

# Rule 3 – Commencing an Action

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## OKLAHOMA NORTHERN DISTRICT COURT – REDLINE VERSION

### LCvR3-1 Civil Cover Sheet and Initiating Document.

- (a) **Civil Cover Sheet.** A party commencing an action shall file, as separate documents, (1) the document initiating the civil action and (2) a completed civil cover sheet, Form **JS-44**, which is available from the Court Clerk's office. The civil cover sheet is for administrative purposes, and information appearing on the civil cover sheet will have no legal effect in the action.

CHANGES TO CLARIFY THAT THE CIVIL COVER SHEET MUST BE FILED SEPARATELY AND IS FOR ADMINISTRATIVE PURPOSES ONLY. THE REQUIREMENT FOR NUMBERING THE PARTIES WAS MOVED TO A NEW SUBSECTION "d" OF THIS RULE.

- (b) **Civil Cover Sheet Exceptions.** Persons filing civil cases who are at the time of such filing in custody of Civil, State, or Federal institutions, and persons filing civil cases pro se, are not required to file a civil cover sheet.

COURT INTERNALLY COMPLETES A CIVIL COVER SHEETS IN PRISONER AND PRO SE CASES.

- (c) **Initiating Documents on Court Required Forms.** Petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2241 or 28 U.S.C. § 2254, motions to vacate sentence pursuant to 28 U.S.C. § 2255, and civil rights complaints pursuant to 42 U.S.C. § 1983 or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), filed by persons in custody of Civil, State, or Federal Institutions must be submitted on forms approved by the court and in accordance with the instructions provided with the forms. Forms and instructions are available, upon request, from the court clerk's office or on the court's website.

ADDING A NEW SUBSECTION OF RULE MANDATING CERTAIN INITIATING DOCUMENTS BE ON COURT APPROVED FORMS.

- (d) **Numbering Parties.** Counsel and pro se litigants are required to number each party only in the caption of the initiating document.
- (e) **Motions.** The initiating document should not include any motion. Any motion intended to accompany an initiating document, such as a motion for a temporary restraining order, must be prepared and filed as a separate document.

ELIMINATED CURRENT LCvR3.2. CONFLICTS WITH CURRENT FEDERAL RULE AND LOCAL PRACTICE. WE DO NOT REFUSE TO FILE NEW COMPLAINT WITHOUT FILING FEE. WE ACCEPT, FILE, AND SETUP NEW CASE. COURT DISMISSES CASE IF FILING FEE NOT PAID.

### LCvR3-2 *In Forma Pauperis* Motions.

- (a) **In Forma Pauperis Motion.** An applicant who seeks leave to proceed without prepayment of the filing fees must submit a motion to proceed *in forma pauperis* on the court approved form available from the clerk's office or on our public web site.
- (b) **Prisoner Account Certificate.** In the case of a prisoner, such motion must also include a certificate executed by an authorized officer of the appropriate penal institution stating:
- (1) the amount of money or securities currently on deposit to the prisoner's credit in any institutional account;
  - (2) the average monthly deposits to the prisoner's account for the six-month period immediately preceding the filing of the action; and (3) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the action.
- (c) In the event that the prisoner has been in more than one penal institution during the six-month period immediately preceding the filing of the action, the prisoner must obtain the required certificate from the appropriate official at each institution.
- (d) **In Forma Pauperis Denial.** *In forma pauperis* status may be denied a prisoner seeking to bring a civil action, or appeal a judgment in a civil action, if the total balance of the prisoner's institutional accounts equals or exceeds the sum of the required filing fee plus \$10.00. In the event *in forma pauperis* status is denied, payment of the entire filing fee shall be required to commence the action or appeal. In the event the motion is denied, the filing party shall have twenty-one (21) days, unless a different time is specified by the Court, within which to pay the required filing fees. Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling.

**MINOR CHANGES TO REFLECT CURRENT PROCEDURES.**

**LCvR3-3 Partial Filing Fees.**

- (a) **Partial Filing Fees.** Prisoners allowed to proceed *in forma pauperis* in civil actions or appeals in civil actions shall be assessed an initial partial filing fee payment and monthly periodic payments until the filing fee is paid in full, as prescribed by 28 U.S.C. § 1915(b).
- (b) **Failure to Pay.** Failure of any applicant to pay the initial partial filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing for failure to pay by the date specified shall be cause for dismissal of the action without prejudice to refiling.
- (c) **Service of Process.** Unless otherwise directed by the Court, service of process will not issue until the applicant has paid the initial partial filing fee ordered by the Court.

REMOVED TEXT THAT DUPLICATES FEDERAL RULE.

CURRENT LCvR3.5 DUPLICATES FEDERAL RULE. ELIMINATED THIS LOCAL RULE.

#### **LCvR3-4 Copyright, Trademark and Patent Cases.**

Complaints filed in copyright, trademark and patent cases shall cite therein the copyright registration number, trademark number or patent number. If such number is unavailable at the time of filing, the complaint shall recite a serial number or other identification number obtained from the Registrar of Copyrights or the Commissioner of Patents and Trademarks. The party filing the complaint must also provide at the time of filing the required notice to the Patent and Trademark Office in patent, plant variety protection and trademark matters (Form AO-120)\_ and the required notice to the Copyright Office in copyright matters (Form AO-121).

ADDED LANGUAGE FOUND IN OTHER COURT RULES THAT MOVE REQUIREMENT FROM CLERK'S OFFICE TO FILER TO COMPLETE REQUIRED AO FORMS.

MOVED THIS TO LOCAL RULE 54 THAT SPECIFICALLY DEALS WITH ATTORNEY FEES.

#### **LCvR3-5 Statute of Limitations**

For new cases submitted to the court by email in which a statute of limitations issue exists necessitating the case be filed that day, the party should notify the clerk's office by telephone and also by including the information in the email. If properly notified the clerk's office shall deem the filing date of the documents the date they are received by email. A party who fails to properly notify the clerk's office and files the documents after the statute of limitations has run must seek relief from the Court by written motion.

ADDED THE LANGUAGE CURRENTLY COVERED UNDER GENERAL ORDER 11-01 TO THE LOCAL RULES