

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**HOW TO FILE YOUR SOCIAL SECURITY APPEAL**

**IMPORTANT:** You must accurately fill out the correct number of forms and submit them to the Court. If you fill out the forms incorrectly and/or send the wrong number of forms, they will be returned to you.

*Check the Western District's web site at [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov) for copies of many of the Court's forms and other useful information.*

**I. COMPLAINT**

1. Fill out the complaint form completely, supplying all requested information in the spaces provided. You will need to submit a total of four copies of the complaint: one for the Court, one for the defendant, one for the United States Attorney, and one for the United States Attorney General. Be sure to sign the complaint. Keep one copy for your own personal file.
2. **Attach copies of all decisions issued in your case** to each copy of the complaint. Be sure to provide all docket numbers and courts of any prior federal cases. **Also attach a copy of your Right to Appeal letter.**

**II. FILING FEES AND "POOR PERSON" STATUS 28 U.S.C. § 1915(e)**

1. In order to file the completed complaint and other necessary papers, you must pay a \$350.00 filing fee by personal check, money order, certified check, or official check made out to "Clerk, United States District Court". If you file in person, you may pay in cash.

If you pay in cash, you may ask for permission to have the summons and complaint served by the U.S. Marshal at a cost to you of \$8.00 per complaint. If you wish to request such service, ask the Clerk's Office for the necessary forms.

2. If you are unable to pay the filing fee, you may request poor person status, which includes a waiver of the fee, by filling out the "Application to Proceed In Forma Pauperis" and submit one original to the Court. The Court will evaluate the information you submit, then advise you whether or not you will have to pay the \$350.00 filing fee. If poor person status is granted, service of the complaint will be made by the U.S. Marshal at no cost to you.

**III. SUMMONS**

Fill out the "Summons for a Civil Action" (one original and four copies) as follows:

- (a) Print your name as plaintiff;
- (b) Print "Commissioner of Social Security" as defendant;
- (c) Since you do not have an attorney, print: (1) your own name; (2) "Pro Se" and (3) your address in the line following, "You are hereby summoned and requested to serve upon . . ."
- (d) Cross out "Plaintiff's Attorney"; and
- (e) Put "90" in the space before "days after service of this summons" (because the defendant is the Social Security Administration and has a special amount of time in which to respond).

#### **IV. UNITED STATES MARSHAL'S SERVICE FORMS**

If you are seeking poor person status, you will need these forms for completing service of the complaint. Fill out the three United States Marshal's forms according to these instructions. Do not make any entries other than those indicated below:

- (a) Do not detach or remove any of the copies from this form;
- (b) Plaintiff: print or type your name;
- (c) Defendant: print or type "Commissioner of Social Security";
- (d) Court number: leave blank
- (e) To the right of the large black arrow:
  - (1) on one form, print or type "Office of Regional Chief Counsel, Region II, Social Security Administration, 26 Federal Plaza, Room 3904, New York, New York 10278-0004"
  - (2) on the second form, print or type "Attorney General of the United States, Main Justice Building, 10th and Constitution Avenues NW, Washington, DC 20530"
  - (3) on the third form, print or type "United States Attorney, 138 Delaware Avenue, Buffalo, New York 14202";
- (f) Type of process: print or type "Summons and Complaint";
- (g) In block marked "Send Notice of Service Copy to Name and Address below", print

or type your name and address; and

- (h) In block marked "Name and Signature of Attorney or Other Originator", sign your name, followed by "Pro Se", provide your telephone number and date the form.

**IMPORTANT:** If you cannot pay the \$350.00 filing fee and are applying for permission to proceed as a poor person, no papers will be served upon the defendants until the District Judge has granted you permission to proceed as a poor person and directed the United States Marshal to serve the complaint.

## V. CIVIL COVER SHEET

Fill out the "Civil Cover Sheet" according to these instructions:

- I.(a) Print your name as Plaintiff;
- I.(b) Print "Commissioner of Social Security" as Defendant;
- I.(c) Print "Pro Se" under Plaintiff's Attorney;
- I.(d) Put "United States Attorney, Buffalo, New York" as Defendant's Attorney;
- II. Basis for Jurisdiction: check Box No. 2: U.S. Defendant;
- III. Citizenship of Principal Parties: leave blank;
- IV. Cause of Action: "42 U.S.C. § 405(g)" and "Judicial Review of Social Security Administrative Decision";
- V. Nature of Suit:
  - (1) if your claim is for Social Security Disability, check Box No. 863: DIWW;
  - (2) if your claim is for Supplemental Security Income, check Box No. 864: SSID Title XVI.
- VI. Origin: check Box No. 1: Original Proceeding;
- VII. Requested in Complaint: leave blank;
- VIII. Related Case(s) if any: if you have ever filed another federal lawsuit relating to social security benefits, write the name of the court and the docket number; and

IX. Date and sign your name followed by "Pro Se" on the last line.

## VI. MAILING INSTRUCTIONS

Finally, bring or mail all of the above papers to either one of the addresses below:

United States District Court Clerk  
304 U.S. Courthouse  
68 Court Street  
Buffalo, New York 14202-3498  
(716) 551-4211 or (716) 551-5759

United States District Court Clerk  
2120 U.S. Courthouse  
100 State Street  
Rochester, New York 14614-1387  
(585) 263-6263

## VII. GENERAL INFORMATION

1. Except for your complaint, you **must** send a copy of every legal paper that you send to the Court to the defendant's attorney as well. The Court will serve only your complaint, not any subsequent papers. You must attach an Affidavit/Affirmation of Service to any document you wish to file in this Court. Check the Western District web site for copies of the form to be used for this affidavit/affirmation.
2. You do not need to attach "exhibits" to your original complaint. If you do, however, you must submit enough copies for all the copies of the complaint. Otherwise, they will not be served on the defendants.
3. Requests for assigned counsel may be made pursuant to 28 U.S.C. § 1915(e). However, assignment of counsel is within the discretion of the judge and will generally only be made in unusual circumstances. *See, Cooper v. A. Sargenti Co.*, 877 F.2d 170 (2d Cir. 1989). Check the Western District web site for copies of the form.
4. You **must** notify the Clerk's Office and all defendants (or their attorneys) of any address changes. **Failure to do so may result in dismissal of your complaint pursuant to Local Rule of Civil Procedure 5.3(d).**
5. The Clerk of Court will not file your complaint unless it conforms to these instructions and to these forms pursuant to Local Rules of Civil Procedure 5.2 and 5.3. The Local Rules are also available on the Western District web site.