

# Filing an Adversary Proceeding for *Pro Se* Filers

Please note that this guide does not contain all the information that a pro se filer must know regarding adversary proceedings. We recommend that you read Title 11 and 11a of the United States Code, and the Middle District's local rules (located on our website: [www.almb.uscourts.gov](http://www.almb.uscourts.gov)) to know and understand all your duties as a plaintiff.

## Clerk's Note

Federal statute prohibits anyone from the clerk's office from providing legal advice on any subject. Legal advice includes, but is not limited to, acting on a person's behalf in presenting a claim or defense to a court and advising a person on the benefits of a claim or defense. Clerk's office staff, therefore, will not provide information regarding the following:

- The application of laws and rules to individual claims or defenses
- The validity of jurisdiction in a particular court
- Whether a complaint properly represents a claim
- The best legal procedures to accomplish an objective in your case
- An interpretation of case law
- The probable result of taking or not taking action in a case
- Advice on who should receive proper notice or service

## Bankruptcy Rule 9037 Requirements

The Judicial Conference of the United States adopted a policy in September 2001 regarding private and public access to electronic case files. This policy requires litigants in bankruptcy cases to modify or partially redact personal data identifiers contained in documents that will be made available electronically.

**You should not include sensitive information in any document filed with the court** unless such inclusion is required by the Federal Rules of Bankruptcy Procedure, an official form, or the inclusion is otherwise necessary and relevant to the case. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading:

- **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
- **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.

- **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In addition, exercise caution when filing documents that contain the following:

1. any personal identifying number, such as driver's license number;
2. medical records, treatment, and diagnosis;
3. employment history;
4. individual financial information; and
5. proprietary or trade secret information.

### **What is an adversary proceeding?**

An adversary proceeding is a lawsuit arising in or related to a particular bankruptcy case. It is commenced by filing a complaint with the Court, and it is given a separate case number.

An adversary proceeding is the bankruptcy court's version of a civil complaint to:

1. Recover money or property.
2. Determine the validity, priority, or extent of a lien or other interest in property.
3. Obtain approval for the sale of both the interest of the estate and of a co-owner in property.
4. Object to or revoke a discharge.
5. Revoke an order of confirmation of a chapter 11, chapter 12, or chapter 13 plan.
6. Determine the dischargeability of a debt.
7. Obtain an injunction or other equitable relief.
8. Subordinate any allowed claim or interest.
9. Obtain a declaratory judgment relating to any of the foregoing in points 1 through 8.

### **Required Filing Fees**

If a creditor or trustee files an adversary proceeding, there is a required filing fee. Debtors are not required to pay a fee to file an adversary proceeding. The only exception to this is if the debtor is a chapter 11 debtor in possession and the adversary action falls under one of the following categories: 11 U.S.C. 363(h), 542(a), 544, 545, 547(a), 548(a), 550 & 553(b).

## **ADVERSARY PROCEEDING FEES**

Complaint	\$350
Notice of Removal	\$350
Complaint by Chapter 7 or Chapter 13 debtor	\$0

### Methods of Payment

We do not accept cash from anyone. There are no exceptions. Checks and money orders must be made out to U.S. Bankruptcy Court.

1. From debtors we will accept cashier's checks or money orders.
2. From debtors in possession we will accept cashier's checks, money orders, or business checks imprinted with the words Debtor in Possession or DIP.
3. Attorneys must settle charges through Pay.Gov using debit or credit cards. In the occasional instance when an attorney is unable to use a debit or credit card, we will accept a check drawn on the attorney's trust account.
4. From non-debtors we will accept credit cards, debit cards, cashier's checks, or money orders.

Please mail payments to U.S. Bankruptcy Court, One Church Street, Montgomery, AL 36104.

### Required Forms

Visit [www.uscourts.gov/forms/bankruptcy-forms](http://www.uscourts.gov/forms/bankruptcy-forms) to obtain a copy of the required forms.

- B 1040 Adversary Proceeding Cover Sheet
- B 2500A Summons in an Adversary Proceeding

You will also need to prepare a complaint. The complaint sets forth the facts and claims which the plaintiff (the party filing the complaint) believes justify the granting of relief against the defendant (the party against whom the complaint is being filed). The complaint should also describe the relief which the plaintiff seeks. As each complaint is unique, there is no specific form provided by the court. At the end of this guide, we have given you a sample you may use, if you like.

### Instructions for preparing your forms

1. The adversary proceeding cover sheet (Official form B 1040) (12/15) should be filled out, signed, and dated.

2. The complaint should list the case number, chapter number, debtor's name, plaintiff's name, defendant's name, and the judge's name in the heading. Please see the attached example. It should be signed and have a signature block which contains your name, address, phone number, and an email address.
3. The summons in an adversary proceeding (Official form B 2500A) (12/15) consists of 3 pages. The first page titled "Summons in an Adversary Proceeding" should be filled out. The second page, "Certificate of Service," and the third page, "Additional Addresses," should not be filled out.

**Process of filing the complaint and serving the summons**

1. Deliver your prepared documents to the following address:

U.S Bankruptcy Clerk's Office  
One Church Street  
Montgomery, AL 36104

2. You may hand-deliver the documents or you may mail them to the above address. The clerk's office will process the documents and assign the adversary proceeding a case number. They will also docket a certified copy of the summons.
3. Once the summons has been certified, you will receive a copy in the mail.
4. You must serve it on the required parties within the required time limit.
5. As soon as you have served all defendants with the certified summons, you must file a certificate of service with the court. Use a copy of the certified 3-page Summons in an Adversary Proceeding, this time filling out page two, and page three if necessary. It is the responsibility of the plaintiff or the plaintiff's attorney to timely serve the summons and to file the Certificate of Service with the clerk's office.
  - a. If you do not serve the summons within the required time and file a certificate of service with the court, you will be noticed that the time for executing the summons has passed. You will need to file a request for issuance of summons with the court to obtain a new certified summons that is ready to be executed.

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA**

Sample Complaint Format

In re

Case No. \_\_\_\_\_

DEBTOR'S NAME,

Chapter \_\_\_\_\_

Debtor.

PLAINTIFF'S NAME,

Plaintiff,

Adversary Proceeding

No. \_\_\_\_\_

v.

Judge \_\_\_\_\_

DEFENDANT'S NAME,

Defendant.

Complaint

Body of document

Signature

\_\_\_\_\_  
Name of signing party

Address line 1

Address line 2

Phone number

Email address