UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

PRO SE LITIGANT GUIDE

Office of the Clerk of Court

April 2014

TABLE OF CONTENTS

SECTION PAGE

Introduction. 1

Section I: Important Issues You Should Consider Before You Decide To Represent Yourself In An Action Before This Court. 3

Section II: Procedure For Filing A Civil Rights Action Under Title 42 United States Code, Sections 1983 and 1985. 11

Section III: Actions Brought By Prisoners Appearing *Pro Se*. 12

Section IV: Employment Discrimination Cases. 13

Section V: Application To proceed *In Forma Pauperis*. 14

Section VI: Request For Appointment Of Counsel. 15

Appendices:

A: Motion and Order for Official Service Of Process

B: List of Court Fees

C: Application to Proceed *In Forma Pauperis*

D: Certificate of Service

E: Motion for Appointment of Counsel

INTRODUCTION

WHO THIS GUIDE IS INTENDED TO ASSIST: This Guide is designed to assist you if (i) you want to file a lawsuit in federal court or you have an active role, either as a plaintiff or defendant, in a case that you or someone else has filed already in federal court, and (ii) you have elected to proceed without the assistance of a trained and licensed attorney.

SOME BASIC DEFINITIONS: Plaintiffs and defendants in court cases generally are referred to as the "parties" or "litigants." The plaintiff asserts a claim or right protected by law against the defendant; the defendant denies the claim or right, and the court determines whether the asserted claims or rights have merit. The great majority of litigants who appear in this court are represented by an attorney who has been trained in the law and is familiar with the applicable court rules and procedures. Parties of litigants who are not represented by licensed attorneys, who elect to represent themselves, generally are referred to as *pro se* parties or *pro se* litigants. Likewise, plaintiffs or defendants who represent themselves generally are referred to as *pro se* plaintiffs or *pro se* defendants.

HOW THIS GUIDE SHOULD HELP YOU: This Guide will not answer all your questions about what you need to do to represent yourself effectively as *a pro se* litigant. The Guide outlines the basic steps that are required to properly file an **action,** or lawsuit, with this court. It also provides some general guidance on the next steps in the process of litigating the action once you have filed it with the clerk of court. **However, you are responsible for learning about and following the procedures that govern the court process. Although the staff of the clerk's office can provide *pro se* litigants with general information concerning court rules and procedures, they are forbidden, as a matter of law, from providing legal advice, from interpreting and applying court rules, or otherwise participating, directly or indirectly, in any action**.

A WORD OF ADVICE: Self-representation carries certain responsibilities and risks that *pro se* litigants should be aware of before they proceed. The court encourages all individuals who are thinking about *pro se* or self-representation to carefully review the risks associated with self-representation and to inform themselves of the potential consequences.

WARNING: Rule 11 of the Federal Rules of Civil Procedure prohibits the filing of lawsuits that are clearly frivolous or filed only to harass someone. If after reviewing your complaint, the court determines that you have filed a lawsuit for an improper or clearly unnecessary purpose, the judge may impose sanctions against you, including

ordering you to pay a fine to the court or pay the legal fees of the person or persons against whom you filed the lawsuit.

SECTION I
IMPORTANT ISSUES YOU SHOULD CONSIDER BEFORE YOU DECIDE TO REPRESENT YOURSELF IN AN ACTION BEFORE THIS COURT

A. IS THIS COURT THE APPROPRIATE COURT TO HEAR YOUR DISPUTE?

The United States District Court for the District of Utah is one of 94 trial courts in the federal court system. Federal courts can only hear limited kinds of cases. As is the case in all of the federal courts, this court is authorized only to hear disputes that fall into the following four categories:

1. Those that deal with a question involving the United States Constitution;

2. Those that involve questions of federal -- as opposed to state -- law;

3. Those that involve the United States of America as a party, whether plaintiff or defendant; and,

4. Those that involve a dispute among residents of different states with an amount in controversy over $75,000.

If your complaint does not fall under any of these categories, you cannot file it here.

B. IS THERE AN ALTERNATIVE TO APPEARING *PRO SE* (REPRESENTING YOURSELF) THAT IS AFFORDABLE?

Most people who file and pursue litigation in the federal court employ a licensed attorney who practices law, has appeared in court, and is familiar with the rules of procedure that govern court process. If you would prefer to have an attorney to represent you, but you are unable to afford one that charges high hourly rates, you should consider contacting the Utah State Bar Association's Lawyer Referral Service (telephone number (801) 531-9075) whose staff can explain the various options for obtaining and paying for legal services.

There are other affordable options for legal assistance, including legal aid societies and legal services, that can assist you to obtain the services of an attorney at a reduced cost. You also may want to call the Utah State Bar Association for information about its *Tuesday Night Bar,* a program where attorneys voluntarily provide limited legal consultation without charge.

If you cannot find an attorney to represent you, you have the right to pursue your claims in the court by appearing without representation or *pro se*, a Latin phrase that means "for yourself ". Bear in mind that as a *pro se* litigant, you are representing only yourself and presenting only your own claims or defenses. Under the law, you cannot speak for another person, a company, or other entity such as a club or association that includes other individuals. When you appear *prose*, you must follow the same rules and procedures that licensed attorneys who practice in this court must follow. Generally, judges hold *pro se* litigants to the same standards of professional responsibility as trained attorneys.

C. IF YOU PLAN TO REPRESENT YOURSELF, WHERE CAN YOU GO TO REVIEW THIS COURT'S RULES OF PROCEDURE AND APPLICABLE FEDERAL LAWS?

As a *pro se* litigant, you should be familiar with the appropriate sets of federal rules of procedure. These rules set forth the general procedural requirements for litigating cases in all federal courts. As a *pro se* litigant in a civil case, you should be familiar with the Federal Rules of Civil Procedure and the Federal Rules of Evidence. If you are a *pro se* defendant in a criminal case, you should familiarize yourself with the Federal Rules of Criminal Procedure and Federal Rules of Evidence. Federal laws are located in the United States Code, which is abbreviated as "U.S.C." These rules and laws are available for review at several law libraries in the Salt Lake metropolitan area, as listed below. You should contact them by telephone to determine the hours they are open to the public.

1. The Utah State Law Library located in the Scott M. Matheson Courthouse, 450 S. State Street, room W-13, (801) 238-7990;

2. The University of Utah college Law Library located on University Street at approximately 300 South on the University of Utah campus; and

3. The U.S. Courts Law Library located on the fifth floor of the United States Courthouse at 351 South West Temple, room 5.200 in downtown Salt Lake City.

Most counties have law books available. Call your county library to inquire about the location of those books. Also, Brigham Young University's law school, located on the Brigham Young University campus in Provo, Utah, has a law library open to the public.

As a *pro se* litigant, you also should be familiar with the District Court Rules of Practice, a set of rules commonly referred to as **local rules** that apply specifically to court proceedings in this court. The local rules include General Rules, Civil Rules, Criminal Rules and Bankruptcy Rules. The libraries listed above have copies of the court's local rules available for review.

The clerk's office also accepts prepaid orders for the rules; there are no shipping or handling charges. For information, you should call (801) 524-6100. The local rules are also available on the Internet at www.utd.uscourts.gov.

D. ARE THERE CERTAIN TYPES OF CASES IN WHICH LITIGANTS TYPICALLY REPRESENT THEMSELVES?

As noted earlier, a litigant may appear *pro se* in any case that is properly within the jurisdiction of this court. There are three categories of cases that are most often filed by *pro se* litigants. They are as follows:

1. Cases alleging denial of civil rights under Title 42, United States Code, Section 1983;

2. Cases alleging employment discrimination under Title 42 United States Code, Section 2000(e); and

3. Cases filed by persons who are in jail or prison and who challenge their sentences or conditions of confinement.

E. HOW DO YOU START A NEW CASE?

File a Complaint: The **plaintiff** or person bringing the lawsuit to court must file a **complaint.** The complaint can be filed by hand-delivering it or mailing it to the clerk's office, United States Courthouse, Room 1.100, 351 South West Temple, Salt Lake City, Utah 84101. Whether you deliver or mail your complaint to the court, you must submit (i) an original and one copy of the complaint, (ii) a completed **cover sheet,** a copy of which can be obtained from the clerk's office, and (iii) the $400 filing fee (unless you are proceeding *in forma pauperis* as discussed in sections I(G) and V of this guide). The

complaint outlines a problem or reason for the suit, also known as a **cause of action.** This complaint is given a case number and assigned to a district judge.

Serve the Complaint: Each **defendant** or person whom the plaintiff claims is responsible for the problem must be notified of the lawsuit through a process that is specified under law. The responsibility for notifying each defendant rests with the plaintiff and is referred to as **service of process.** The provisions for service of process are described in **Rule 4** of the **Federal Rules of Civil Procedure,** If these service of process requirements are not followed correctly, the case can be dismissed for failure to effect proper service of process.

The defendant(s) can be notified by service of a **summons**. You can obtain the standard summons form from the clerk's office. After you complete this summons form, staff members of the clerk's office officially **issue** the summons; this means that an authorized court employee will sign the form and emboss it with the official seal of the court. The summons and complaint are then served on the defendant.

Detailed provisions on how to serve the defendant are contained in **Rule 4** of the **Federal Rules of Civil Procedure.** You should carefully review the rule to make sure that you are familiar with those provisions. The service of process requirements can be satisfied in one of three ways.

1. Personal Service: Here you direct someone else to deliver or serve a copy of the complaint and summons on the defendant(s). Such service can be performed by anyone who is over eighteen years of age and who is not a party in the case. Constables and private process servers will do this for a fee. The person who serves the summons must record on the back of the summons for his or her name, the name of the person who was served, and the date and time of service. This section of the summons form is referred to as the **return of service,** and if it is not completed, service of process is not complete. Rule 4 requires confirmation that service has been completed. Such confirmation or **proof** that the documents have been served on the defendant requires that the original summons form with the return of service completed be returned to the court and that a copy of the form be left with the defendant.

2. Waiver of Service: Rule 4 permits a defendant to **waive** personal service of process. That means the defendant agrees to respond to your complaint without being served with it. The clerk's office can provide you with a waiver form that you can mail to the defendant. If the defendant completes and returns the waiver, you will be spared the burden of personal service.

3. Service by the U.S. Marshal: If a judge approves your application for waiver of the requirement to pay the $400 case filing fee as described in Section V of this Guide, you may request that the judge direct the U.S. Marshal to serve the summons and complaint at government expense. However, you must make such a request by formal written **motion** and also provide the judge with a proposed **order** directing service of process for the judge to sign. Examples of such a motion and order are attached to this Guide as Appendix A. The judge may or may not grant the motion and sign the order.

After you file your complaint with the clerk's office, you have 120 days to serve a copy of it and the summons on the defendant(s). It is your responsibility to effect service; if you fail to do so within the 120 days, your case may be dismissed.

File and Serve the Response: Once the defendant(s) has been served with a copy of the complaint, the defendant(s) must file with the court an **answer** or some other response within a specified number of days. Under the rules governing service of process, each defendant is required to provide a copy of the response on the plaintiff.

Once each defendant has filed a response the case is considered **at issue.**

F. WHAT HAPPENS WHEN A CASE IS AT ISSUE?

When a case is at issue, any one of a number of different procedures may occur.

Referral to a Magistrate Judge: The district judge to whom the case is assigned may refer the case to a **magistrate judge** for assistance in managing it. To do so, the district judge signs an **order of reference.** Once a case has been referred to a magistrate judge, subsequent court proceedings may be conducted before that judge.

Filing of Motions and Objections: Either party-- the plaintiff or the defendant-- may request that the court take specific action related to the case. To do so, the party prepares a formal request or what is referred to as a **motion.** DUCivR 105-1 provides formatting instructions for motions and other papers. The party then signs the motion, submits it or **files** it with the clerk of court, and sends a copy to the opposing party. The opposing party may file an **objection** or a **responsive pleading** to the motion. This objection sets forth the reasons why the court should deny rather than grant the motion.

Motion Review: The district or magistrate judge may schedule hearings to provide the parties with an opportunity to argue the motion and the objections. Or the judge may decide a hearing is unnecessary and rule on the motion by issuing a written order that either grants, denies, or partially grants and partially denies what the motion sought.

Dispositive vs. Nondispositive Motions: Motions fall into two broad categories: dispositive and nondispositive. **Dispositive** motions, if granted, dispose of the case; **nondispositive** motions, if granted, affect the case but do not dispose of it. District judges have the authority to rule on both kinds of motions; magistrate judges are authorized to rule only on nondispositive motions.

Magistrate Judge Report and Recommendation: Where the case has been referred to a magistrate judge and one of the parties files a dispositive motion, the magistrate judge is authorized to prepare a written **report and recommendation,** essentially a recommendation that the motion be either granted or denied and stating the reason why. This report and recommendation then is forwarded to the district judge assigned to the case, and copies are sent to the parties. As a party, you have a certain number of days within which to file objections to the report and recommendation. All objections that are received within the specified time are forwarded to the district judge. The district judge will then issue an order that adopts, rejects, or adopts in part and rejects in part the magistrate judge's report and recommendation. Where the judge's order dismisses the complaint and the cause of action, the clerk of court will prepare and enter a **judgment** in the case. Such judgment is final and can be appealed only to the Tenth United States Circuit Court of Appeals located in Denver, Colorado.

G. WHAT COURT FEES AND COSTS ARE YOU REQUIRED TO PAY?

The fee for filing a complaint and opening a civil case in any U.S. District court is $400. This may be paid by cash, check, or VISA/MASTERCARD. A list of the fees charged by the court for various services and materials is attached to this Guide as Appendix B, and is also available in the clerk's office. If you are unable to pay the filing fee, you may apply for permission to proceed *in forma pauperis,* which is Latin for "in the form of a pauper." Information on filing *in forma pauperis* is located in section V of this guide. An application form for filing *in forma pauperis* is attached to this guide as Appendix C . Such forms also are available at the clerk's office. Completed applications are forwarded to a magistrate judge for review. If your application is denied by the judge, your case cannot be opened until you pay the filing fee.

Waiver of the filing fee by the magistrate judge does not automatically waive the other costs associated with pursuing or litigating your case. If, for example, you need copies of original documents in your case file, the clerk's office is required to charged the standard rate of $.50 per page. Service of your complaint on the other party will entail additional costs unless you have made and the court has approved a motion that the United States Marshal serve your complaint (see section I(E)(3) of this guide). Other expenses you will incur include the cost of (i) preparing the original and copies of the

papers you file with the court, and (ii) mailing or hand-delivering a copy of each paper to the opposing party to satisfy the requirements of service.

H. HOW DO YOU SUBMIT DOCUMENTS TO THE COURT?

Case-related documents that ask the court to take specific action are referred to as **motions** or **pleadings.** If, for example, you want to ask the court to take an action, such as appointing an attorney, you must do so by means of a written motion. A motion should be supported by a summary of the law supporting the motion called a **memorandum** and/or by an affidavit or declaration of the movant that provide the court with facts that support the granting of the motion. In preparing a motion, you should follow the same general format as the motion for official service of process that is attached to this Guide as Appendix A. In preparing motions, you should be as specific as possible about the order or the action you would like the court to take.

As a matter of policy, the court requires parties to submit or **file** an original and one copy of most motions or pleadings with the clerk of court. Staff of the clerk's office stamp both, then place the original in the case file and give the copy to the assigned judge for review and analysis. Parties may file pleadings with the court in person or by mail. For purposes of filing in person, the clerk's office is located in Room 1.100 of the United States Courthouse on the corner of Fourth South and West Temple. The telephone number for the clerk's office is (801) 524-6100. The office is open to the public from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on federal holidays. As noted, pleadings also may be mailed to the clerk's office. The mailing address is:

United States District Court, Office of the Clerk
351 S West Temple, Room 1.100
Salt Lake City, Utah 84101

You should retain a copy of all pleadings and other documents you file with the court for your own use. When you file pleadings in person, plan to bring your personal copy with you so staff of the clerk's office can stamp it. By doing so, your records will reflect the filing date of the original. If you mail your pleading and wish to have your copy stamped, you should enclose a third copy and a self-addressed, stamped envelope. The clerk's office will return your copy stamped by the court.

Note: When you submit a pleading to the court, you also must mail or deliver a copy of the pleading to the defendant's attorney, or, if the defendant has no attorney, to the defendant. At the end of your pleading, you must include a **certificate of service** that states the date that you mailed or delivered a copy of the pleading to the

defendant. A sample form for a certificate of service is attached to this guide as Appendix D.

I. HOW DO YOU OBTAIN INFORMATION ABOUT THE STATUS AND PROGRESS OF YOUR CASE?

The clerk's office maintains an automated record or **docket** for every case. This docket is a chronological summary of all significant events in the history of the case. For example, each time you file a pleading or appear for a hearing, an entry summarizing the event is added to the case docket. You may review the docket on the public access terminals located in the public review area in the clerk's office. Alternatively, if you have a personal computer (PC) and modem with communications software, by registering with the court you can dial up the court's automated PACER system and review your case docket directly on your PC; note that use of this capability is billed at $.10 per page for viewing and use of it requires that you register with PACER by calling (800) 676-6856 or (210) 301-6440 and obtain a password. If you wish to have a paper copy of your docket, staff of the clerk's office will provide it for you at $.50 per page. Staff of the clerk's office also can provide you with basic docket information over the telephone.

It is important that you realize that staff of the clerk's office do not know and cannot provide you with the reasons for a judge's decision. Nor is the clerk's office in a position to know when a judge will respond to a motion or issue a ruling in a case. The judge's personal staff -- the secretary or a law clerk -- can respond to specific questions regarding scheduling.

J. IS IT POSSIBLE FOR YOU TO SPEAK DIRECTLY TO A JUDGE OR MEMBER OF HIS PERSONAL STAFF ABOUT YOUR CASE?

As a party appearing *pro se,* you are prohibited from all private or ***ex parte*** communication with the judge to whom your case is assigned. *Ex parte* communication occurs when one of the parties to a lawsuit exchanges information with the assigned judge (i) without the opposing party being present or (ii) without the knowledge and consent of the opposing party. With few exceptions, because of this prohibition a judge will refuse to speak or otherwise communicate *ex parte* with any party to a case that is assigned to him. Any communication between the assigned judge and a *pro se* litigant should be in writing, and a copy of the communication should be sent either to the opposing party or that party's attorney. For example, a party appearing *pro se* should send to the opposing party a copy of any letter sent to the judge. Moreover, the letter to

the judge should indicate that a copy has been sent to the opposing party. As noted above, telephone or personal contact with the judge's personal staff should be limited to specific scheduling inquiries.

SECTION II
PROCEDURE FOR FILING A CIVIL RIGHTS ACTION UNDER TITLE 42 UNITED STATES CODE, SECTIONS 1983 AND 1985

One type of action frequently filed by *pro se* litigants is alleged denial or violation of an individual's civil rights. In a civil rights complaint, a *pro se* plaintiff is alleging that his or her constitutional rights or privileges or immunities have been violated. The federal law under which a civil rights claim arises is 42 U.S.C. Sections 1983 and 1985.

As noted earlier in this guide, to file an action in this court you first must prepare a complaint. Most complaints filed by *pro se* litigants involve alleged violations of civil rights. To assist *pro se* litigants with the process of filing a federal civil rights complaint, the clerk's office has prepared an information packet called **Information for Filing a Civil Rights Complaint Under 42 United States Code Sections 1983 and 1985.** That packet includes a sample complaint form that you should use as a guide when you prepare your complaint; the packet is available at the clerk's office. Your complaint should be either typed or handwritten. In either case, you should make certain that your complaint can be easily read by the judge.

SECTION III
ACTIONS BROUGHT BY PRISONERS
APPEARING *PRO SE*

Persons who are confined or incarcerated in a jail or a prison occasionally file *pro se* actions with the court. These actions fall into three general categories.

A. Appeal of Sentence: This is a criminal action in which a prisoner submits an appeal to have a higher or superior court review the punishment or **sentence** that the trial court imposed. If a person was sentenced by a judge from the United States District Court for the District of Utah, an appeal is made to the Tenth United States Circuit Court of Appeals which is located in Denver, Colorado. An appeal to the Tenth Circuit is made by filing a **notice of appeal** with the clerk of the court in Salt Lake City. Appeals to the Tenth Circuit are governed by the **Federal Rules of Appellate Procedure**, which set forth specific time deadlines for filing an appeal. See section I(C) for information on where you can review those rules.

B. Writ of *Habeas Corpus:* In this type of action, the prisoner applies or petitions this court for a writ of *habeas corpus*; this is, in essence, an action that challenges the constitutionality of the confinement and seeks to have the sentence vacated, or dismissed.

Both of these actions are established by federal law. If you are in state custody, having been sentenced by a state court judge, you may file a petition under 28 U.S.C. § 2254. If, alternatively, you are in federal custody, having been sentenced by a federal judge, you may file a motion to vacate sentence under 28 U.S.C. § 2255. The office of the clerk has prepared separate information packets, complete with the required forms, for these two types of actions. To obtain a copy of either packet, you should contact the office of the clerk. ***Note: Section 2254 and 2255 proceedings are governed by special rules called Rules Governing section 2254 and 2255 Proceedings. It is the petitioner's responsibility to become familiar with those rules. See section I(C) for information on where you can find those rules.***

C. Prisoner Civil Rights: In this type of action, a prisoner challenges the conditions of confinement, or the way he or she is being treated in prison or jail. this type of action generally takes the form of a civil rights complaint. If you wish to file a civil rights complaint, you should ask the clerk's office for a copy of the information packet called **Information for Filing a Complaint Under 42 U.S.C. Sections 1983 and 1985.** That packet includes a sample complaint form that you should use as a guide when you prepare your complaint.

SECTION IV
EMPLOYMENT DISCRIMINATION CASES

Another type of action filed by *pro se* litigants is alleged employment discrimination. Prior to filing an employment discrimination complaint in federal court, the plaintiff is required to follow specific administrative procedures. ***Note: This is not a complete statement* of *the law on the administrative procedures to follow in an employment discrimination case. The procedures are complicated and it is the pro se litigant's responsibility to make sure that all procedures are followed correctly and within the applicable time limit. If the requirements are not followed, your case may be dismissed.***

A. PROCEDURES TO FOLLOW BEFORE THE COMPLAINT IS FILED: If you wish to file an employment discrimination case in this court, you first must file your charges with the Anti-Discrimination Division of the Utah State Industrial Commission (UADD). In most cases, the UADD will review your charges and, barring complications, the Equal Employment Opportunity Commission (EEOC) will issue to you a **Notice of Right to Sue** indicating that (i) the administrative process has been completed, and (ii) no further action will be taken on behalf of the EEOC. Once this notice is issued, you have a limited time period within which to file your lawsuit; failure to file a complaint in that time period will result in having your cause of action dismissed by this court. A Notice of Right to Sue is not issued where the charges allege employment discrimination based on age. However, not having such a notice will not prevent you from filing an employment discrimination complaint based on age.

The Notice of Right to Sue will indicate that you, as the litigant, have the right to request the court to appoint an attorney to represent you if, for financial reasons, you are unable to retain your own attorney. You should bear in mind that in this court, a request for appointment of an attorney will be considered only after a complaint has been filed and is pending before the court.

B. PREPARING THE COMPLAINT: To assist a party appearing *pro se* in filing an employment discrimination complaint, the office of the clerk has prepared an information packet called **Information on Filing an Employment Discrimination Complaint.** The packet is available at the clerk's office. The packet includes a sample complaint form to assist you in filing an employment discrimination complaint. You should make certain that your complaint is legible and can be easily read by the judge.

SECTION V
APPLICATION TO PROCEED
IN FORMA PAUPERIS

As is noted earlier in this Guide, filing a case in this court requires the plaintiff to pay a $400 filing fee at the time the new case is filed. If you are unable to pay this fee, you may apply to have payment of the fee waived. Bear in mind that you can apply for waiver of the fee only after your action is filed. The clerk's office will accept your case without payment if, at the time you file it, you also apply for waiver of the fee. If the judge subsequently denies your waiver application, you will be required to pay the $400 fee; if you do not pay it within a specified period of time, your case will be dismissed.

The application process requires that you complete and submit an **Application to Proceed *in Forma Pauperis***. An application is attached to this Guide as Appendix C. Brief instructions for completing the application are as follows.

At the top of the application, you must note the name of the case or case **caption**: the case name consists of your name as plaintiff above the **v.** and the names(s) of the defendant(s) below the **v.** Staff in the clerk's office will provide the case number.

You must answer all questions truthfully and completely. If you own real estate or automobiles that have outstanding mortgages or loans, you should be very specific about your debt balance so the magistrate judge who reviews the application has accurate information as to the property's value. You also must sign the statement under penalty of perjury.

If you currently are incarcerated, you must have the institution's financial officer certify the amount of money in your prisoner account. There is a special guide available for prisoners which explains the special provisions of law related to the filing of petitions or complaints with a waiver of the filing fee. *Pro se* litigants who are not incarcerated need not complete the Certificate Section.

The completed application form should be submitted to the clerk's office. Staff there will transmit it with the complaint to a magistrate judge for review. If the magistrate judge grants the application, it will be returned with the case file to the clerk's office for subsequent processing. When the magistrate judge determines that the application should not be approved, he or she will consult with a district judge who will either grant or deny the application. In some instances, the judge may grant partial waiver; in such case, you would be required to pay a portion of the filing fee. As was noted earlier, if your application is denied, you may file your action only if you pay the

filing fee.

Because the process of reviewing your application may take more than one business day, you should call the intake office the following day to determine whether it was approved. The telephone number is (801) 524-6100.

SECTION VI
REQUEST FOR APPOINTMENT OF COUNSEL

Pro se litigants may ask the court to appoint an attorney or counsel, for them in a civil case. The Court has a limited number of attorneys who accept cases on behalf of the Court. These attorneys serve *pro bono,* or without charge, to the *pro se* litigant. *Pro se* litigants have no right to be represented by court-appointed counsel, and the court has no obligation to appoint counsel. The court will appoint counsel only in a few select cases where having an attorney seems particularly appropriate or important. If you would like to request that the court appoint counsel to represent you in your lawsuit, you must file a "motion for appointment of counsel" form with the court. The form should be filed with the complaint. A copy of a motion for appointment of counsel is attached to this Guide as Appendix E.

APPENDIX A

Name:

Address:

Telephone:

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH - _____ DIVISION

	:	
Plaintiff,	:	**MOTION FOR**
	:	**OFFICIAL SERVICE**
v.	:	**OF PROCESS**
	:	
	:	
Defendant(s).	:	**Civil No:**
	:	

The plaintiff in the above entitled matter hereby moves the court for an order directing the United States Marshal's Service to serve process pursuant to 28 U.S.C. § 1915.

The court has already approved my application to file the matter *in forma pauperis.* The full names and addresses of the defendants are contained in the complaint.

Dated this ____day of _____, 20__.

_____

(Print your name below your signature.)

APPENDIX A (CONTINUED)

Name:

Address:

Telephone:

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - _____ DIVISION

	:	
Plaintiff,	:	
	:	
v.	:	**ORDER**
	:	
	:	
Defendant(s).	:	**Civil No:**
	:	

It having been determined that the plaintiff(s) may proceed in forma pauperis,

IT IS ORDERED that the United States Marshal serve a copy of the complaint and summons upon the following defendant(s):

_____

_____

_____

All costs of service shall be advanced by the United States.

Dated this ____day of _____, 20__.

_____

United States District or Magistrate Judge

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Office of the Clerk of Court

District Court Fee Schedule
Effective June 1, 2012

The fees included in the District Court Miscellaneous Fee Schedule are to be charged for services provided by the district courts.

• The United States should not be charged fees under this schedule, with the exception of records searches, photocopies and reproduction of audio recordings when the information requested is available through remote electronic access.

• Federal agencies or programs that are funded from judiciary appropriations (agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. 3006 and bankruptcy administrators) should not be charged any fees under this schedule.

FILING FEES

$350.00	Civil case filing fee
$46.00	For filing any document that is not related to a pending case or proceeding. *Fee applies to (i) filing of petition to perpetuate testimony, Fed. Rule of Civil Procedure 27(a), (ii) filing of papers by trustees under 28 U.S.C. § 754, (iii) filing of letters rogatory or letters of request, and (iv) registering of a judgment from another district pursuant to 28 U.S.C. § 1963)*
$6,355.00	For filing an action brought under Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, P.L. 104-114, 110 Stat. § 785 (1996). *(This fee is in addition to the filing fee prescribed in 28 U.S.C. 1914(a) for instituting any civil action other than a writ of habeas corpus.*)

NOTICES OF APPEAL

$455.00	To the Tenth Circuit Court of Appeals
$37.00	For an appeal to a district judge from a judgment of conviction by a magistrate judge in a misdemeanor case.

RECORDS SEARCH

$30.00	For conducting a search of the district court records, $26 per name or item

searched.
This fee applies to services rendered on behalf of the United States if the information requested is available through electronic access.

CERTIFICATION AND EXEMPLIFICATION

11.00 For certification of any document
$21.00 For exemplification of any document.

PHOTOCOPIES

$.50 For reproducing any record or paper, $.50 per page.
This fee shall apply to paper copies made from either (1) original documents; or (2) microfiche or microfilm reproductions of the original records.
This fee applies to services rendered on behalf of the United States if the information is available through electronic access.
$.10 Per page printed from the public access terminals in the Clerk's Office.

MICROFICHE/MICROFILM

$6.00 For each microfiche sheet of film or microfilm jacket copy of any court record, where available.

AUDIO RECORDINGS

$30.00 For reproduction of an audio recording of a court proceeding.
This fee applies to services rendered on behalf of the United States if the information is available through electronic access.

ARCHIVED CASE FILE RETRIEVAL

$53.00 Per shipment. For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court.

RETURNED CHECKS

$53.00 For a check paid into the court which is returned for lack of funds.

ATTORNEY ADMISSION

$176.00 For original admission of attorneys to practice in the District of Utah, including

a certificate of admission.

$15.00 Pro Hac Vice Admission.

$15.00 Annual Court Bar Registration.

$18.00 For a duplicate certificate of admission or certificate of good standing.

DISTRICT COURT RULES OF PRACTICE

$15.00 Tabbed spiral-bound edition

$5.00 CD

REGISTRY FUND ACCOUNTS

The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.

For management of registry funds invested through the Court Registry Investment System, a fee at a rate of 2.5 basis points shall be assessed from interest earnings. (Not used in the District of Utah)

ELECTRONIC ACCESS TO CASE INFORMATION DATABASES

$.10 Per page to view case information on the WebPACER system. Maximum charge per session for multiple pages is $3.00, equivalent to 30 pages. There will be no additional charge per session for pages exceeding 30. Use of WebPACER requires users to register with the PACER Service Center. Call 1-800-676-6856. Fees are invoiced quarterly. Fee applies to all users -- private/public/state/federal, except as noted in the introductory paragraph to this fee schedule. The court, for good cause, may exempt persons or classes of persons from these fees, in order to avoid unreasonable burdens and to promote public access to such information.

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____	)	
Plaintiff	)	
v.	)	Civil Action No.
_____	)	
Defendant	)	

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	❒ Yes	❒ No
(b) Rent payments, interest, or dividends	❒ Yes	❒ No
(c) Pension, annuity, or life insurance payments	❒ Yes	❒ No
(d) Disability, or worker's compensation payments	❒ Yes	❒ No
(e) Gifts, or inheritances	❒ Yes	❒ No
(f) Any other sources	❒ Yes	❒ 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

APPENDIX D

Name:

Address:

Telephone:

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH - _____ DIVISION

Plaintiff,	:	
v.	:	**CERTIFICATE OF SERVICE**
Defendant(s).	:	**Civil No:**

I hereby certify that a copy of the foregoing _____
(Name of pleading)

was mailed/delivered to _____ at _____
(choose one) (Name of defendant(s) or defendant's attorney) (Address)

on _____, 20___.
(Date)

_____
(Signature of person mailing document)

APPENDIX E

Name:

Address:

Telephone:

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - _____ DIVISION

	:	
Plaintiff,	:	**MOTION FOR**
	:	**APPOINTMENT**
v.	:	**OF COUNSEL**
	:	
	:	
Defendant(s).	:	**Civil No:**
	:	

The plaintiff in the above entitled matter hereby moves the court for an order appointing legal counsel to act on his/her behalf.

The court has already approved the plaintiff's application to file the matter *in forma pauperis.*

Dated this ____day of _____, 20__.

_____

(Print your name below your signature.)