

## LCvR3 – Commencing an Action

### 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~~ [on the Court's website](#). The civil cover sheet is for administrative purposes and information appearing on the civil cover sheet will have no legal effect in the action.

**(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.

**(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 Federal 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](#).

**(d) Numbering Parties.** Counsel and pro se ~~litigants-parties~~ are required to number each party only in the caption of the initiating document. 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.

### 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 file~~ a motion to proceed ~~in forma pauperis in forma pauperis~~ on the court approved form ([Pro Se](#) or [Prisoner](#)) available ~~from the Court Clerk's office or~~ on the [Court's website](#).

**(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~~ if 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.

**(cd) In Forma Pauperis Denial.** ~~In forma pauperis 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 any case, in the event in forma pauperis if in forma pauperis~~ status is denied, (1) payment of the entire filing fee shall be required to commence the action or appeal, and (2) ~~in the event the motion is denied, the filing party applicant~~ shall have twenty-one 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 re-filing.~~

### 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 shall be required to make 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 re-filing.

**(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.

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

Complaints filed in copyright, trademark, and patent cases must cite therein the copyright registration number, trademark number, or patent number. If such number is unavailable at the time of filing, the complaint must 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](#)).

### LCvR3-5 Statute of Limitations.

For new cases submitted to the Court by email for which a statute of limitations issue exists, necessitating the case be filed that day, the party should notify the ~~Court~~ Clerk's office by telephone and ~~also~~ by including the information in the email. If properly notified, the ~~Court~~ 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 ~~Court~~ Clerk's office and files the documents after the statute of limitations has run must seek relief from the Court by written motion.

### SUMMARY OF CHANGES

Minor changes for style, clarity, and consistency. Proposed removal of italics for "in forma pauperis" is consistent with federal rules and statutes. Rule 3-2(c) is combined with 3-2(b) as (c) also pertains to prisoner account certificate and should not be a separate subsection. Last sentence of former 3-2(d) is deleted as duplicative of 3-3(b).