

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

MARILYN MARIE SMITH,	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 1:17-CV-1001
	:	
DEPARTMENT OF DEFENSE,	:	
<i>et al.</i> ,	:	
Defendants	:	

O R D E R

Plaintiff Marilyn Marie Smith filed the instant civil action on June 8, 2017. (Doc. 1). She did not pay a filing fee or complete an application for leave to proceed in forma pauperis (IFP), despite being provided with the standing practice order fully detailing such requirements. (See Docs. 2, 3). Furthermore, she does not appear to have served any of the named defendants as required by Federal Rule of Civil Procedure 4.

On September 14, 2017, this court ordered Plaintiff to pay the civil filing fee or to move to proceed IFP if she was financially unable to afford the \$400 fee. (Doc. 4). Plaintiff was also ordered to provide a properly completed USM-285 form for service by the United States Marshal for each named defendant in her lawsuit if she desired to proceed IFP. (Id.) Plaintiff was again provided with copies of the requisite forms, and given fourteen days to comply. (Id.)

Plaintiff partially complied with this order. On September 22, 2017, she filed a motion for leave to proceed IFP. (Doc. 5). She also submitted one USM-285 form, which listed only a handful of the nineteen named defendants. (Id.) The form provided

only one address for service, despite identifying four different defendants. (Id.) Oddly, two of the four defendants identified on the USM-285 form—“Wernersville State Hos[pital]” and “DDSP-KC”—are not named in her complaint. (Compare Doc. 6 with Doc. 1). Even more strangely, the form provides for copy of the notice of service to be sent to “Christ Jesus De Jesus.” (Doc. 6).

Plaintiff must do more if she desires to move forward with her lawsuit. As clearly explained in this court’s previous order, if Plaintiff wants the Marshals to serve her complaint, she must provide a separate USM-285 form for each named defendant. She must also properly and completely fill out each of those forms. Otherwise, it will be impossible for the Marshals to serve her complaint, and this court will be required to dismiss her lawsuit.

ACCORDINGLY, this 27th day of September, 2017, it is ORDERED as follows:

- (1) Plaintiff’s motion (Doc. 5) for leave to proceed in forma pauperis is GRANTED.
- (2) Within **fourteen (14) days** of the date of this order, Plaintiff shall provide a **fully completed** USM-285 form for **each named defendant** in her complaint that she desires the U.S. Marshals to serve. Another copy of this form is attached to this order.
- (3) If Plaintiff fails to comply with this order, this case will be dismissed. See Fed. R. Civ. P. 4(m). Any named defendant for which Plaintiff fails to provide a USM-285 form, or that Plaintiff does not independently serve with process in accordance with Federal Rule of Civil Procedure 4 within fourteen days, will be dismissed. Id.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

PROCESS RECEIPT AND RETURN
See "[Instructions for Service of Process by U.S. Marshal](#)"

PLAINTIFF	COURT CASE NUMBER
DEFENDANT	TYPE OF PROCESS

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	Number of process to be served with this Form 285	
	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of:	<input type="checkbox"/> PLAINTIFF	TELEPHONE NUMBER	DATE
	<input type="checkbox"/> DEFENDANT		

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. <i>(Sign only for USM 285 if more than one USM 285 is submitted)</i>	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	_____	No. _____	No. _____	_____	_____

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (*See remarks below*)

Name and title of individual served (<i>if not shown above</i>)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode	
Address (<i>complete only different than shown above</i>)	Date	Time <input type="checkbox"/> am <input type="checkbox"/> pm
Signature of U.S. Marshal or Deputy		

Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS:

- DISTRIBUTE TO:**
1. CLERK OF THE COURT
 2. USMS RECORD
 3. NOTICE OF SERVICE
 4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
 5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

INSTRUCTIONS FOR COMPLETING THE MARSHAL SERVICE FORM (FORM USM-285)

If you have not been otherwise instructed by the Court, you need a Marshal form for each of the defendants who will be served by the U.S. Marshal. It is very important to **accurately** complete the Marshal's form according to the instructions below. If you do not complete the form, the Marshal will not serve your papers. You should type the information or print it legibly in block letters. Make sure that the information can be read on all pages of the form. If the Marshal cannot read the form, the Marshal will not be able to serve your papers.

Attached is a copy of the Marshal's form. Each space that requires a response by you is marked with a letter. The instructions below explain how to complete each lettered space.

- A. The name of the plaintiff goes here. If there is more than one plaintiff, write the first plaintiff's name and then "et al."
- B. The docket number of the case, followed by the Judge's initials, goes here. For example, you would write "3:97cv1234 (ABC)."
- C. The name of the **first** defendant in the lawsuit goes here. For example, suppose James Jones is suing Warden Andy Anderson, Bob Black and Steve Smith. **Even if** this Marshal's form is to have Bob Black served, the name which goes in this space is Warden Anderson, because he is the first defendant.
- D. In this space you state what kind of process you are asking the Marshal to serve. If the Marshal is to serve the complaint, you write the word "complaint." If the Clerk has told you that you need a summons because the Marshal will be serving your complaint in person, then you would write the words "summons and complaint." Sometimes the Marshal will serve other papers for you such as a subpoena. If so, you would write "subpoena."
- E. In this space you write the name of the particular defendant you are asking the Marshal to serve with this Marshal's form. For example, in the lawsuit described in C above, the name that would go in this space would be "Bob Black" because he is the person to be served with this form. Unless you were otherwise instructed by the Court, you would also complete a separate form with Warden Anderson in this space and another form with Steve Smith in this space.
- F. In this space you would write the address of the particular defendant that you are asking the Marshal to serve with this Marshal's form. You must provide a complete street address. If you do not provide a complete address, the Marshal will not serve your papers.

G. Print your name and address here. This is where the Marshal will send you notice that your papers have been served. If you are a prisoner, you must include your inmate number.

H. In this space you place the number of copies of papers which are to be served by the Marshal with this one Marshal's form. Usually this will be "1." In some kinds of cases-- for example, cases in which you are suing a federal agency--the number will be greater.

I. In this space, write the number of defendants who can be identified at this time. For example, suppose Jane Jones sues Warden Taylor, C.O. John Doe and C.O. Wilson (John Doe is a fictitious name for an unidentified defendant). You would put "2" in this space because there are only two identified defendants who can be served now. Later, if you identify the name of one of the unidentified defendants, you can submit new forms to the Marshal to serve the newly identified defendant. If you are a prisoner, you may be instructed by the Court to put a different number in this space.

J. Check this box if any of your defendants is a federal agency or a federal official or if the United States is a defendant.

K. Write any special instructions here. For example, if you are suing a state official in his individual capacity you would write "Individual Capacity" in this space. Unless you are otherwise instructed by the Court, if you are suing a state official in his individual capacity and in his official capacity, you must complete two Marshal's forms for that person. On one form you would write "Individual Capacity" in this space; on the other form you would write "Official Capacity" in this space.

L. Sign your name here.

M. Check here to indicate whether you are the plaintiff or the defendant.

N. Write your telephone number here. If you are a prisoner or have no telephone number write "none."

O. Write the date on which you filled out the form here.

Do not write on any other space on the form. Return the completed form to the Clerk's Office exactly as it was provided to you. **Do not** separate the form or remove the carbon paper. If the form is not returned intact, the Marshal will not serve your papers.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF (A)	COURT CASE NUMBER (B)
DEFENDANT (C)	TYPE OF PROCESS (D)

SERVE **(E)**
AT **(F)**

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
 ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

(G)	Number of process to be served with this Form - 285 (H)
	Number of parties to be served in this case (I)
	Check for service on U.S.A. (J)

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):
(K)

Signature of Attorney or other Originator requesting service on behalf of: (L)	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT (M)	TELEPHONE NUMBER (N)	DATE (O)
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk	Date
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I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service _____ Time _____ am pm Signature of U.S. Marshal or Deputy _____

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

**INSTRUCTIONS FOR SERVICE OF
PROCESS BY THE U.S. MARSHAL**

Please type or print legibly, insuring readability of all copies. **DO NOT DETACH ANY COPIES.**

Submit one complete set of this form (USM-285) and one copy of each writ for each individual, company, corporation, etc., to be served or property to be seized or condemned. The applicable fees for such service(s) (T28, USC Sec. 1921 establishes the fees for service of process by the U.S. Marshal) may be required prior to said service.

For service of any process upon an officer or agent of the United States Government, submit a copy of the writ and a set of Form USM-285 for each officer or agent upon whom service is desired. Submit three (3) additional copies of the writs for service upon the Government of the United States. The U.S. Marshal will serve one (1) upon the U.S. Attorney and will forward two (2) to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or his Deputy always certifies service on the U.S. Attorney and the Attorney General, regardless of whether other defendants on the writ were served.) Failure to provide any of the copies will delay service of the writ.

Complete all entries above the double line. Mark all applicable check boxes and use the "Special Instructions" to advise of any information that will assist the U.S. Marshal in expediting service.

If more than one writ and USM-285 is submitted on a single case, the U.S. Marshal will receipt for all of them on the first USM-285. You will receive for your records the last (No. 5) "Acknowledgment of Receipt" copy for all the USM-285 forms you submit. When the writ is served, you will receive the No. 3 Notice of Service copy. This copy will be identical to the return to the Clerk of the Court.

Upon completion of all services (if the Marshals fees were not requested or tendered in advance or if additional fees are indicated), you will receive a "Billing Statement" (copy 4 of USM-285) from the United States Marshal. (NOTE: Copy 4 should be returned, by you, to the U.S. Marshal, together with your payment of the amount owed.)

Additional supplies of the USM-285 may be obtained from the Clerk of the U.S. District Court or U.S. Marshal, without cost.

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DEFENDANT	TYPE OF PROCESS

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW <hr style="border-top: 1px dashed black;"/> <div style="border: 1px solid black; height: 80px; width: 100%;"></div>	Number of process to be served with this Form 285	
	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

Signature of Attorney other Originator requesting service on behalf of:	<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER	DATE
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	_____	No. _____	No. _____	_____	_____

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Name and title of individual served (<i>if not shown above</i>)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode	
Address (<i>complete only different than shown above</i>)	Date	Time
		<input type="checkbox"/> am <input type="checkbox"/> pm
Signature of U.S. Marshal or Deputy		

Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

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 5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED