

PROCEDURES RE: FILING AN ADVERSARY PROCEEDING COMPLAINT

What the Plaintiff Needs to File

1. A complaint (see below) or stipulated judgment
2. An [Adversary Cover Sheet](#) if filed on paper
3. A filing fee for each complaint unless the plaintiff is:
 - a debtor not acting as a debtor in possession
 - a child-support creditor or representative who has filed [Official Form B 2810](#)
 - a debtor in possession or a trustee who certifies that there are insufficient funds in the estate to pay the filing fee (the fee must be paid later if funds are available)Current fees are found at <https://www.orb.uscourts.gov/court-fees>. Any check or money order for the filing fee must be payable to "Clerk, U.S. Bankruptcy Court."
4. If filed by a nongovernmental corporation that is not the debtor, a corporate ownership statement per Federal Rule of Bankruptcy Procedure (FRBP) 7007.1.

Complaint

The complaint must state the applicable sections of the Bankruptcy Code upon which the complaint is based and comply with FRBP 7008 and Local Bankruptcy Rule 7008-1. The heading and caption must be formatted as follows:

In re	Case No. _____

Debtor(s)	Adv. Proc. No. _____

Plaintiff(s)	COMPLAINT
v.	[A jury trial demand, if any, must be shown here.]

Defendant(s)	

When filing the complaint on paper, leave the Adv. Proc. No. blank. The clerk will assign a number, which will appear on the summons. This number, as well as the bankruptcy case number with which the adversary proceeding number is associated, must be listed on all documents filed in the adversary proceeding.

Summons

The court will issue a summons to the plaintiff.

The court will mail the summons to the plaintiff for service on the defendants unless the complaint is electronically filed in CM/ECF, in which case the plaintiff will receive the summons via a Notice of Electronic Filing. The plaintiff must make a copy for each party to be served.

Service of the Summons

Within 7 days after the issuance of the summons, the plaintiff must serve a copy of the summons and complaint on all defendants and, if the debtor is a defendant and is represented by an attorney in the bankruptcy case, the debtor's attorney. If the 7-day deadline is not met, the plaintiff must file a request for a replacement summons.

Service by mail may be made within the United States by first-class mail, postage prepaid. In some situations, certified mail is required. See FRBP 7004(h).

The plaintiff must then file a certificate of service ([Local Bankruptcy Form 305](#)) with the court. The certificate must:

- (1) be signed by the person who served the documents,
- (2) show the exact name and title of each person on whom the documents were served,
- (3) show compliance with FRBP 7004,
- (4) be attached to the summons, and
- (5) be promptly filed with the clerk.

Service of the summons and complaint is governed by FRBP 7004. This rule specifies what type of service is required based on the identity and location of the defendant being served.