

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

INFORMATION FOR FILING
EMPLOYMENT DISCRIMINATION COMPLAINT

OFFICE OF THE CLERK OF COURT

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Table of Contents

Introduction.....	1
Procedures To Follow Before A Complaint Is Filed	3
Preparing The Complaint	4
Filing The Complaint.....	7

INTRODUCTION

This information packet is designed to help you file an employment discrimination lawsuit in federal court without the help of a trained and licensed attorney. When you represent yourself in a lawsuit you are known as a pro se litigant or a person who is proceeding pro se.

In order to start a lawsuit based on a claim of employment discrimination, you must prepare and file with the court what is known as a complaint. This packet of instructions is designed to help you prepare an employment discrimination complaint under Title VII of the Civil Rights Act of 1964. For information on how to actually file the complaint with the court after you have prepared it and how to proceed in your lawsuit, you should obtain and read the Pro Se Litigant Guide, which is available in any of the divisional offices of the Clerk of Court located in Asheville, Charlotte and Statesville, NC or on the court's website at www.ncwd.uscourts.gov.

A sample complaint form is included in this packet to help you to prepare your complaint. Your complaint must be typewritten or legibly handwritten. All questions must be answered clearly in the correct space on the form. If you need extra space, additional page(s) can be inserted and must be legible and indicate which question you are answering. If you are suing more than one person, you should state clearly which defendant you accuse of each act.

PROCEDURE TO FOLLOW BEFORE THE COMPLAINT IS FILED

Before discussing how to actually prepare a complaint, there is some important information you must know about employment discrimination cases. Prior to filing an employment discrimination complaint in federal court, the plaintiff is required to follow specific administrative procedures. Note: This information packet does not provide a complete statement of the law on the administrative procedures to follow before filing an employment discrimination complaint in federal court. The procedures are complicated and it is your responsibility to make sure that all procedures are followed correctly and within the applicable time limit.

If you wish to file an employment discrimination case in this court you must first file your charges with the Equal Employment Opportunity Commission (EEOC). Barring any complications, the EEOC will issue 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 have 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, and that the court does not have to grant your request.

PREPARING THE COMPLAINT

1. To assist a party appearing pro se in filing an employment discrimination complaint, the office of the court has prepared a complaint form. A copy of that form is attached to this information packet. The instructions in this section correspond by name to the sections in the sample complaint form.
2. If you need more space than the sample complaint form provides to record details, you should use additional sheets the same size as the complaint. You may attach to your complaint copies of documents, that in your judgment, support your claims. A good example of such an exhibit in employment discrimination cases is a copy of the Notice of Right to Sue. These attachments are called exhibits. It is important that you not attach exhibits that do not specifically support or strengthen your case. Generally such exhibits will not help your case and they will add to the time it takes the judge to review your complaint.

- a. **Caption and Heading:** Before your case can be filed with the Clerk's Office, the first page of your complaint must indicate the Division of the Western District of North Carolina in which the case originates. Determining the division is relatively easy.

Asheville Division: If the defendant(s) reside in or the action on which the lawsuit is based occurred in one of the following counties, it is a Asheville Division case: Avery, Buncombe, Burke, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey.

Charlotte Division: If the defendant(s) reside in or the action on which the lawsuit is based occurred in one of the following counties, it is a Charlotte Division case: Anson, Gaston, Mecklenburg and Union counties.

Statesville Division: If the defendant(s) reside in or the action on which the lawsuit is based occurred in one of the following counties, it is a Statesville

Division case: Alexander, Alleghany, Ashe, Caldwell, Catawba, Iredell, Watauga and Wilkes counties.

- b. Jurisdiction: In this section, you inform the court by what authority the case should be heard in federal court rather than state court or some other forum. In the attached complaint, the jurisdiction section has been completed for you. The jurisdiction of this court to hear these actions is based upon 42 U.S.C. Section 2000e – 5 and when the discrimination is based on age, 29 U.S.C. Section 626(c)(1). U.S.C. stands for “United States Code”, which is a collection of all the federal laws in the country.
- c. Parties: Next, you name the parties. As the person initiating the lawsuit, you are the plaintiff and must identify yourself as such. For each defendant named in your complaint, you should list their current address and a description of his or her employment.
- d. Nature of the Case: You can complete this section by responding to the series of questions on the complaint form. Your answers describe the basis of your claim. Again, if you are filing this action because you have been discriminated by reason of your age, you may not have received a “Notice of Right to Sue.” If you did not, you still are able to file the action; question five requires the Notice in all other employment discrimination actions. Question six can be answered by checking one or more of the types of discriminatory acts that are listed. If in answer question seven you feel that the basis of discrimination is something other than the ones listed, you can add the grounds for your suit.
- e. Cause of Action: In this section, you are required to provide specific details of precisely how you were discriminated against in your employment. This description should include references to relevant dates, times and locations. It should explain to the court what happened by specifically describing each defendant’s behavior or action and how that behavior or action – or lack of action constituted discrimination against you. You are not required to cite other cases in the law or to make a legal argument . However, you must be specific about (i) the particulars of the event, and (ii) each defendant’s misconduct and how such misconduct resulted in unlawful discriminatory action against you.

Where your complaint includes more than one incident, you should clearly distinguish between them by preparing a separate description – usually a paragraph – for each incident. Each incident should be identified as a separate count, and each count must include appropriate facts and evidence in support of the claims made in the court. Each incident must be clearly and

specifically described; it should include the relevant time, date and location. Each incident description also should clearly identify the relevant defendant and what that defendant's role was in the incident.

If your case involves an allegation that two or more defendants jointly conspired to discriminate against you, you must, in a separate count, state the approximate date the defendants entered into the conspiracy. Moreover, in supporting facts, you should refer to any evidence you have that the defendants indeed did conspire together to unlawfully discriminate against you.

- f. **Injury:** In this section you must state as specifically as possible the actual injury you suffered from the action of the defendant that resulted in the unlawful discrimination. For example, if you claim that you were improperly denied a promotion, you should document the financial and other losses that resulted from the denial. Simply stating that you have been discriminated against in your employment is insufficient and will do little to persuade the judge that you have suffered an injury that merits the attention of the court. As the plaintiff, you must explain to the judge how the action of the defendant(s) was discriminatory and harmed you.
- g. **Previous Lawsuits and Administrative Relief:** It is important in this section that you alert the judge to any other case in which you are or were a part that may be connected with the case you are now filing. If, for example, you filed an earlier case that includes some of the same facts and events you rely on for this case, the judge needs to know. If you have submitted a formal complaint to an agency of the state on the issues you raise in this case, or if you previously asked for or participated in an administrative review process to attempt to solve the problem, you must tell the court the results, if any, of your action.
- h. **Request for Relief:** In this section, you describe for the judge the result or relief you seek as a result of your lawsuit. The relief you requested must be related specifically to the injury you have suffered. Jury trial request, mark the appropriate box: yes or no.
- i. **Declaration Under Penalty Of Perjury:** You must sign your complaint and file it with the Clerk of Court. When you do, you are making a declaration under law to the court that everything in your complaint is true. It is important for you to realize that the judge assigned to your case can order sanctions or penalties against your or any other party that files complaints or pleadings that are frivolous, without merit, based on false or misleading information, etc. These sanctions or penalties can take many forms. Examples include

dismissing your case, assessing fines, requiring you to pay the attorney costs for the opposing party, limiting your filing privileges in federal court, etc. If you intentionally make false statements in the document you file with the Clerk, you may be charged with criminal lying or perjury, an offense with potentially serious consequences.

FILING THE COMPLAINT

You may file the complaint with the court by delivering it or mailing it to any of the divisional offices of the Clerk of Court:

Asheville Divisional Office: 100 Otis St., Rm. 309, Asheville NC 28801.

Charlotte Divisional Office: 401 W. Trade St, Rm. 210, Charlotte NC 28202.

Statesville Divisional Office: 200 W. Broad St., Rm. 303, Statesville NC 28677.

Whether you deliver or mail your complaint to the court, you must submit (1) an original of the complaint (2) a completed civil cover sheet and (3) \$400.00 filing fee.

The \$400.00 filing fee may be requested to be waived by the court if you complete, and the court accepts, an application to proceed in forma pauperis. An application to proceed in forma pauperis asks the court to have the government pay your filing fee for you because you do not have the money to do so yourself. Applications to proceed in forma pauperis are available at any of the divisional offices of the Clerk or on the court's website at www.ncwd.uscourts.gov. You should submit your application to proceed in forma pauperis along with your complaint to the Clerk's Office. If the court grants your application, you will be able to proceed without submitted the \$400.00 filing fee.

WAIVER APPLICATION DENIED IN ITS ENTIRETY: If a judge subsequently denies your waiver application in its entirety, you will be required to pay the \$400.00 filing fee within the time specified within the order denying the application. In the event the filing fee is not paid within the time specified, your complaint will be summarily dismissed.

WAIVER APPLICATION DENIED IN PART – PORTION OF FILING FEE ORDERED TO BE PAID: If the Judge orders that a portion of the filing fee must be paid within a specified time, your filing fee must be paid within the time period specified by the court or your case will be summarily dismissed.

NOTE: Each Defendant named in your lawsuit must be notified of your law suit in a specific manner governed by law. You should refer to the court's Pro Se Litigant Guide for information on service of the complaint.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NO. _____

Plaintiff,

vs.

COMPLAINT

Defendant(s).

A. JURISDICTION

This action is brought pursuant to Title VII of the Civil Rights Act of 1964 as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. Section 2000e(5). Equitable and other relief are also sought under 42 U.S.C. 2000e(5)(g). Jurisdiction is also based on 28 U.S.C. Sections 1331, 1343 and 42 U.S.C. Sections 1981 et seq. Where employment discrimination based upon age is alleged, jurisdiction is conferred by 29 U.S.C. Sections 626(c)(1) and 626(e) and appropriate relief is also sought.

B. PARTIES

1. Name of Plaintiff: _____
Address: _____

2. Name of first Defendant: _____
Address: _____

3. Name of second Defendant: _____
Address: _____

4. Name of third Defendant: _____
Address: _____

(Use additional sheets if necessary.)

C. NATURE OF CASE

1. The address at which I sought employment or was employed by the defendant(s) is:

2. The discriminatory acts occurred on or about:
_____(Month, Day, Year)

3. I filed charges with the Equal Employment Opportunity Commission regarding the defendant's discriminatory conduct on or about:

_____ (Month, Day, Year)

4. The Equal Employment Opportunity Commission sent the attached "Notice of Right to Sue" which I received on:

_____ (Month, Day, Year)

5. The discriminatory acts that are the basis of this suit are:

- a. _____ Failure to employ me.
- b. _____ Failure to promote me.
- c. _____ Termination of my employment.
- d. _____ Demotion.
- e. _____ Denied equal pay/work.
- f. _____ Sexual harassment.
- g. _____ General harassment.
- h. _____ Other acts (Be specific: Attach an additional sheet if necessary)

6. Defendant's conduct is discriminatory with respect to:

- a. _____ my race
- b. _____ my color
- c. _____ my sex
- d. _____ my religion
- e. _____ my national origin
- f. _____ my age

7. I believe that the defendant is still committing these acts against me.

YES _____ NO _____

D. CAUSE OF ACTION

1. I allege that the defendant has discriminated against me and that the following facts form the basis for my allegations:

Count 1: _____

Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

Count 2: _____

Supporting Facts:

E. INJURY

How have you been injured by the actions of the defendant(s)?

F. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action? YES _____ NO _____

If your answer is "YES", describe each lawsuit. (If there are more than one lawsuits, describe additional lawsuits on additional separate pages, using the same outline.)

1. Parties to previous lawsuits:

Plaintiff(s): _____

Defendant(s): _____

2. Name of court and case or docket number: _____

3. Disposition (for example, was the case dismissed? Was it appealed? Is it still pending?)

4. Issues raised:

5. When did you file the lawsuit? _____ (Date: Month/Year)

6. When was it (will it be) decided? _____

Have you previously sought informal or form relief from the appropriate administrative officials regarding the acts complained of in Part D?

YES _____ NO _____

If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

G. REQUEST FOR RELIEF

I believe I am entitled to the following relief:

JURY TRIAL REQUESTED

YES _____ NO _____

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at _____ on _____.
(Location) (Date)

Signature