. **JURY DEMAND:** Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing.
6. **NOTICE OF REMOVAL:** A defendant or defendants desiring to remove any civil action from a state court shall file a notice of removal as required by 28 U.S.C. 1446. The place of removal shall be in accordance with Local Rule 81.1.

SEE REVERSE SIDE FOR SERVICE REQUIREMENTS

SERVICE REQUIREMENTS

Service may be accomplished by using form AO 440, SUMMONS IN A CIVIL ACTION or by using form A 398, NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS and form AO 399, WAIVER OF SERVICE OF SUMMONS.

PERSONAL SERVICE

CIVIL SUMMONS, FORM AO 440: Both sides of the civil summons form must be completed in duplicate for each defendant (one copy for the defendant, and one copy to be returned to the Clerk's office with service information completed). However, FRCvP Rule 4(b) provides for a summons to be issued to multiple defendants and authorizes copies of the summons to be issued on named defendants without the necessity of an original summons for each defendant. Pursuant to FRCvP 4(c)(2), service of the summons may be effected by any person who is not a party and who is at least 18 year of age.

Proof of service - The person serving the process shall make proof of service thereof to the court promptly by completing the back side of the summons and filing it with the clerk.

SERVICE BY MAIL

CIVIL SUMMONS, AO 440: FRCvP Rule 4(e)(1), allows for service pursuant to the law of the state in which the district court is located, or in which service is effected. Within the State of Kansas, using the civil summons form, service may be effected by certified mail. (See Kansas Statutes Annotated 60-303.)

Proof of service - Plaintiff shall make proof of service by signing and dating the back side of the second summons and attaching the green certified mail receipt, which is then filed with the clerk.

WAIVER OF SERVICE OF SUMMONS

NOTICE OF LAWSUIT, FORM AO 398: A notice to defendant that a lawsuit has been filed and a request that service be accepted without summons.

WAIVER OF SERVICE OF SUMMONS, FORM AO 399: Defendant agrees to accept service without a summons by signing form and returning it to the plaintiff.

Proof of service: - Plaintiff shall file the Waiver of Service form with the clerk, and the action shall proceed as if a summons and complaint had been served at the time of filing the waiver, and no other proof of service shall be required.

(Revised 10/1/01)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

REQUIREMENTS FOR COMPLETING SERVICE WHEN THE UNITED STATES IS A DEFENDANT

The original Complaint, Designation of Place of Trial, and Jury Demand are filed with the Clerk's office. The Clerk will file stamp extra copies of pleadings and issue summons for service of process.

The U.S. Attorney (or assistant/clerical employee) and the Attorney General must be served when the United States is a defendant. If a U.S. Agency is a defendant, the Agency, the U.S. Attorney (or assistant/clerical employee) and the Attorney General are to be served. The requirements are:

U.S. ATTORNEY

*2 Original Summonses

Copy of complaint, designation of place of trial and jury demand (attached to one summons)

The server personally delivers to the U.S. Attorney the summons with attached pleadings (pursuant to Rule 4 FRCvP)

The 2nd summons with service information completed is filed with the Clerk's office

OR

By sending summonses, complaint, designation of place of trial and jury demand by registered or certified mail addressed to the civil process clerk at the office of the U.S. Attorney.

ATTORNEY GENERAL

Department of Justice
10th Street & Constitution
Avenue, N.W. Washington,
DC 20530

Service by Mail

*2 Original Summonses

Copy of complaint, designation of place of trial and jury demand (attached to one summons)

Packet is sent registered or certified mail (pursuant to Rule 4 FRCvP)

The 2nd summons with service information completed is filed with the Clerk's Office

Proof of Service: Plaintiff shall make proof of service by attaching green certified mail receipt to the back side of the second summons which is then filed with the clerk.

U. S. AGENCY

*2 Original Summonses

Copy of complaint, designation of place of trial and jury demand (attached to one summons)

See mail or personal service instructions above.

*Rule 4(b) provides for a summons to be issued to multiple defendants and authorizes copies of the summons to be served on named defendants without the necessity of an original summons for each defendant.



Rule 4. Summons

(a) Form.

The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) Issuance.

Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) Service with Complaint; by Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subdivision [\(m\)](#) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916.

(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision [\(e\)](#), [\(f\)](#), or [\(h\)](#) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subdivision [\(h\)](#) ;

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been

filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to [Rule 84](#), of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subdivision (e), (f), or (h), together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(e) Service Upon Individuals Within a Judicial District of the United States.

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States:

(1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or

(2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(f) Service Upon Individuals in a Foreign Country.

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been

obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(g) Service Upon Infants and Incompetent Person.

Service upon an infant or an incompetent person in a judicial district of the United States shall be effected in the manner prescribed by the law of the state in which the service is made for the service of summons or like process upon any such defendant in an action brought in the courts of general jurisdiction of that state. Service upon an infant or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (f) or by such means as the court may direct.

(h) Service Upon Corporations and Associations.

Unless otherwise provided by federal law, service upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected:

(1) in a judicial district of the United States in the manner prescribed for individuals by subdivision (e) (1), or by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant, or

(2) in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (f) except personal delivery as provided in paragraph (2)(C)(i) thereof.

(i) Serving the United States, Its Agencies, Corporations, Officers, or Employees.

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

(2)

(A) Service on an agency or corporation of the United States, or an officer or employee of the United States sued only in an official capacity, is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

(B) Service on an officer or employee of the United States sued in an individual capacity for acts or omissions occurring in connection with the performance of duties on behalf of the United States - whether or not the officer or employee is sued also in an official capacity - is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by serving the officer or employee in the manner prescribed by Rule 4 (e), (f), or (g).

(3) The court shall allow a reasonable time to serve process under Rule 4(i) for the purpose of curing the failure to serve:

(A) all persons required to be served in an action governed by Rule 4(i)(2)(A), if the plaintiff has served either the United States attorney or the Attorney General of the United States, or

(B) the United States in an action governed by Rule 4(i)(2)(B), if the plaintiff has served an officer or employee of the United States sued in an individual capacity.



60-303

Chapter 60.—PROCEDURE, CIVIL

Article 3.—PROCESS

60-303. Methods of service of process. (a) Methods of service of process within this state, except service by publication as provided in K.S.A. 60-307, and amendments thereto, are described in this section. Methods of out-of-state service of process are described in K.S.A. 60-308, and amendments thereto.

(b) *Who serves process.* The sheriff of the county in which the action is filed shall serve any process by any method authorized by this section, or as otherwise provided by law, unless a party, either personally or through an attorney, elects to undertake responsibility for service and so notifies the clerk.

(c) *Service by return receipt delivery.* (1) Service of process by return receipt delivery shall include service effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery.

(2) The sheriff, party, or party's attorney shall cause a copy of the process and petition or other document to be placed in a sealed envelope addressed to the person to be served in accordance with K.S.A. 60-304, and amendments thereto, with postage or other delivery fees prepaid, and the sealed envelope placed in the custody of the person or entity effecting delivery.

(3) Service of process shall be considered obtained under K.S.A. 60-203, and amendments thereto, upon the delivery of the sealed envelope.

(4) After service and return of the return receipt, the sheriff, party or party's attorney shall execute a return on service stating the nature of the process, to whom delivered, the date of delivery, the address where delivered and the person or entity effecting delivery. The original return of service shall be filed with the clerk, along with a copy of the return receipt evidencing such delivery.

(5) If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the sheriff, party or the party's attorney may send a copy of the process and petition or other document by first-class mail addressed to the party to be served, or may elect other methods of service. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service filed with the clerk. If the unopened envelope sent first-class mail is returned as undelivered for any reason, the sheriff, party or party's attorney shall file an amended certificate of service with the clerk indicating nondelivery, and service by such mailing shall not be considered obtained. Mere failure to claim return receipt delivery

is not refusal of service within the meaning of this subsection.

(d) *Personal and residence service.* (1) The party may file a written request with the clerk for personal or residence service. Personal service shall be made by delivering or offering to deliver a copy of the process and accompanying documents to the person to be served. Residence service shall be made by leaving a copy of the process and petition, or other document to be served, at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion residing therein. If service cannot be made upon an individual, other than a minor or a disabled person, by personal or residence service, service may be made by leaving a copy of the process and petition, or other document to be served, at the defendant's dwelling house or usual place of abode and mailing a notice that such copy has been left at such house or place of abode to the individual by first-class mail.

(2) When process is to be served under this subsection, the clerk of the court shall deliver the process and sufficient copies of the process and petition, or other document to be served, to the sheriff of the county where the process is to be served or, if requested, to a person appointed to serve process or to the plaintiff's attorney.

(3) Service, levy and execution of all process under this subsection, including, but not limited to, writs of execution, orders of attachment, replevin orders, orders for delivery, writs of restitution and writs of assistance, shall be made by a sheriff within the sheriff's county, by the sheriff's deputy, by an attorney admitted to the practice of law before the supreme court of Kansas or by some person appointed as a process server by a judge or clerk of the district court, except that a subpoena may also be served by any other person who is not a party and is not less than 18 years of age. Process servers shall be appointed freely and may be authorized either to serve process in a single case or in cases generally during a fixed period of time. A process server or an authorized attorney may make the service anywhere in or out of the state and shall be allowed the fees prescribed in K.S.A. 28-110, and amendments thereto, for the sheriff and such other fees and costs as the court shall allow. All persons authorized under this subsection to serve, levy and execute process shall be considered an "officer" as used in K.S.A. 60-706 and 60-2401 and amendments thereto.

(4) In all cases when the person to be served, or an agent authorized by the person to accept service of process, refuses to receive copies thereof, the offer of the duly authorized process server to deliver copies thereof, and the refusal, shall be a sufficient service of the process.

(e) *Acknowledgment or appearance.* An acknowledgment of service on the summons is equivalent to service. The voluntary appearance by a defendant is equivalent to service as of the date of appearance.

History: L. 1963, ch. 303, 60-303; L. 1976, ch. 251, § 14; L. 1982, ch. 244, § 1; L. 1986, ch. 215, § 14; L. 1990, ch. 202, § 4; L. 1992, ch. 290, § 1; L. 1994, ch. 273, § 12; L. 2000, ch. 175, § 3; July 1.

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>1. (a) PLAINTIFFS</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p>	<p>DEFENDANTS</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>ATTORNEYS (IF KNOWN)</p>
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<p>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">PTF DEF</td> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">PTF DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>		PTF DEF		PTF DEF	Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. NATURE OF SUIT (PLACE AN -X- IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefit <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td style="width: 50%; vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Cultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability					
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW(405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -Third Party 26 USC 7609		

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
--	---	--	---	--	---	--

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES IN DIVERSITY.)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

(In item B below, write the full name of the defendant in the first blank. In the second blank, write the official position of the defendant. Use item C for the names and positions of any additional defendants).

B.
Defendant _____ is

employed at

C. Additional
Defendants _____

II. Jurisdiction: (Complete one or more of the following subparagraphs, A., B.1, B.2., or B.3., whichever is applicable.)

A. (If Applicable) Diversity of citizenship and amount:

1. Plaintiff is a citizen of the State of _____.
2. The first-named defendant above is either
 - a. a citizen of the State of _____; or
 - b. a corporation incorporated under the laws of the State of _____ and having its principal place of business in a State other than the State of which plaintiff is a citizen.
3. The second-named defendant above is either
 - a. a citizen of the State of _____; or
 - b. a corporation incorporated under the laws of the State of _____ and having its principal place of business in a State other than the State of which plaintiff is a citizen.

(If there are more than two defendants, set forth the foregoing information for each additional defendant on a separate page and attach it to this complaint.)

Plaintiff states that the matter in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars (\$75,000.00).

B. (If applicable) Jurisdiction founded on grounds other than diversity (Check any of the following which apply to this case).

_____ 1. This case arises under the following section of the Constitution of the United States or statute of the United States (28 U.S.C. §1331):
Constitution, Article_____, Section_____;
Statute, US Code, Title_____, Section_____.

_____ 2. This case arises because of violation of the civil or equal rights, privileges, or immunities accorded to citizens of, or persons within _____ the jurisdiction of, the United States (28 U.S.C. §1343).

_____ 3. Other grounds (specify and state any statute which gives rise to such grounds):

III. Statement of Claim:

(State here a short and plain statement of the claim showing that plaintiff is entitled to relief. State what each defendant did that violated the right(s) of the plaintiff, including dates and places of such conduct by the defendant(s). Do not set forth legal arguments. If you intend to allege more than one claim, number and set forth each claim in a separate paragraph. Attach an additional sheet, if necessary, to set forth a short and plain statement of the claim[s].)

IV. Relief: (State briefly exactly what judgement or relief you want from the Court. Do not make legal arguments.)

V. Do you claim the wrongs alleged in your complaint are continuing to occur at the present time? Yes [] No []

VI. Do you claim actual damages for the acts alleged in your complaint? Yes [] No []

VII. Do you claim punitive monetary damages? Yes [] No []

If you answered yes, state the amounts claimed and the reasons you claim you are entitled to recover money damages.

--

VIII. Administrative Procedures:

A. Have the claims which you make in this civil action been presented through any type of Administrative Procedure within any government agency? Yes [] No []

B. If you answered yes, give the date your claims were presented, how they were presented, and the result of that procedure:

--

--

--

C. If you answered no, give the reasons, if any, why the claims made in this action have not been presented through Administrative Procedures:

--

--

--

Signature of Plaintiff

Name (Print or Type)

Address

City State Zip Code

Telephone Number

DESIGNATION OF PLACE OF TRIAL

Plaintiff designates (Wichita, Kansas City or Topeka), Kansas as the location for the
(circle one location)

trial in this matter.

Signature of Plaintiff

REQUEST FOR TRIAL BY JURY

Plaintiff requests trial by jury (yes or no).

(circle one)

Signature of Plaintiff

Dated: _____
(Rev. 8/01)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____)
_____)
_____)
_____)
_____)

(Enter above the full name of the Plaintiff(s))

vs.)
)
)

(1))
)

_____)
Name)

Case Number: _____

_____)
Street and number)

_____)
City State Zip Code)
)

(Enter above the full name and address of the
Defendant in this action - list the name and address
of any additional defendants on the back side of
this sheet).

**CIVIL COMPLAINT PURSUANT TO
TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964
OR
29 U.S.C. § 621-634(b)
(Age Discrimination in Employment Act)
or
42 U.S.C. § 12111 et seq.
(Americans With Disabilities Act)**

Mark the statute that you are filing this complaint under:

_____ Title VII of the Civil Rights Act of 1964.

_____ 29 U.S.C. § 621-634 (b) (Age Discrimination in Employment Act)

_____ 42 U.S.C. § 12111 et. seq. (Americans With Disabilities Act)

1. Plaintiff resides at: _____

-
2. Defendant employer(s) reside or can be served with process at the addresses set forth in the caption above.
 3. This Action is brought for employment discrimination, pursuant to one or both of the following laws:
 - a. _____ Title VII of the Civil Rights Act of 1964 for employment discrimination.
 - b. _____ Age Discrimination in Employment Act of 1967, codified at 29 U.S.C. § 621-634(b), as amended, for employment discrimination based on age;
 - c. _____ Americans With Disabilities Act, codified at 42 U.S.C. § 12111 et. seq., for employment discrimination based on disability.

Jurisdiction is conferred on this court pursuant to 29 U.S.C. § 626(c)(1), 42 U.S.C. § 2000e-5, or 42 U.S.C. § 12117. If the plaintiff is a federal employee, jurisdiction is conferred on this court pursuant to 29 U.S.C. § 633a(c).

4. Venue is invoked pursuant to 28 U.S.C. § 1391.
5. Defendant's conduct is discriminatory with respect to the following:
 - a. _____ My race or color, which is _____.
 - b. _____ My religion, which is _____.
 - c. _____ My sex, which is _____ male; _____ female.
 - d. _____ My national origin, which is _____.
 - e. _____ My age, in violation of 29 U.S.C. § 623.
 - f. _____ My disability or perceived disability, which is _____.
 - g. _____ Other as specified below:

6. The plaintiff is an employee within the meaning of the above-cited statutes.
7. If this is an age discrimination case, the plaintiff states the following:
 - a. Plaintiff is within the age limits as prescribed by 29 U.S.C. § 631 (a).
 - b. My age at the time of the alleged discriminatory conduct was _____.
 - c. My date of birth is _____.
8. The defendant(s) is (are) an employer, employment agency, or labor organization within the meaning of 28 U.S.C. § 1343 and 29 U.S. C § 630(b)(c) and (d).
9. The defendant(s) is (are) engaged in commerce within the meaning of the above-cited statutes.
10. The conduct complained of in this action concern:
 - a. _____ Failure to employ
 - b. _____ Termination of employment
 - c. _____ Failure to promote
 - d. _____ Unequal terms and conditions of employment
 - e. _____ Reduction in wages
 - f. _____ Retaliation
 - g. _____ Failure to accommodate disability
 - h. _____ Other acts as specified below:

11. The facts surrounding my claim of discrimination are:

(If more space is needed you may attach additional sheets of 8½” X 11” paper.)

12. The alleged discriminatory conduct occurred on or about _____
at _____.

13. In accordance with 42 U.S.C. § 2000e-5, 29 U.S.C. § 626(d) and 29 U.S.C. § 633(b), or 42 U.S.C. § 12117, more than sixty (60) days have elapsed since filing a charge alleging unlawful discrimination with the Kansas State Division of Human Rights, the Kansas Commission on Human Rights or the Equal Employment Opportunity Commission.

14. In accordance with 28 U.S.C. § 1343 or 29 U.S.C. § 633a(d), of this is an Age Discrimination action, a thirty (30) day Notice of Intent to File this action has been given to the Equal Employment Opportunity Commission.

15. I filed charges with the Kansas State Division of Human Rights or the Kansas State Commission on Human Rights regarding the alleged discriminatory act on _____.

16. I filed charges with the Equal Employment Opportunity Commission regarding the alleged discriminatory act on _____.

17. I filed a Notice of Intent with the Equal Employment Opportunity Commission on _____.

18. The Equal Employment Opportunity Commission issued a Notice of Right to Sue

letter (copy attached) which was received by me on or about _____.

19. If relief is not granted, plaintiff will be irreparably denied the rights secured by the Age Discrimination in Employment Act of 1967, as amended, by Title VII of the 1964 Civil Rights Act, as amended, or by the Americans With Disability Act.

20. Plaintiff demands trial by jury. Yes _____ No _____

WHEREFORE, plaintiff prays that:

a. The court grant the relief stated in 42 U.S.C. § 2000e-5, 29 U.S.C. § 633a(c), or 42 U.S.C. § 12117, including damages in the amount of \$ _____.

b. The court grant such other legal or equitable relief as the court deems just and proper, including attorney's fees and costs.

Signature of Plaintiff

Name (Print or Type)

Address

City State Zip Code

Telephone Number

DESIGNATION OF PLACE OF TRIAL

Plaintiff designates (Wichita, Kansas City or Topeka), Kansas as the location for the
(circle one location)

trial in this matter.

Signature of Plaintiff

REQUEST FOR TRIAL BY JURY

Plaintiff requests trial by jury (yes or no).

(circle one)

Signature of Plaintiff

Dated: _____
(Rev. 8/01)

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF KANSAS

_____)
Plaintiff)
vs.) Case No. _____)
_____)
Defendant(s))
_____)

APPLICATION FOR LEAVE TO FILE ACTION
WITHOUT PAYMENT OF FEES, COSTS OR
SECURITY, WITH AFFIDAVIT OF FINANCIAL
STATUS IN SUPPORT

The above named plaintiff states that he/she is without means to pay the fees, costs or security to file an action against the above name defendant and that the plaintiff is justly aggrieved by action of the defendant.

Plaintiff states that attached hereto is his/her affidavit of financial status in support of his/her application to the court for leave to file a civil action without payment of costs.

Pursuant to the Court's policy to protect the personal privacy interests of parties (see Standing Order No. 03-3, Chapter XVI, Rules of Practice and Procedures for District and Bankruptcy Court), this Application SHALL BE SEALED UPON FILING.

AFFIDAVIT OF FINANCIAL STATUS

I, _____, declare that I am the _____ in the above entitled case: that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefor: that I believe I am entitled to relief.

I further swear that the responses which I have made to the questions below and the information I have given relating to my ability to pay the costs of commencing and prosecuting this action are true.

I. MARITAL STATUS AND PERSONAL DATA:

A. Single: _____ Married: _____ Separated: _____ Divorced: _____

B. Name of spouse _____

C. Age of plaintiff _____

D. Age of spouse _____

E. Address of plaintiff:

Telephone: _____

F. Address of spouse: _____

Telephone: _____

G. State name or names of dependents who live with you, their age, address, relationship, and how much of their monthly support you provide:

II. EMPLOYMENT

A. Present employment: _____

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly \$ _____

Gross income: Monthly \$ _____ Weekly \$ _____

Does employer provide health insurance? Yes _____ No _____

If employer provides health insurance, describe coverage:

B. Previous employment (answer only if presently unemployed) .

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly \$ _____

Gross income: Monthly \$ _____ Weekly \$ _____

C. Employment of spouse:

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly: \$ _____

Gross income: Monthly \$ _____ Weekly: \$ _____

III. FINANCIAL STATUS (Answer questions on behalf of both the plaintiff and spouse.)

A. Owner of real property? Yes _____ No _____

If yes - Description: _____

Address: _____

In whose name? _____

Estimated value \$ _____

Total amount owed \$ _____

Owed to: _____

Annual income from property \$ _____

B. Owner of automobile? Yes _____ No _____

If yes, number of automobiles owned: _____

Make _____ Model _____ Year _____

Make _____ Model _____ Year _____

In whose name registered: _____

Present value \$ _____

Amount owed on the automobile(s) \$ _____

Owed to: _____

Monthly payment(s) \$ _____

C. Cash on hand: (Include checking and savings accounts)

\$ _____

List names and addresses of banks and associations.

State account numbers:

D. Have you received within the past 12 months any money from any of the following sources?

	Yes	No
Rent payments, interest or dividends:	_____	_____
Pensions, trust funds, annuities or life insurance payment:	_____	_____
Gifts or inheritances?	_____	_____
Welfare payments?	_____	_____
ADC or other governmental child support?	_____	_____
Unemployment benefits?	_____	_____
Social Security benefits?	_____	_____
Other sources?	_____	_____

E. If the answer to any item in D above was "Yes", describe each source of money and state the amount received from each during the past 12 months:

IV. OBLIGATIONS

A. Monthly rental on house or apartment \$ _____

B. Monthly mortgage payments on house \$ _____

Amount of equity in house \$ _____

C. Monthly mortgage payments on other properties \$ _____

Amount of equity in other properties \$ _____

D. Household expenses:

Monthly grocery expense \$ _____

Monthly utilities:

Gas \$ _____

Electric \$ _____

Water \$ _____

Other: (Specify) _____

E. Other debts and miscellaneous monthly expenses:

To whom owed and for what reason incurred	<u>Monthly Payment</u>	<u>Balance Due</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

V. OTHER INFORMATION PERTINENT TO FINANCIAL STATUS (Include information regarding stocks, bonds, savings bonds, either owned individually or jointly owned).

I understand that a false statement or answer to any question in this affidavit in support of my motion to proceed in forma pauperis will subject me to penalties of perjury.

Signature of Plaintiff

Name (Print or Type)

Address

City State Zip Code

Telephone

FINANCIAL CERTIFICATE

INMATE NAME *(please print)*

INMATE NUMBER

1.

Attached hereto is a copy of the inmate's financial transactions for the **six months** preceding.

2.

CURRENT ACCOUNT BALANCE:

Funds accessible to inmate, including amount in savings account in excess of minimum amount that must be maintained. \$ _____

I hereby certify that as of this date, the above financial information is accurate for the above named inmate, and that a copy of this certificate is being provided to the above-named inmate.

AUTHORIZED OFFICER

(DATE)

TITLE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

Plaintiff,

Case No. _____

vs.

Defendant(s).

**APPLICATION FOR APPOINTMENT OF COUNSEL
IN AN ACTION UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,
AS AMENDED, SECTION 2000e-5(f) OF TITLE 42 U.S.C.**

I state that I am without means to employ counsel and that I have been aggrieved by the actions of the defendant(s) in denying me rights and relief under the Civil Rights of 1964, and amendments thereto.

I understand that before the Court will consider appointing an attorney for me, I must have conferred with several attorneys who handle employment discrimination cases in the geographical area in which this case is filed, in an effort to retain my own attorney. I further understand that the Court strongly recommends that I confer with at least five such attorneys.

I state that I have contacted the following attorneys about representing me in this case, but that I have been unable to obtain their services:

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

I acknowledge that I am required to establish that I am financially unable to retain my own attorney and that to do so (1) I must have already filed an Application to Proceed In Forma Pauperis with Supporting Documentation, or (2) I must attach to this Application for Appointment of Counsel an Affidavit of Financial Status.

I have already filed an Application to Proceed In Forma Pauperis.

Yes _____ No _____

OR

I have attached to this Application for Appointment of Counsel an Affidavit of Financial Status.

Yes _____ No _____

I declare under the penalty of perjury that all of the above information in this application is true and correct.

Signature of Plaintiff

Name (print or type)

Address

City

State

Zip Code

Telephone Number

CERTIFICATE OF SERVICE BY MAIL

I, _____, state that I am the plaintiff in this action and that I
(sign your name)

served the attached Application for Appointment of Counsel on

[list the name and address of the attorney(s) for defendant(s), or the
name and address of the defendant(s), if unrepresented]

by depositing a true and correct copy of the Application for Appointment of Counsel in the U.S. Mail,
postage prepaid on _____.
(date)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

Plaintiff(s),

vs.

Case No. _____

Defendant(s).

**AFFIDAVIT OF FINANCIAL STATUS
IN SUPPORT OF APPLICATION FOR APPOINTMENT OF COUNSEL**

I, _____, declare that I am the plaintiff in the above entitled case and that I am financially unable to employ an attorney to represent me in this case.

I further declare that the responses I have made to the questions below and the information I have given relating to my ability to employ an attorney to represent me in this case are true.

1. MARITAL STATUS AND PERSONAL DATA:

A. Single: _____ Married: _____ Separated: _____ Divorced: _____

B. Spouse's Name: _____

C. My age: _____

D. Spouse's age: _____

E. My address: _____

My telephone: _____

F. Address of spouse: _____

Telephone of spouse: _____

G. State name or names of dependents who live with you, their age, address, relationship, and how much of their monthly support you provide:

2. EMPLOYMENT

A. Present employment: _____

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly \$ _____

Gross Income: Monthly \$ _____ Weekly \$ _____

Does employer provide health insurance? Yes _____ No _____

If employer provides health insurance, describe coverage:

B. Previous employment (answer only if presently unemployed):

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly \$ _____

Gross income: Monthly \$ _____ Weekly \$ _____

C. Employment of spouse:

Name of employer: _____

Address of employer: _____

Employer's telephone: _____

Length of employment: _____

Job title or description: _____

Net income: Monthly \$ _____ Weekly \$ _____

Gross income: Monthly \$ _____ Weekly \$ _____

3. FINANCIAL STATUS (Answer questions on behalf of both the plaintiff and spouse.)

A. Owner of real property?: Yes _____ No _____

If yes - Description: _____

Address: _____

In whose name?: _____

Estimated value: \$ _____

Total amount owed: \$ _____

Owed to: _____

Annual income from property \$ _____

B. Owner of automobile?: Yes _____ No _____

If yes, number of automobiles owned: _____

Make _____ Model _____ Year _____

Make _____ Model _____ Year _____

In whose name registered: _____

Present value \$ _____

Amount owed on the automobile(s) \$ _____

Owed to: _____

Monthly payment(s) \$ _____

C. Cash on hand: (Include checking and savings accounts)

\$ _____

List names and addresses of banks and associations including account number(s):

D. Have you received within the past 12 months any money from any of the

following sources?: Yes No

Rent payments, interest or dividends: _____

Pensions, trust funds, annuities or life

insurance payment: _____

Gifts or inheritances: _____

Welfare payments: _____

ADC or other governmental child support: _____

Unemployment benefits: _____

Social Security benefits: _____

Other sources: _____

E. If the answer to any item in "D" above was "Yes", describe each source of money and state the amount received from each in the past 12 months:

4. OBLIGATIONS

A. Monthly rental on house or apartment: \$ _____

B. Monthly mortgage payment on house: \$ _____

Amount of equity in house: \$ _____

C. Monthly mortgage payments on other properties: \$ _____

Amount of equity in other properties: \$ _____

D. Household expenses:

Monthly grocery expense: \$ _____

Monthly utilities:

Gas: \$ _____

Electric: \$ _____

Water: \$ _____

Other (Specify):

Type _____ Amount \$ _____

Type _____ Amount \$ _____

Type _____ Amount \$ _____

E. Other debts and miscellaneous monthly expenses:

To whom owed and for what reason incurred	Mthly. Pymt.	Balance Due
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

5. OTHER INFORMATION PERTINENT TO FINANCIAL STATUS

(Include information regarding stocks, bonds, savings bonds, either owned individually or jointly owned)

I understand that a false statement or answer to any question in this affidavit in support of my Application for Appointment of Counsel will subject me to the penalties of perjury.

Signature of Plaintiff

Name (Print or Type)

Address

City State Zip Code

Telephone number

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO (A) _____
:
(B _____ of (C) _____
)

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed.) A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ and has been assigned docket number (E) _____

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States.)

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, _____.

Signature of Plaintiff's Attorney or
Unrepresented Plaintiff

- A—Name of individual defendant (or name of officer or agent of corporate defendant)
- B—Title, or other relationship of individual to corporate defendant
- C—Name of corporate defendant, if any
- D—District
- E—Docket number of action
- F—Addressee must be given at least 30 days
(60 days if located in foreign country) in which to return waiver.

WAIVER OF SERVICE OF SUMMONS

TO: _____
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of _____
(CAPTION ACTION)

which is case number _____ in the United States District Court
(DOCKET NUMBER)

for the District of _____

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

(DATE)

(SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

United States District Court
District of Kansas

SUMMONS IN A CIVIL CASE

v.

CASE NUMBER:

TO: (Name and address of defendant)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within _____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

RETURN OF SERVICE	
Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

Check one box below to indicate appropriate method of service

- Served personally upon the defendant. Place where served: _____

- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____

- Returned unexecuted: _____

- Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date
Signature of Server

 Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

INSTRUCTIONS FOR FILING A CIVIL ACTION
ON YOUR OWN BEHALF
IN THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF KANSAS

Revised: 10/1/01

INSTRUCTIONS FOR FILING A CIVIL ACTION ON YOUR OWN BEHALF

These instructions are designed to help you understand the basic court procedures in civil actions. **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.**

These instructions do not cover all circumstances, nor all types of cases and they cannot take

the place of an attorney's legal advice. IT IS YOUR RESPONSIBILITY TO COMPLY WITH THE FEDERAL RULES OF CIVIL PROCEDURE, THE LOCAL RULES OF THIS COURT AND ANY STATUTES AND RULES WHICH MAY APPLY TO YOUR PARTICULAR CASE. 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, 2254 or 2255, there are special forms and instructions available from the clerk's office.

How to File a Complaint

The first step in filing a lawsuit is to prepare a complaint. Included in this packet are forms for filing complaints for employment discrimination and a general complaint form. You are not required to use these forms, although you may find it helpful to look them over.

If you prepare your own complaint, it must be legibly handwritten or typed. All pages should be 8½" by 11". The first page should begin with the case caption. The caption includes the name of the court, the names and addresses of all the parties, and a blank space for the case number. The case number will be filled in by court staff once a number has been assigned.

<i>SAMPLE CAPTION FOR COMPLAINT</i>	
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS	
MARY SMITH,)
100 North Calvert Street)
Wichita, Kansas 67202)
Plaintiff)
vs.)
JOHN DOE,)
101 West Lombard Street)
Wichita, Kansas 67201)
Defendant)
	Civil Case No: _____
COMPLAINT	

The body of the complaint is made up of numbered paragraphs. Explain the facts of your claim, the legal basis, why you believe this court has jurisdiction, and what relief you want. It is not necessary to cite specific cases. At the end, sign and date the complaint. Underneath your signature, type or print your full name, address & phone number. This information must appear on every pleading, motion, or other paper you file.

To file a lawsuit, you must file an original and one copy of the complaint for each defendant you

name. You should keep a copy of the complaint for your own records. ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.

Along with your complaint, you must submit a summons for the defendant and one copy of the summons for the court. If more than one defendant is named AND the time for each defendant to file an answer is the same, you may submit a list of the defendants, including their addresses, on one summons as long as you provide a copy for each defendant. Use the forms provided in this packet. Fill in the caption, leaving the case number blank. In the space on the summons form for the name and address of plaintiff's attorney, fill in your own name and address. The number of days a defendant will have to answer the complaint will vary depending on the type of claim and the defendant. In most civil actions, if the defendant is not an agency, officer or employee of the United States, he or she will have twenty (20) days in which to answer. If the defendant is an agency of the United States, or an officer or employee of the United States who is being sued for acts or omissions related to his/her employment, he or she will have sixty (60) days in which to answer. An exception is that if the defendant is an agency of the United States AND the complaint is brought under the Freedom of Information Act (FOIA), the time for filing an answer is thirty (30) days.

REMEMBER, THE TIME FOR FILING AN ANSWER RUNS FROM THE DATE THE COMPLAINT AND SUMMONS ARE SERVED, EXCLUSIVE OF THE DATE OF SERVICE, NOT THE DATE THEY ARE ISSUED.

You must also submit a civil cover sheet. This is simply an information form which is used by the court when opening your case.

Filing Fees

There is a filing fee of \$150.00 for most types of civil lawsuits. The fee must be paid at the time your complaint is filed. If you are paying by check or money order, it should be made payable to "Clerk, United States District Court." The court cannot accept credit cards. If you are unable to pay the filing fee, you may file a motion for leave to proceed *in forma pauperis*. If the court grants this request, it means that you will not have to pay the filing fee at the time your complaint is filed. Form motions entitled "Application for Leave to File Action Without Payment of Fees, Costs or Security, with Affidavit of Financial Status in Support" are included in this packet. When completing the forms, it is very important that you answer all questions relating to your income, assets, and liabilities. If you fail to provide complete and accurate information, your request may be denied or you may be required to provide additional information. If your request is denied, you will be allowed a reasonable opportunity to pay the filing fee.

What the Court Does

If you submit the appropriate number of copies of the necessary forms, a case will be "opened." Opening a case involves assigning a case number and a judge, entering basic information on the court's computerized docket system, and making up a file folder. Once a case is opened, the judge will review any motions that you have filed and rule on them. He or she will issue an order which will be mailed to you at the address that you provided on the complaint.

Service

Service of process refers to notifying a defendant that a lawsuit has been filed, what it is about, and the time for filing a response. It must be done in a way specified by court rules. Generally, service requires giving the defendant a summons issued by the court, a copy of the complaint, and copies of any motions or other documents filed along with the complaint. If there is more than one defendant, each defendant must be served.

If you file a motion for leave to proceed *in forma pauperis*, the court will not issue a summons for the defendant(s) until a ruling is made on the motion by the assigned judge. If you are granted leave to proceed *in forma pauperis*, the court will ask the United States Marshal to serve the summons and complaint.

If you pay the filing fee, the clerk will sign and seal the summons(es) and return them to you along with the copies of the complaint for the defendant(s).

It is your responsibility

to see that each defendant is served with the summons and complaint. The Marshal does not serve summonses and complaints in cases where the filing fee has been paid.

HINT

If the defendant is a company which does business in Kansas, the easiest way to serve the summons and complaint is on the resident agent. The resident agent is a person or company with a Kansas address who is authorized to accept service of process. You can find out if a company has a resident agent by contacting the Kansas Secretary of State at (785)296-4564 or at <http://www.accesskansas.org/corporations> or <http://www.kssos.org>

The procedures for effecting service are in Federal Rules of Civil Procedure 4 and KSA 60-303. The two most common ways to effect service are personal delivery and certified mail. Personal

delivery involves giving the defendant copies of the summons, complaint, and any other required documents. Certified mail involves sending the defendant copies of the summons, complaint, and any other required documents by certified mail - "Restricted Delivery - show to whom, date, address of delivery."

Service may be made by anyone who is at least 18 years old and not a plaintiff or defendant in the case. There are many private process servers who, for a fee, will serve the defendant(s).

The person who effects service is expected to complete the return of service information on the back side of the summons and file it with the clerk. If service is completed by certified mail, you must also attach the green certified mail receipt to the back side of the summons and then file it with the clerk.

An alternative to serving a summons is to ask the defendant to waive service. The procedure for requesting waiver is set out in Federal Rules of Civil Procedure 4(d) and Local Rule 4.1 and 4.2. Forms for requesting waiver are available from the court.

WARNING: IF SERVICE IS NOT MADE WITHIN 120 DAYS FROM THE DATE THE COMPLAINT IS FILED, THE CASE MAY BE DISMISSED. YOU MAY REQUEST AN EXTENSION OF THIS PERIOD IF YOU CAN SHOW GOOD CAUSE WHY SERVICE WAS NOT MADE.

What Happens After Service is Made

Once a defendant is served, two things may happen: the defendant may file an answer or a motion. If there is more than one defendant, either or both of these things may happen.

If the defendant files an answer, the judge assigned to the case will issue a scheduling order. A scheduling order sets deadlines for doing or filing certain things in a particular case. It may include deadlines for completing discovery, filing motions, and/or filing status reports. Most scheduling orders do not set trial dates.

There are a number of different motions which may be filed before an answer is filed. If the motion is a non-dispositive request for an extension of time in which to answer, it will most likely be granted unless you promptly file an opposition, within 11 days, and have a good reason why it should not be granted. For dispositive motions, unless directed otherwise, you will be allowed 20 days to file a response. You may request an extension of time in which to file a response. For additional information on dispositive/non-dispositive motions, see Local Rule 6.1.

Motions Against the Complaint

Although most defenses to a complaint must be asserted in the answer, a defendant has the option of asserting certain defenses in the form of a motion to dismiss the complaint before filing the answer under Rule 12 of the Federal Rules of Civil Procedure.

A party may move for summary judgment under Rule 56 of the Federal Rules of Civil Procedure when the party believes there is no genuine issue of material fact requiring trial.

Some of the district judges in the District of Kansas have additional requirements when a motion for summary judgment is filed. Copies of these judge-specific requirements are available from the clerk's office.

If a motion to dismiss or for summary judgment is made by a defendant in your case, you will have twenty (20) days after it is served in which to file a response. It is very important to respond to such motions, otherwise, the case may be dismissed without your having an opportunity to present an argument to the court.

Discovery

A scheduling order may contain a deadline for the completion of discovery. Discovery is the process of obtaining information and evidence relevant to your case. NOTE: THERE ARE SOME TYPES OF CASES (SOCIAL SECURITY APPEALS FOR EXAMPLE) IN WHICH DISCOVERY DOES NOT OCCUR. There are many different ways to obtain discovery. The most common are: interrogatories (written questions), requests for production of documents, and depositions (a recorded questioning of a potential witness under oath). Most discovery requests are directed to parties in the case, although under certain circumstances, discovery can be obtained from nonparties. Discovery is governed by Federal Rules of Civil Procedure 26 through 37 and Local Rules 26.1 through 37.2.

If your case is one in which discovery occurs, there are certain things you should keep in mind. Be sure to make your discovery requests promptly so that the party to whom they are directed has sufficient time to answer or object before the discovery deadline. It also is important for you to respond to any discovery request that you receive. A party who does not respond to a discovery request may be subject to sanctions. Do not send copies of discovery requests or answers to the court unless directed by the court to do so. Send a copy of the request to the party from whom you are seeking discovery and keep the original. Send the original of any responses you provide to the party seeking discovery and keep a copy for your records.

Counsel

You are not entitled to have counsel appointed to represent you in a civil action. A judge has the authority to appoint counsel in exceptional circumstances. If you want a judge to consider appointing counsel to represent you, you may file a motion for appointment of counsel. In the motion, you should explain why you think you need an attorney and any efforts you have made to obtain counsel. A form motion entitled "Application for Appointment of Counsel in an Action for Discrimination in Employment Under Title VII of the Civil Rights Act of 1964, as Amended" is included in this packet.

If you can afford to hire an attorney but haven't been able to locate one, many local bar

associations have lawyer referral services. Some offer consultations with attorneys at reduced rates. Below is a listing of some of the lawyer referral services in Kansas.

Kansas Bar Association Kansas Lawyer Referral Service (800)928-3111 OR
www.ksbar.org/lawref/lawref.html

www.Lawyer.com

Kansas Legal Services, Inc Headquarters: (785)233-2068

Kansas Legal Services Field Offices:

Kansas Rural Legal Services of Dodge City (316) 227-7349 (Barber, Barton, Clark, Comanche, Edwards, Ford, Gray, Hodgman, Kiowa, Lane, Meade, Ness, Pawnee, Pratt, Rush and Stafford counties)

Kansas Legal Services of Emporia (316) 343-7520 (Anderson, Chase, Coffey, Greenwood, Lyon and Marion counties)

Kansas Rural Legal Services: Toll Free: (800) 362-9009 or (316) 275-0238 (Finney, Grant, Greely, Hamilton, Haskell, Kearney, Morton, Scott, Seward, Stanton, Stevens and Wichita counties)

Hays Legal Services (785) 625-4514 (Barton, Cheyenne, Decatur, Ellis, Gove, Graham, Logan, Ness, Norton, Osborne, Phillips, Rawlins, Rooks, Rush, Russell, Sheridan, Smith, Thomas, Trego and Wallace counties)

Hutchinson/Reno County Legal Aid (316) 663-8311 (Kingman, Reno and Stafford Counties)

Wyandotte – Leavenworth Legal Services (913)621-0200 [Leavenworth residents ONLY (800) 479-6520] (Leavenworth & Wyandotte counties)

Flint Hills Legal Services (785) 537-2943 (Clay, Geary, Pottawatomie & Riley counties)

Kansas Legal Services of Olathe (913) 764-8585 (Anderson, Coffey, Franklin, Johnson, Linn and Osage counties)

Legal Services of Southeast Kansas (316) 232-1330 (Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho, Wilson and Woodson counties)

Legal Services of North Central Kansas (785) 825-8147 (Cloud, Dickinson, Ellsworth, Jewell, Lincoln, McPherson, Mitchell, Ottawa, Republic, Rice & Saline counties)

Legal Services of Northeast Kansas (785) 336-6016 (Atchison, Brown, Doniphan, Jackson, Marshall, Nemaha and Washington counties)

Legal Aid Society of Topeka (785) 354-8531 (Atchison, Douglas, Jackson, Jefferson, Morris, Osage, Shawnee and Wabaunsee counties)

Legal Services of Wichita (316) 265-9681 (Barber, Butler, Chatauqua, Cowley, Elk, Harper, Harvey, Pratt, Sedgwick and Sumner counties)

Court staff **CANNOT** recommend individual attorneys.

There are a number of organizations in Kansas which provide legal assistance to persons who cannot afford to hire an attorney. Most of these organizations have income eligibility requirements. Many only provide assistance with specific types of cases.

Things to Know About Representing Yourself

Once your complaint is assigned a case number, everything you receive from the court about your case will have the case number on it. Everything you send to the court other than the complaint and motion for leave to proceed *in forma pauperis* should have the case number on it. On pleadings, motions, and papers other than the complaint, you may use a shortened version of the case caption. The shortened version includes the name of the first plaintiff, the case number and the name of the first defendant. It does not include addresses.

The court has three locations - one in Kansas City, one in Topeka and one in Wichita. Unless directed otherwise, all communications to the court about your case should be addressed to the clerk of the court in the division where your case has been assigned. The

<i>EXAMPLE</i>	
In the United States District Court For the District of Kansas	
John Doe, et al)
Plaintiffs)
)
vs.) Case No. _____
)
Bob Smith, et al)
Defendants)
_____)

addresses are:

Clerk, U.S. District Court
259 Robert Dole U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101
(913)551-6719

Clerk, U.S. District Court
490 Frank Carlson Federal Bldg
444 S.E. Quincy
Topeka, Kansas 66683
(785)295-2610

Clerk, U.S. District Court
204 U.S. Courthouse
401 N. Market
Wichita, Kansas 67202
(316)269-6491

YOU MUST NOTIFY THE COURT & ALL PARTIES, IN WRITING, OF ANY CHANGE IN YOUR ADDRESS. FAILURE TO DO SO MAY RESULT IN DISMISSAL OF YOUR CASE.

After you file the complaint, no communication about your case should be sent directly to any judge. If you want to ask the court to order something, you should file a motion. Pleadings and motions should be filed with the clerk and a copy should be mailed to the attorney representing the defendant(s) or directly to the defendant(s) if he/she does not have an attorney.

HINT

It is important to include a certificate of service on anything you file after your complaint

All documents that are filed with the court must conform to the standards set forth in Local Rules 7.1 and 7.4.

showing when you mailed copies and to whom they were sent. The certificate of service appears at the end of the pleading or motion and looks like the sample below.

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June 2001, a copy of the foregoing Motion for Extension of Time was mailed, postage prepaid, to Samuel Barrister, Esquire, 200 Saint Paul Place, Kansas City, Kansas 66102, counsel for defendant Bob Smith.

(Signature)

It is not necessary to state in the certificate of service that copies were sent to the court or to the clerk.

If you are filing a motion and/or memorandum, you must file the ORIGINAL AND ONE COPY WITH THE COURT.

You must sign every pleading, motion and memorandum that you file. If more than one party is representing him/herself in a particular case, each party representing him/herself must sign each pleading, motion, or other paper submitted on behalf of that party.

There are certain issues that you are expected to try to reach an agreement with the opposing party about before asking the court to issue an order. If you want an extension of time in which to file something or are having a disagreement about discovery, you are expected to speak with counsel for the other party and try to reach an agreement **before** filing a motion. In your motion, or attached to it, you should include an explanation of what happened when you contacted opposing counsel, i.e., whether he/she agreed to your request or not.

If You Lose

BEFORE filing suit, you should consider the consequences of losing. Under limited circumstances, the winning party may ask that you be ordered to pay his/her attorneys' fees. The winning party also is entitled to seek certain costs which it incurs during a lawsuit. These costs can include things such as deposition transcripts, witness fees, copy work expenses, etc. In many cases, they can easily add up to thousands of dollars. It is common for a winning party to seek these costs from the losing party.

Appeals

You may appeal a final decision of this court to the United States Court of Appeals for the Tenth Circuit. You should consult Federal Rule of Appellate Procedure 4 for the time limits for filing an appeal.

The filing fee for an appeal is \$105.00 unless the court granted your motion to proceed *in forma pauperis* when your complaint was filed, in which case, you may proceed *in forma pauperis* on appeal, also. If you paid the filing fee for your original case but you cannot afford to pay the appeal fee, you may file a motion for leave to proceed *in forma pauperis* on appeal.

To file an appeal, you must file a notice of appeal with the clerk of this court. A form notice of appeal is available in the Federal Rules of Appellate Procedure Forms Index. You also must submit to the clerk of this court either the filing fee or a motion for leave to proceed *in forma pauperis*.

Information about the Tenth Circuit Court of Appeals can be found at:
<http://www.ck10.uscourts.gov>.

Resources

The forms referred to in this pamphlet are included in this packet or from the clerk's office. The clerk's office is open Monday - Friday, 9:00 to 4:30. It is closed on federal holidays. Many of the forms can be downloaded from the court's web site: <http://www.ksd.uscourts.gov>. The Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the District of Kansas are also available on the court's web site.

The court's law libraries are closed to the public. Local public law libraries are available throughout the state.

Kansas Supreme Court Law Library
301 West 10th Street
Topeka, Kansas 66612
(785)296-3257

Sedgwick County Law Library
301 North Main Street, Ste. 700
Wichita, Kansas 67202
(316)263-2251

Washburn University
School of Law Library
1700 College
Topeka, Kansas 66604
(785)231-1088

University of Kansas
School of Law Library
Green Hall
Lawrence, Kansas 66045
(785)864-3025

Additional information about the federal courts can be found at: <http://www.uscourts.gov>.

Role of Magistrate Judges.

United States Magistrate Judges are the most judges with a broad range of capabilities. While their duties may vary to meet the specific needs of each district court, Magistrate Judges handle a wide array of civil and criminal cases nationwide. A sampling of the judicial functions performed by Magistrate Judges illustrates the potential breadth of their authority:

• Presiding at civil jury trials by consent of the parties and entering judgments;

• Presiding at criminal misdemeanor jury trials by consent of the parties and entering sentences;

• Managing case management in complex civil cases;

• Conducting preliminary proceedings in criminal cases;

• Conducting settlement conferences;

• Hearing and determining pretrial motions;

• Hearing and recommending disposition of summary judgment and other case-dispositive motions;

• Reviewing prisoner suits collaterally;

• Reviewing convictions or complaining of conditions of confinement; and

• Issuing arrest and search warrants.

A Historic Overview.

The United States magistrate judge system evolved from the United States commissioner system established in 1793. In 1965, Congress conducted an exhaustive examination of the commissioner system. Witnesses overwhelmingly favored overhauling the system and enhancing the commissioner position.

The Federal Magistrates Act of 1968 created the position named United States magistrate to denote the break with the commissioner system. The Act increased the criminal trial jurisdiction of these new judicial officers over that of commissioners, and also authorized the new officers to assist judges of district courts in handling a wide range of proceedings in civil and criminal cases.

In 1976, 1979 and 2000, further amendments were enacted which specifically:

- *Authorized magistrate judges to try any civil case upon consent of the parties and to order the entry of final judgment;*
- *Expanded trial jurisdiction of magistrate judges to all federal misdemeanors;*
- *Required that magistrate judges be selected and appointed in accordance with regulations promulgated by the Judicial Conference of the United States;*
- *Expanded magistrate judges' civil and criminal contempt authority;*
- *Gave magistrate judges plenary authority in Class B and C misdemeanor cases without the consent of the defendant; and*
- *Gave magistrate judges authority to sentence juvenile defendants to terms of imprisonment in misdemeanor cases.*



UNITED STATES MAGISTRATE JUDGES

*Their Function
And Purpose
In Our
Federal Courts*



Understanding the Function and Purpose of United States Magistrate Judges.

backbone of an independent federal judiciary are United States Magistrate Judges appointed under Article III of the Constitution. In America's federal trial courts, the law is administered by life-tenured District Judges and United States Magistrate Judges who serve fixed-terms: District Judges are appointed by judges who serve fixed-terms; United States Magistrate Judges and United States District Judges.

This brochure illuminates the function and purpose of United States Magistrate Judges who are appointed as part-time judges serving federal district courts in order to increase their capacity by dealing with cases, or parts of cases, that are assigned to them by district judges.

The Proper Manner of Addressing a United States Magistrate Judge.

The official title of these judges is "United States Magistrate Judge."

A United States Magistrate Judge should be addressed, orally and in writing, as "Magistrate," to be consistent with the official title of the judge as prescribed by law.

Although some state courts have a judicial officer called a "magistrate," that title is not applicable to a United States Magistrate Judge. The title "Magistrate" is obsolete. To address these judges as "Magistrate" is akin to addressing a Lieutenant as "Lieutenant," or a Bankruptcy Judge as "Bankruptcy."

Answers to Some Commonly Asked Questions.

Q: What are the standards for selecting a federal magistrate judge?

A: To be appointed as magistrate judge, an individual must:

- have been a member in good standing of the bar of the highest court of a State, District, Territory, or Commonwealth of the United States for at least five years;
- be determined by the appointing district court to be competent to perform the duties of the office;
- be unrelated to a judge of the appointing court; and
- be selected pursuant to standards promulgated by the Judicial Conference of the United States.

Q: What's the difference between a district court and a "magistrate judge's court"?

A: There is no "magistrate court." Both district and magistrate judges preside in United States district courts created under Article III of the Constitution.

Q: What's the difference between district and magistrate judges?

A: District judges are life-tenured judges nominated by the President and confirmed by the Senate. Magistrate judges are fixed-term judges appointed by district judges for eight-year renewable terms via a merit selection process.

Q: Are a party's rights affected when litigants consent to have a magistrate judge hear a case?

A: Consenting to jurisdiction of a magistrate judge does not eliminate substantive or procedural rights

litigants would otherwise have before a district judge. For example, parties retain their right to a jury trial.

Q: How do civil litigants request trial before magistrate judges?

A: All parties must consent in writing and the case must be officially transferred by the district judge. Forms are available from the clerk of court.

Q: Do magistrate judges handle many civil jury cases?

A: Yes. In 1999, magistrate judges conducted approximately 21 percent of the civil jury trials in United States district courts. When all parties consent, magistrate judges may conduct trials and enter judgments in civil cases of any type or size.

Q: Do magistrate judges handle many criminal cases?

A: Yes. With consent of defendants, magistrate judges may preside in Class A misdemeanor cases, including conducting jury trials. In 1999, magistrate judges terminated 10,733 Class A misdemeanor cases. Although magistrate judges do not preside at felony trials. They also may conduct preliminary and post-conviction proceedings in felony cases. Magistrate judges may conduct trials and dispose of all petty offense cases with the defendant's consent.