

ADVERSARY PROCEEDINGS

Adversary proceedings are those actions governed by Part VII of the Federal Rules of Bankruptcy Procedure. To commence an adversary proceeding, the plaintiff must file the following:

1. A signed original complaint plus one copy. The complaint must state if the matter is a core or non-core proceeding.
2. A signed [adversary cover sheet](#).
3. A completed [summons and notice of pre-trial conference](#).

If the adversary proceeding is pending before Judge Eisenberg, a [Standing Pre-Trial Conference Order and Instructions](#) will be issued by the Clerk. Plaintiff is responsible for completing the caption and serving a copy of the order upon all parties and counsel to the proceeding. The order sets forth Judge Eisenberg's requirement that parties to the proceeding must file a joint preliminary pre-conference statement no later than five (5) days before the first pre-trial conference.

The current fee for filing a complaint is \$150.00. If a debtor is the plaintiff, no fee is required.

B104 (Rev. 2/92)	ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS		DEFENDANTS
ATTORNEYS (Firm Name, Address, and Telephone No.)		ATTORNEYS (If Known)
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input type="checkbox"/> 3 U.S. NOT A PARTY		
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)		
NATURE OF SUIT (Check the one most appropriate box only.)		
<input type="checkbox"/> 454 To recover money or property <input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan <input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of the foregoing of action		
<input type="checkbox"/> 435 To determine validity, priority, or extent of a lien or other interest in property <input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523 <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court		
<input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 498 Other (specify)		
<input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727 <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan		
ORIGIN OF PROCEEDINGS (Check one box only.)		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another Bankruptcy Court		
DEMAND	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT
<input type="checkbox"/> JURY DEMAND		
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR		BANKRUPTCY CASE NO.
DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE
FILING FEE (Check one box only.) <input type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED		
DATE	PRINT NAME	SIGNATURE OF ATTORNEY (OR PLAINTIFF)

ADVERSARY PROCEEDING COVER SHEET (Reverse Side)

This cover sheet must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney) and submitted to the clerk of the court upon the filing of a complaint initiating an adversary proceeding.

The cover sheet and the information contained on it *do not* replace or supplement the filing and service of pleadings or other papers as required by law, the Federal Rules of Bankruptcy Procedure, or the local rules of court. This form is required for the use of the clerk of the court to initiate the docket sheet and to prepare necessary indices and statistical records. A separate cover sheet must be submitted to the clerk of the court for each complaint filed. The form is largely self-explanatory.

Parties. The names of the parties to the adversary proceeding *exactly* as they appear on the complaint. Give the names and addresses of the attorneys if known. Following the heading "Party," check the appropriate box indicating whether the United States is a party named in the complaint.

Cause of Action. Give a brief description of the cause of action including all federal statutes involved. For example, "Complaint seeking damages for failure to disclose information, Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq.," or "Complaint by trustee to avoid a transfer of property by the debtor, 11 U.S.C. § 544."

Nature of Suit. Place an "X" in the appropriate box. Only one box should be checked. If the cause fits more than one category of suit, select the most definitive.

Origin of Proceedings. Check the appropriate box to indicate the origin of the case:

1. Original Proceeding.
2. Removed from a State or District Court.
4. Reinstated or Reopened.
5. Transferred from Another Bankruptcy Court.

Demand. On the next line, state the dollar amount demanded in the complaint in thousands of dollars. For \$1,000 enter "1," for \$10,000 enter "10," for \$100,000 enter "100," if \$1,000,000, enter "1000." If \$10,000,000 or more, enter "9999." If the amount is less than \$1,000, enter "0001." If no monetary demand is made, enter "XXXX." If the plaintiff is seeking non-monetary relief, state the relief sought, such as injunction or foreclosure of a mortgage.

Bankruptcy Case in Which This Adversary Proceeding Arises. Enter the name of the debtor and the docket number of the bankruptcy case from which the proceeding now being filed arose. Beneath, enter the district and divisional office where the case was filed, and the name of the presiding judge.

Related Adversary Proceedings. State the names of the parties and the six digit adversary proceeding number from any adversary proceeding concerning the same two parties or the same property currently pending in any bankruptcy court. On the next line, enter the district where the related case is pending, and the name of the presiding judge.

Filing Fee. Check one box. The fee must be paid upon filing unless the plaintiff meets one of the following exceptions. The fee is not required if the plaintiff is the United States government or the debtor. If the plaintiff is the trustee or a debtor in possession, and there are no liquid funds in the estate, the filing fee may be deferred until there are funds in the estate. (In the event no funds are ever recovered for the estate, there will be no fee.) There is no fee for adding a party after the adversary proceeding has been commenced.

Signature. This cover sheet must be signed by the attorney of record in the box on the right of the last line of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is *pro se*, that is, not represented by an attorney, the plaintiff must sign.

The name of the signatory must be printed in the box to the left of the signature. The date of the signing must be indicated in the box on the far left of the last line.

UNITED STATES BANKRUPTCY COURT

DISTRICT

In re

Bankruptcy Case No.

Debtor

Plaintiff

Adversary Proceeding No.

Defendant

SUMMONS AND NOTICE OF PRETRIAL CONFERENCE IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Address of Clerk

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney
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If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

Address	Room
	Date and Time

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

Date

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re

Case No.

Debtor.

-----X

STANDING PRE-TRIAL
CONFERENCE ORDER
AND INSTRUCTIONS

Plaintiff(s),

- against -

Adv. Proc. No.

Defendant(s).

-----X

Counsel for all parties to adversary proceedings commenced on or after August 10, 1992, are hereby ORDERED to confer and then prepare, execute, and file with the Court no later than five days before the first Pre-Trial Conference, a single document captioned PRELIMINARY PRE-CONFERENCE STATEMENT which sets forth the following information:

1. A concise statement of the nature of this action.
2. A separate brief description of all legal arguments. Include citations to all statutes, Bankruptcy Code sections, Bankruptcy Rules and case law intended to be relied on by each party.
3. A brief summary of relevant facts not in dispute.
4. A precise statement of facts in dispute (include jurisdiction, if applicable).
5. Identify and briefly describe all legal and factual issues to be decided by the Court.
6. A statement of anticipated discovery requirements.
7. A proposed discovery schedule and date of completion.
8. An estimate as to length of trial.

9. Preliminarily set forth the number of witnesses to be called by each party and a list of exhibits to be introduced into evidence.

10. Identify each witness to be called and identify to which disputed issues of fact such witnesses' testimony will be directed.

11. A statement as to whether any attempts have been made at resolving any of the issues in dispute and any results of such attempts.

Counsel for the Plaintiff is hereby directed to serve a copy of this Order upon all parties and counsel to the proceeding either with the summons and complaint or within ten (10) days thereafter and file proof of service together with the PRELIMINARY PRE-CONFERENCE STATEMENT.

It is expected that a single PRELIMINARY PRE-CONFERENCE STATEMENT will be filed in an adversary proceeding. However, if for any reason the parties cannot file a single PRELIMINARY PRE-CONFERENCE STATEMENT, separate PRELIMINARY PRE-CONFERENCE STATEMENTS may be filed with proof that each has been served upon all parties to the proceeding.

A copy of the PRELIMINARY PRE-CONFERENCE STATEMENT marked "filed" will be returned to you if a self-addressed stamped envelope is enclosed.

Failure to comply with this Order may result in sanctions including, but not limited to, the granting of relief by default, the striking of pleadings, or the preclusion of undisclosed documents or witnesses, together with costs.

Attendance of all counsel to the litigation is required at the PRE-TRIAL CONFERENCE.

Dated: Central Islip, New York

DOROTHY EISENBERG
Bankruptcy Judge