



**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PRO SE GUIDEBOOK

FOR

PETITIONS FOR WRITS OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

October 2020

This Guidebook is intended to be an informative and practical resource for understanding the basic procedures of the Court. The statements in this Guidebook do not constitute legal advice. DO NOT CITE THIS GUIDEBOOK AS AUTHORITY. This Guidebook does not take the place of the [Federal Rules](#), this Court's [Local Rules](#), or the individual practices of the Judges of this Court. All parties using this Guidebook remain responsible for complying with all applicable rules of procedure. If there is any conflict between this Guidebook and the applicable rules, the rules govern.



INTRODUCTION

This Guidebook is intended to help you understand the procedures that you must follow if you represent yourself in this Court. You cannot rely on this Guidebook alone, however, because it does not address every situation that might arise in your case. Moreover, this Guidebook does not offer any information about the specific issues in your lawsuit. **And this Guidebook is not legal advice.**

The Court encourages you to review this Guidebook together with [Title 28 of the United States Code \(“U.S.C.”\) section \(§\) 2241](#); the [Rules Governing Section 2254 Cases in the United States District Courts](#), some of which are applied in Section 2241 cases; the [Federal Rules of Civil Procedure](#); and the Court’s [Local Rules](#). If you are a prisoner, the United States Code should be available in your prison law library. The Federal Rules of Civil Procedure appear at the end of Title 28 of the United States Code. The Rules Governing Section 2254 Cases appear immediately after 28 U.S.C. § 2254 in the United States Code. If your prison law library does not have the most recent version of this Court’s Local Rules, they can be obtained from the Clerk’s Office by request. Each of these resources is also available online.

This Guidebook is organized in the sequence that a habeas petition proceeds through the Court and is written in a question-and answer format. The Table of Contents, found below, includes each question that this Guidebook addresses.



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CHAPTER ONE: GENERAL INFORMATION

What is the Clerk's Office?

The Clerk's Office maintains the Court's records. Most of your interactions with the Court will be through the Clerk's Office, where you will file the documents that will be reviewed by the judge. The Clerk's Office cannot give you legal advice or tell you when a judge might make a decision in your case, but the Clerk's Office can tell you whether a particular document has been filed and can provide copies of documents in the court record at a cost of \$.50 per page (payable in advance).

What does it mean to file documents with the Clerk's Office?

The Clerk's Office receives documents on behalf of the Court and maintains a record of the documents received. By filing a document with the Clerk's Office, you ensure that the document becomes part of the official record in your case. This record allows both you and the judges to be certain of what documents have been presented in a case.

You may file any document, including a habeas petition, either by mailing the document to the Clerk's Office or by personally delivering the document to the Clerk's Office during business hours. After receiving your documents, the Clerk's Office will record (or "docket") your papers and send them to the judge assigned to your case. Any documents you file with the Court in a habeas matter will also be served on the party opposing your habeas petition.



How do I contact the Clerk's Office?

You may contact the Clerk's Office at the following address and phone number:

United States District Court for the District of Minnesota
Clerk's Office
300 South Fourth Street, Suite 202
Minneapolis, MN 55415

(612) 664-5000

What is a magistrate judge?

A federal magistrate judge is a judicial officer who has some, but not all, of the powers of a district judge appointed under Article III of the United States Constitution. Magistrate judges may (among other things) set deadlines, enter orders on scheduling, and issue Reports and Recommendations regarding whether your habeas petition should be granted or denied. You may object to any portion of a Report and Recommendation entered by a magistrate judge in your case, and your objection will be reviewed by a district judge. Local Rules 72.1 and 72.2 explain more about the role of magistrate judges.



CHAPTER TWO: THE BASICS

What is a petition for writ of habeas corpus?

A petition for a writ of habeas corpus is a request for the Court to review the legality of your detention. Section 2241 of Title 28 of the United States Code (“28 U.S.C. § 2241”) permits courts to issue writs of habeas corpus where a prisoner establishes that he is in custody in violation of the Constitution or laws or treaties of the United States.

Who may file a habeas petition?

There are several conditions, discussed in the following questions, that you must meet to properly file a habeas petition.

Do you meet the “in custody” requirement?

A petitioner cannot seek a writ of habeas corpus unless he is being held “in custody” at the time that the habeas corpus petition is filed. The “in custody” requirement sometimes, though not always, is met if the petitioner is on probation, parole, or supervised release. Detention at a jail or prison also constitutes being “in custody” for purposes of § 2241. By filing a habeas petition, you are challenging the legality of that custody.

Did you exhaust alternative remedies before filing your petition?

A petitioner generally must exhaust alternative remedies before filing a habeas petition. For state prisoners, this may mean first presenting your claims to the state courts, including the state supreme court, before seeking federal habeas relief. For federal



prisoners, this may mean first presenting your claims to the Federal Bureau of Prisons (“BOP”) through its official grievance procedures.

What type of relief is available if a petition is granted?

A habeas petition is appropriate for challenging the fact that you are in custody, or for challenging the length of time for which you have been committed to custody. If your habeas petition is granted, your term in custody will be invalidated to the extent that the custody is found to be unlawful.

Monetary damages are not available in a habeas corpus action. You may not challenge the conditions of your confinement in a habeas action.

Can I amend my habeas petition after I file it?

Maybe. After the respondent has answered your petition, you must receive permission from the court to file an amended petition. If you want to amend your petition, you will need to follow the procedures for amendments found in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1.

What is a habeas petition “brought pursuant to § 2241”?

Habeas petitions filed in federal court are governed by 28 U.S.C. § 2241. Some habeas petitions are also governed by other statutes. For example:

- If you are a *state* prisoner looking for relief from a state-court judgment, your habeas petition will also be governed by 28 U.S.C. § 2254. **Much of the information in this Guidebook is not necessarily applicable to petitions governed by § 2254. For additional guidance, please see this Court’s Pro Se Guidebook for petitions for writs of habeas corpus governed by 28 U.S.C. § 2254.**



- If you are a *federal* prisoner looking to challenge the validity of your conviction or sentence, you generally must proceed through a motion filed under 28 U.S.C. § 2255 in the district where you were sentenced. Only if § 2255 is found to be inadequate or ineffective for you to test the legality of your federal sentence may you do so through a petition for a writ of habeas corpus. Only very rarely is § 2255 found to be “inadequate or ineffective.”

Habeas petitions that are not subject to § 2254 or § 2255 are often said to be “brought pursuant to § 2241,” or may be referred to as “§ 2241 petitions.” This Guidebook is intended specifically to discuss such § 2241 petitions. Some examples include:

- Habeas petitions brought by a federal prisoner who believes that the BOP has miscalculated his sentence, wrongfully withheld “good-time credits,” or is otherwise unlawfully delaying the prisoner’s proper release date.
- Habeas petitions brought by individuals detained by U.S. Immigration and Customs Enforcement challenging the legality of that detention.
- Habeas petitions brought by individuals in state pre-trial custody.



CHAPTER THREE: HOW TO START A § 2241 PROCEEDING

How do I start a § 2241 proceeding?

To start a § 2241 proceeding in the District of Minnesota, you must do the following:

- Complete the habeas petition itself, either by using the Court’s form “Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241” or by writing your own document. You may also submit any exhibits you believe to be relevant.
- Complete a civil cover sheet (if available).
- Pay the \$5.00 filing fee or, if you cannot pay the fee, complete an Application to Proceed in District Court Without Prepaying Fees or Costs (“IFP application”); and
- Mail the documents and fee to the Clerk’s Office at the address provided above.

Keep a copy of all documents for your own records.

How do I complete the § 2241 form?

You are not required to use the Court’s standard § 2241 form, but that document will assist you in providing the information needed to decide your petition. Failure to include the necessary information could result in delay or dismissal of your proceedings. Your habeas petition, and all other documents prepared by you for the Court, should be typed or legibly handwritten, preferably in black ink.

Questions 1-4 on the form ask you to provide your personal information, including where and why you are currently in custody. Questions 5-6 ask about the decision or action that you are challenging in your petition. Questions 7-12 ask about your attempts



to exhaust alternative remedies. Questions 13-14 ask you to state the grounds for your challenge in this petition. Question 15 asks what you would like the Court to do.

The habeas petition should include the facts, as you see them, which support your claim. You do not need to make extensive legal arguments in your petition, but your petition should include enough information to make the Court and opposing party aware of why you believe your custody to be unlawful. You may, but do not have to, also file a memorandum with your petition explaining your legal arguments, as explained below.

May I file attachments with my petition?

If you have documents that support your petition, you may attach copies of the documents to the petition as exhibits. The purpose of an exhibit is to present proof or clarification of an allegation in your petition. If you decide to attach exhibits to your petition, then you should explain or otherwise make clear why you are attaching each exhibit to the petition. You should label each separate exhibit and, if possible, number the pages of each exhibit.

May I file a memorandum of law with my petition?

Yes. A memorandum of law, sometimes called a brief, is a document where you explain your legal arguments. You should only include arguments that support the claims raised in the petition. Pro se litigants may write their memoranda legibly by hand or type their memoranda on standard 8.5x11-inch paper. The memorandum should include page numbers. The Court's Local Rules limits memoranda to 12,000 words unless advance permission to file a longer memorandum is sought and received from the judge.



Do I need to notarize the petition?

No, but you are required to sign all documents (except exhibits) filed with the Court, including your petition. By signing a document, you are attesting that the statements in your document are true to the best of your knowledge. Knowingly making a false material declaration under oath (perjury) can be punished by fine or imprisonment. *See* 18 U.S.C. § 1623. Notarization of court documents, however, is almost always unnecessary.

What is a civil cover sheet?

The civil cover sheet is a form provided by the Clerk's Office and is used to gather information about the nature of your lawsuit. This form is included in the appendix to this Guidebook. You must file a civil cover sheet when you file your petition.

How do I pay the \$5.00 filing fee?

You may submit your \$5.00 filing fee by check from your prison trust account and mail it to the Clerk's Office at address provided in Chapter 1, above. Checks are payable to "Clerk, U.S. District Court."

What if I cannot afford the filing fee?

If you cannot afford the \$5.00 filing fee, you may apply to proceed without prepaying the fee by completing and filing the AO239 form "Application to Proceed in District Court Without Prepaying Fees or Costs." This document is also referred to as an application to proceed *in forma pauperis*, or "IFP application" for short. This form is



included in the appendix to this Guidebook. If your application is granted, you will not be required to pay the \$5.00 filing fee. *See* 28 U.S.C. § 1915. You will be notified of the judge's decision regarding your IFP application by mail.

Do I need to serve a copy of my petition on the other party?

No. You do not need to serve the respondent a copy of your petition. The respondent will be notified of your petition when it is received and filed by the Court.

May I request appointment of counsel?

Yes. Be aware, though, that there is no statutory or constitutional right to counsel in habeas corpus actions. If you file a motion to appoint counsel, you should explain the particular reasons that you believe appointment of counsel is necessary or appropriate in your case.

What other documents should I file at the start of my case?

The only documents required to initiate a habeas action are the habeas petition itself and IFP application (or \$5.00 filing fee). You may, but need not, file any other documents that you believe would be helpful to the Court in deciding your petition.

How can I find out when my petition was received by the Clerk's Office?

You may request in writing that the Clerk notify you when your petition was received and filed.



CHAPTER FOUR: INITIAL REVIEW

What is initial review?

Your habeas petition and IFP application (if one is submitted) will be reviewed by a judge or magistrate judge upon filing. The judge will dismiss the petition if it is clear that you are not entitled to relief. This initial review process may take several weeks.

How will I know the results of the initial review?

If your petition is permitted to go forward, an order will be entered requiring the respondent to answer the petition. You will receive a copy of this order. If your petition is deficient, either an order of dismissal or a Report and Recommendation recommending dismissal will be entered. You will receive a copy of these documents also.

The Court's initial review is limited to the petition itself, attached exhibits, and other materials already part of the judicial record. Should the respondent be required to answer the petition, a review of the record may reveal grounds for dismissal that are not plainly apparent from the petition and exhibits.



CHAPTER FIVE: THE HABEAS PROCEEDINGS

May I reply to the respondent's answer?

Yes. The Court's scheduling order will set a deadline for the filing of a reply brief.

Is discovery allowed?

Sometimes, but you must request permission from the Court before conducting discovery. *See* Rule 6 of the Rules Governing Section 2254 Cases. Habeas petitions are usually resolved without formal discovery.

Will there be an evidentiary hearing?

Maybe, but probably not. The written record is usually enough for the Court to resolve the petition. Generally, only where this record proves inadequate will a hearing for admitting additional evidence be held.

Will there be any hearing before the judge decides my case?

Perhaps. The judges presiding over the case will determine whether oral argument by the parties is necessary..

How do I object to an adverse Report and Recommendation?

If a magistrate judge issues a Report and Recommendation in your case and you disagree with the recommendation, Local Rule 72.2 provides that you have 14 days to file an objection. Your objection will be reviewed by the district judge assigned to the case. Your objection to the Report and Recommendation must be specific and relate to the



magistrate judge's proposed findings and recommendations; new arguments are not permitted at this stage. Your objection may be no more than 3,500 words in length. *See* Local Rule 72.2(c). If you file an objection, the respondent is permitted to respond to your objection within 14 days after your objection is filed. Upon receiving your objection, the district judge assigned to the case will review the record and make a decision.



CHAPTER SIX: JUDGMENT AND APPEAL

What do I need to do to file an appeal?

Judgment will be entered after your case has become final. You will receive a copy of the judgment after it is entered, along with instructions on how to pursue an appeal with the United States Court of Appeals for the Eighth Circuit. An appeal may only be made after judgment has been entered in your case. The time for filing an appeal starts from the date that the judgment is entered on the docket.

How do I file an appeal?

First, you must file a notice of appeal. A notice of appeal form is included in the appendix to this Guidebook. Second, you must pay the \$505.00 filing fee for the appeal. As with the filing fee in the district court, if you cannot afford to pay this fee, you can apply to proceed without prepaying the fee by completing the AO239 form "Application to Proceed in District Court Without Prepaying Fees or Costs." Even though you are seeking IFP status on appeal, you should file this application in the district court. If your application is granted, you will not be required to pay the \$505.00 filing fee.

If the district judge denies your motion to proceed IFP on appeal, you may ask the Eighth Circuit Court of Appeals to proceed IFP within 30 days after service of this Court's notice that your appellate IFP application was denied.



How much time do I have to begin my appeal?

You must file your notice of appeal in this Court within 30 days after the judgment is entered. For additional information regarding the time for filing a notice of appeal, *see* Federal Rule of Appellate Procedure 4(a). There are many other steps to beginning and proceeding with your appeal, but they are governed by the Eighth Circuit's Local Rules and the Federal Rules of Appellate Procedure, which are beyond the scope of this Guidebook.

May I request appointment of counsel on appeal?

Yes, but your request should be filed with the Eighth Circuit. Be warned that there is no statutory or constitutional right to counsel on appeal in a habeas case.



APPENDIX OF FORMS

- ❖ Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241
- ❖ Civil Cover Sheet
- ❖ Application to Proceed in District Court Without Prepaying Fees or Costs
- ❖ Motion
- ❖ Memorandum of Law
- ❖ LR 7.1 Word Count Compliance Certificate
- ❖ Certificate of Service by Mail
- ❖ Notice of Appeal

Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Instructions

1. Petitions brought under 28 U.S.C. § 2241 usually involve one of the following situations:
 - a. A federal prisoner believes that the Bureau of Prisons (“BOP”) has wrongly computed his or her release date;
 - b. A federal prisoner believes that the BOP has wrongly taken away some of his or her “goodtime credits” to extend the duration of confinement;
 - c. A federal prisoner is seeking an expedited transfer to a “residential re-entry center” or “half way house;”
 - d. A person is in federal or state custody because of something other than a judgment of conviction (such as, pretrial detention or awaiting extradition); or
 - e. A person is being detained by federal immigration authorities while awaiting deportation.
2. Answer each question on the form with legible handwriting or have it typewritten. The form must be signed as instructed on the last page of the form.
3. Every petition for habeas corpus must be sworn to under oath. Therefore, any false statement of material fact provided on the form may serve as a basis of prosecution and conviction for perjury. Petitioners should exercise due care to assure that all answers are true and correct.
4. To start a case under 28 U.S.C. § 2241, the petitioner must submit the following to the Clerk’s Office:
 - a. A completed Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 form.
 - b. A completed Civil Cover Sheet.
 - c. The \$5.00 filing fee **OR** request to waive the filing fee by submitting a completed Application to Proceed in District Court without Prepaying Fees or Costs form (IFP).
5. When you have completed the form, send the signed original to the following address:

United States District Court, District of Minnesota Clerk’s Office
U.S. Courthouse
300 South Fourth Street, Suite 202
Minneapolis, MN 55415

(612) 664-5000
6. The Court has a Pro Se Guidebook for Petitions for Writ of Habeas Corpus Under 28 U.S.C. § 2241 that you may consult for additional information. You may obtain a copy of this Guidebook by contacting the Clerk’s Office at the contact information provided above.

UNITED STATES DISTRICT COURT

for the
 _____ District of _____

Petitioner

v.

Respondent
 (name of warden or authorized person having custody of petitioner)

)
)
)
)
)
)
)
)
)
)
)

Case No. _____
 (Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: _____
 (b) Other names you have used: _____
2. Place of confinement:
 (a) Name of institution: _____
 (b) Address: _____

 (c) Your identification number: _____
3. Are you currently being held on orders by:
 Federal authorities State authorities Other - explain:

4. Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: _____

 (b) Docket number of criminal case: _____
 (c) Date of sentencing: _____
 Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
- How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
 - Pretrial detention
 - Immigration detention
 - Detainer
 - The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
 - Disciplinary proceedings
 - Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: _____

 - (b) Docket number, case number, or opinion number: _____
 - (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

 - (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**
- Did you appeal the decision, file a grievance, or seek an administrative remedy?
- Yes No
- (a) If “Yes,” provide:
- (1) Name of the authority, agency, or court: _____

 - (2) Date of filing: _____
 - (3) Docket number, case number, or opinion number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____

(b) If you answered “No,” explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If “Yes,” provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If “Yes,” provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

- Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR: _____

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do:

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: _____

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	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

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

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"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	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 <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <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"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark 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))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<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	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act		
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

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.Cv.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; **NOTE: 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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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.
 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- 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 actual dollar amount 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.

UNITED STATES DISTRICT COURT
for the
District of Minnesota

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

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

Affidavit in Support of the Application	Instructions
<p>I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.</p> <p>Signed: _____</p>	<p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: _____</p>

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property <i>(such as rental income)</i>	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

AO 239 (01/09; Minn. Dist. Ct. MODIFIED 10/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

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

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ _____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must have an authorized prison official complete the Certificate of Authorized Prison Official provided on Page 6 of this application. The certificate must be filed with this application.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home (<i>Value</i>)	\$
Other real estate (<i>Value</i>)	\$
Motor vehicle #1 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Other assets (<i>Value</i>)	\$
Other assets (<i>Value</i>)	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

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

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

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

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

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

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (*such as a paralegal or a typist*) any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

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

13. Identify the city and state of your legal residence.

Your daytime phone number: _____

Your age: _____ Your years of schooling: _____

Prisoners: The following Certificate page *must* be completed by an authorized prison official and provided with this application.

The following Certificate of Authorized Prison Official must be completed and filed with a prisoner's Application to Proceed without Prepayment of Fees and Affidavit for all incarcerated applicants. See 28 U.S.C. § 1915(a)(2) (a prisoner who applies to proceed without prepayment of fees must provide a certified copy of the trust fund account statement "obtained from the appropriate official of each prison at which the prisoner is or was confined"). The information provided below will be used by the Court in determining the proper initial partial filing fee as defined under 28 U.S.C. § 1915(b).

CERTIFICATE of AUTHORIZED PRISON OFFICIAL

I, _____, certify that the incarcerated applicant
_____ (name of applicant) has the sum of \$ _____ on account to
his/her credit at _____ (name of institution). I further certify that the
applicant named herein has the following securities to his/her credit:

_____.

I further certify that in the 6-month period immediately preceding the filing of the complaint/petition/motion or notice of appeal, the average monthly deposits to the applicant's trust fund prison account was \$ _____, and the average monthly balance in the prisoner's account was \$ _____.

DATE

SIGNATURE OF AUTHORIZED OFFICIAL

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

MOTION TO/FOR

The following party/parties:

in the above-named case hereby move(s) the United States District Court, District of Minnesota
for an Order to:

because:

1.

2.

Said motion is based upon the attached Memorandum of Law,

and all of the files, records, and proceedings herein.

Signed this day of

Signature of Party _____

Mailing Address

Telephone Number

Note: All parties filing the motion must date and sign the Motion and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary. The motion must be served on each party, together with the notice of hearing, and any memorandum of law and accompanying documents.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

Memorandum of Law

In Support of or In Opposition to

(Check "In Support of" if you are filing the motion and "In Opposition to" if you are opposing the Motion that was filed.)

(Name of Motion filed)

Provide below an explanation of why the Motion should be granted or denied. Your explanation should be provided in consecutively numbered paragraphs. If you run out of space, you may attach additional sheets of paper and continue to number your paragraphs.

1.

2.

Signed this day of

Signature of Party _____

Mailing Address

Telephone Number

Note: All parties filing the Memorandum of Law must date and sign the Memorandum and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary. The Memorandum of Law must be served on each party, together with the Notice of Hearing, Motion and other accompanying documents, if any.

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**LR 7.1(f) & LR 72.2(d)
CERTIFICATE OF COMPLIANCE**

Plaintiff(s)

v.

Case Number:

Defendant(s)

I, *[name of filer]*, certify that the

- Memorandum titled: _____
complies with Local Rule 7.1(f).

or

- Objection or Response to the Magistrate Judge's Ruling complies with Local Rule 72.2(d).

I further certify that, in preparation of the above document, I:

- Used the following word processing program and version: _____
and that this word processing program has been applied specifically to include all text,
including headings, footnotes, and quotations in the following word count.

or

- Counted the words in the document.

I further certify that the above document contains the following number of words: _____

Date: _____

s/ _____
Name

Address 1

Address 2

Phone

Email

Bar ID

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

**CERTIFICATE OF
SERVICE FOR
SERVICE BY MAIL**
Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs
and defendants in this lawsuit. Please
attach additional sheets if necessary.)

I hereby certify that on _____, I caused the following documents:
[List documents to be filed and served]

[Check the box, below, that applies to how you served the above documents.]

- to be filed electronically with the Clerk of Court through ECF and/or
- that I caused a copy of the foregoing documents and the notice of electronic filing
to be mailed by first class mail, postage paid, to the following: *[List names and
address of those served by U.S. Mail.]*

Date:

s/

Signature of filing party

Filer's Typed Name

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

NOTICE OF APPEAL

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the _____ (indicate whether the
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the
District of Minnesota that was entered on _____ (date judgment or order was
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this day of

Signature of Party _____

Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.