

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

3/2012

**INSTRUCTIONS FOR PERSONS WITHOUT AN ATTORNEY FILING AN
EMPLOYMENT DISCRIMINATION COMPLAINT**

The following forms are enclosed:

1. Employment Discrimination Complaint and Summons (EEO 1)
2. Summons in a Civil Action (AO 440)
3. Application to Proceed in District Court Without Prepaying Fees of Costs (AO 240)
4. Request for Appointment of Counsel (EEO 3)
5. Notice of a Lawsuit and Request to Waive Service of a Summons (AO 398)
6. Waiver of the Service of Summons (AO 399)

You must make sufficient copies of the complaint and summons for service on all defendant(s) as well as two extra copies for the court.

A. **GENERAL INSTRUCTIONS**

1. All blanks must be filled in. If an entry does not apply to you write "not applicable" in the provided space.
2. The filing fee for a complaint is **\$350.00** and **\$11.00** for certifying each complaint for service. If you are financially unable to pay these fees, you must complete the Application to Proceed without Prepayment of Fees and Affidavit.
3. If you want the Court to appoint an attorney to represent you, you must complete the Request for Appointment of counsel (EEO 3).
4. Your complaint must be filed within the time specified by your **Notice-of-Right-to Sue**.

B. EMPLOYMENT DISCRIMINATION COMPLAINT (EEO 1)

1. Insert the name(s) of the employer(s) against whom you are complaining in the heading above the word "Defendant(s)".
2. Paragraphs 1 and 2: Be sure to provide full and accurate addresses.
3. Paragraph 9: **Be sure to attach a copy of your Notice-of-Right-to-Sue letter.**

C. APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES/AFFIDAVIT

1. This form (AO 240) should be used only if you are financially unable to pay the \$350.00 filing fee. Each complaint must be accompanied with either a \$350.00 payment or a completed application to proceed without prepayment form.
2. Set forth briefly in the space provided the reasons you are unable to pay the required fees. **FOR EXAMPLE:** *I am unemployed and have no money except what I received from Unemployment Compensation.* **OR:** *I earn only \$150.00 per week and must support a family of four.*

D. REQUEST FOR APPOINTMENT OF COUNSEL (EEO 3)

1. Use this form only if you are asking the Court to appoint a lawyer to represent you.
2. The Court is not required to appoint a lawyer to represent you. The Judge will decide whether an appointment will be made in your case based upon the information you provide in this form.
3. Paragraph 3 -A copy of the EEOC investigative file can be obtained from the Commission at the office which issued your **Right-to-Sue-Letter.**
4. Paragraph 4 -You must make a reasonable effort on your own to obtain an attorney before the Court will consider appointing one to represent you. List in paragraph 4 all attorneys contacted by you who were unwilling or unable to take your case.

When the forms are completed you may bring the forms or mail the forms to:

CLERK, UNITED STATES DISTRICT COURT
300 Ala Moana Boulevard, Room C-338
Honolulu, Hawaii 96850

NAME

MAILING ADDRESS

CITY, STATE, ZIP CODE

TELEPHONE NUMBER

FACSIMILE AND EMAIL (if applicable)

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

)	CIVIL NO. _____
)	
)	EMPLOYMENT DISCRIMINATION
)	COMPLAINT
Plaintiff,)	
)	
vs.)	
)	
)	
)	
Defendant(s),)	
_____)	

1. Plaintiff resides at:

Address: _____

City, State & Zip Code _____

Phone number: _____

2. Defendant is located at:

Address: _____

City, State & Zip Code _____

A. ☐ My race or color.

B. ☐ My religion.

C. ☐ My sex.

D. ☐ My national origin.

E. ☐ Other acts as specified below:

[illegible]

7. The alleged discrimination occurred on or about _____.
(Date)
9. I filed charges with the Federal Equal Employment Opportunity Commission (or the State of Hawaii Department of Labor and Industrial Relations, Enforcement Division) regarding defendant's alleged discriminatory conduct on or about _____.
(Date)
10. WHEREFORE, Plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, costs, and attorney fees.

Dated: _____

Signature of Plaintiff

Plaintiff's Name - printed, or typed.
(Notarization is not required)

UNITED STATES DISTRICT COURT

for the

District of Hawaii

Plaintiff

v.

Defendant

)
)
)
) Civil Action No.
)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
for the

Plaintiff/Petitioner
v.

Defendant/Respondent

)
)
) Civil Action No.
)
)

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

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.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____.
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ _____, and my take-home pay or wages are: \$ _____ per
(specify pay period) _____.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ _____.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name

NAME

MAILING ADDRESS

CITY, STATE, ZIP CODE

TELEPHONE NUMBER

FACSIMILE AND E-MAIL (if applicable)

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

)	CIVIL NO. _____
)	
)	REQUEST FOR APPOINTMENT OF
)	COUNSEL UNDER THE CIVIL RIGHTS
)	ACT OF 1964; 42 U.S.C. § 2000e-5(f)(1)(B);
)	DECLARATION IN SUPPORT OF REQUEST
Plaintiff,)	
)	
VS.)	
)	
)	
)	
Defendant(s).)	
)	

1. I, the Plaintiff in the above-entitled employment discrimination action, request that the Court appoint an attorney to represent me in this matter. In support of this request, I stat as follows:

- A. My claim is meritorious (that is, I have a good case),
- B. I have made a reasonably diligent effort to obtain counsel,
- C. I am unable to find an attorney willing to represent me on terms that I can afford.

2. A copy of the Notice-of-Right-to-Sue Letter that I received from the Equal Employment Opportunity Commission is attached to the complaint which accompanies this request for counsel.

3. A. Does the Notice-of-Right-to-Sue Letter show that the Commission found "no reasonable cause" to believe the allegations made in your charge were true?

☐ Yes ☐ No

IF YOUR ANSWER IS "YES" YOU MUST ATTACH A COPY OF THE COMMISSION'S INVESTIGATIVE FILE TO THIS REQUEST AND ANSWER QUESTIONS B AND C

- B. Do you question the correctness of the Commission's "no reasonable cause" determination?

☐ Yes ☐ No

- C. If you answered "yes" to question 3B, what are your reasons for questioning the Commission's determination? Be specific and support your objections with fact. Do not simply repeat the allegations made in your complaint; the Court will review your complaint in considering this request for counsel.

(1) _____

(2) _____

(3) _____

(4) _____

If more space is needed, you may add one additional sheet of paper or write down your additional comments on the reverse side of this page.

4. I have contacted the following attorneys and requested that they represent me in this matter:

	NAME	ADDRESS	PHONE NUMBER
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

5. I cannot afford to obtain a private attorney. The details of my financial situation are listed below.

A. Employment

Are you employed now: ☐ Yes ☐ No ☐ Self Employed

Name and address of employer: _____

If employed, "YES", how much do you earn per month? \$ _____

If unemployed, "NO", give month and year of last employment _____

How much did you earn per month? \$ _____

If married, is your Spouse employed? ☐ Yes ☐ No

IF YES, how much does your Spouse earn per month? \$ _____

If a minor under age 18, what is/are your Parents' or Guardian's approximate monthly income? \$ _____

B. Assets

1. Other Income

Have you received within the past 12 months any income from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments or other sources?

☐ Yes

☐ No

IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES:

Received	Sources
\$	
\$	
\$	

2. Cash

Have you any cash on hand or money in savings or checking accounts?

☐ Yes

☐ No

IF YES, state the total amount \$ _____

3. Property

Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

☐ Yes

☐ No

IF YES, GIVE VALUE AND DESCRIBE THE PROPERTY

Value	Description
\$	
\$	
\$	

C. Obligations and Debts

1. Dependents

Marital Status

Total No. of
Dependents

[List persons you actually
[support and your relationship
[to them:

☐ single

/ _____ /

☐ married

☐ widowed

2. Debts and Monthly Bills

List all creditors, including banks, loan companies, charge accounts, etc.

	Creditors	Total Debt	Monthly Payment
Rent			
Mortgage on Home			

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE IS TRUE AND
CORRECT.

(Date)

(Signature of Plaintiff)

(Notarization is not required)

<i>Plaintiff</i>)	
v.)	
<i>Defendant</i>)	

Civil Action No. _____

To: _____
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within _____ days (*give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

Date: _____

Telephone number

UNITED STATES DISTRICT COURT
for the

Plaintiff
v.

Defendant

)
)
)
)

Civil Action No.

WAIVER OF THE SERVICE OF SUMMONS

To: _____
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from _____, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.