

FEDERAL FORFEITURE -- SAMPLE PLEADINGS

NOTICE TO USER:

This file contains sample pleadings a claimant can use as models when defending him/herself in federal asset forfeiture cases brought by the DEA or FBI. The forms enclosed do not apply to forfeitures by government agencies such as Immigration and Naturalization. These forms are only models. You will have to modify the information in the forms to fit the facts and circumstances of your individual case.

We are making these forms available to you so that you will be able to defend your case until you find a lawyer, and not lose because you miss a deadline with the FBI or DEA. The DEA especially will not give you any extra time, so make sure you get all your papers in on time. In the meantime, look for a lawyer. These cases are usually too complicated to represent yourself, and you will lose if you don't follow the proper procedures. The sample pleadings enclosed in this file will only keep you from losing your case in the early stages. In most cases they will not be enough to get your property back. Each case is different, and forfeiture involves complicated quasi-criminal and constitutional issues. If you can afford a lawyer, start looking for one as soon as your property is seized. If you need help, call F.E.A.R. at 1-201-827-2177. They are compiling a directory of lawyers who have experience handling forfeiture cases. Or you can call your local lawyer referral service. Make sure you tell them that it is an asset forfeiture case.

This is how you use the pleadings in this file:

1. FBI\DOCS 1 & 2 -- are the forms you use to respond to a "notice of forfeiture" from the FBI. This will be mailed to you a few weeks to a few months after your property is seized by the FBI, or if it is seized by state or local police and turned over to the FBI for federal forfeiture. The notice of forfeiture will tell you how much time you have to respond to the notice of forfeiture. It is usually 20 days after the first date of publication in FBI cases. The first date of publication is listed in the upper right hand corner of the notice of forfeiture. Do not miss these deadlines or you will lose your case.

2. DEA\DOCS 1 & 2 -- are the equivalent of FBI\DOCS 1 & 2, except they are used in cases where the DEA seizes or processes the forfeiture of property.

3. DEA\DOC 3 -- is a petition for expedited release. If your forfeiture notice includes a section describing your rights to petition for expedited release (which means you get your property back pending trial), then you need to file this. The DEA notice will give you the procedures. The FBI uses a similar process -- use the same forms but modify them.

4. CT\DOCS -- These are models of the types of pleadings you have to use to keep your case alive in the federal court after you get past the DEA or FBI

process mentioned above. That's all these forms will do. In order to win your case, you will have to: (1) bargain with the government for its release (this often means paying the government a large percentage of the value of the property in order to get it back, or becoming an informant), or (2) defend the case on the merits like any other case in which the federal government is suing you, except that the procedures in forfeiture cases are very different from ordinary civil cases. The federal forfeiture statutes have taken away just about every due process safeguard that citizens normally have in civil cases. For example, the burden of proof to prove the property is not subject to forfeiture is on you, the property owner. There are a lot of quirks to this law. To find out more about it, contact F.E.A.R. (Forfeiture Endangers American Rights) at (201) 827-2177, or get their publications or computer bulletin board files.

The Verified Claim must be filed in U.S. District Court within 10 days after you receive a "Complaint For Forfeiture" from the U.S. Attorney's Office. (This will happen after you file your claim and In Forma Pauperis petition/or pay the cost bond. If you still haven't found a lawyer, now you'd better hustle because you can't do the rest of this alone. Contact your local public defender, or legal aid agency, or local law schools if you can't find a lawyer you can afford.

Your Answer has to be filed in federal court within 20 days after you are served with the complaint. If you still don't have a lawyer at this point, ask the court for more time by filing a motion for extension of time. If you absolutely have to file an answer yourself, you can style it after the enclosed Answer (CT\DOC2), but you have to carefully tailor it to the facts and law applicable to your case. The basic theory is that each numbered paragraph of your Answer corresponds to the same numbered paragraph of the Complaint. With regard to each paragraph of the Complaint, you have to either admit, deny, or state you don't have sufficient information to admit or deny, each factual allegation of the complaint. Some paragraphs might be combinations of the above. When in doubt, deny the allegations. This stuff is tricky, and it may affect the outcome of your case. We have warned you about this, and we assume no responsibility for your end result.

Good luck!

Sincerely,

Brenda Grantland, Esq.
Washington, D.C.
member F.E.A.R.

p.s. A NOTE REGARDING COPYRIGHTS: Feel free to distribute this file to any computer bulletin board, or through photocopying, so long as you distribute

the file in its entirety, and without any changes. Neither Brenda Grantland nor F.E.A.R., nor any bulletin board distributing this file assumes any responsibility for the use of this product. Please heed our warnings about consulting a lawyer. The federal government is much larger than you, and they have a staff of lawyers trained in forfeiture laws, paid to fight you, with all the costs assumed by the taxpayers. Do not think you can defend yourself armed with just these pleadings. As I said earlier, we are giving you these sample pleadings so you can keep from losing your case while you are looking for a lawyer -- and only for that purpose. Also, please don't call me for free advice. I already donate a large amount of my time to this cause and I can't help everybody individually. Call F.E.A.R. instead.

FBI\DOC1

FBI
Washington Metropolitan
1900 Half Street
Washington, D.C. 20535

Re:
Prop:
Owner:

Dear Forfeiture Analyst:

_____ hereby claims ownership of the automobile listed above. She contests the seizure and forfeiture of the money and demands its prompt release. She is currently undecided as to whether to file a petition for remission and/or mitigation at this point, but we will be making that decision in the next 2 weeks. Within that time we will either file such a petition or will inform you that we choose to forego the administrative remedies in order to speed up the judicial process.

_____ is requesting a waiver of the bond. Her declaration in support of request to proceed in forma pauperis is enclosed.

We are also demanding speedy filing of a judicial forfeiture complaint. If you have any questions please call me at the above number.

Sincerely,

[signature]

UNITED STATES OF AMERICA DECLARATION IN SUPPORT
OF REQUEST TO PROCEED
v.
IN FORMA PAUPERIS

I, _____ declare that I am the owner of the property in the above-entitled case; that in support of my motion to proceed without being required to post a monetary bond or give security therefor, I state that because of my poverty I am unable to pay the costs of this proceeding or to give security therefor; that I believe that I am entitled to relief; that the answers I give to the following questions are true.

* Are you employed? Yes () No ()

If the answer is "yes," state the amount of wages you receive per month.
\$ _____

Give the name and address of your employer.

Name _____

Address _____

If the answer is "no," state the date when you were last employed, and the amount of wages you received per month.

Date _____ Amount \$ _____

* Have you received any money from any of the following sources during the past twelve months?

Business, profession or self-employment? Yes () No ()

Rent payment, interest or dividend? Yes () No ()

Pension, annuity or life insurance payment? Yes () No ()

Gift or inheritance? Yes () No ()

If the answer is "yes," describe each source of money. State the amount received during the past twelve months.

Source

Amount

* Do you have money in any of the following forms?

Cash?	Yes () No ()
Savings account?	Yes () No ()
Checking account?	Yes () No ()
Prison account?	Yes () No ()

If the answer is "yes," state the total amount of money in each account.

Account	Amount
_____	_____
_____	_____
_____	_____

* Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property? Yes () No ()

If the answer is "yes," describe the property and state its approximate value. (Do not report ordinary household furnishings or clothing.)

Property	Value
_____	_____
_____	_____
_____	_____

* Are any persons dependent upon you for support?

Yes () No ()

If the answer is "yes," list the persons who are dependent upon you for support. State your relationship to each person. Indicate how much you contribute to his/her support.

Name	Relationship	Amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

I declare under penalty of perjury that the foregoing is true and correct.

Date

Signature

DEA\DOC1

Date: _____

Drug Enforcement Administration
Office of Chief Counsel
Asset Forfeiture Section
Caller Number 91017
Arlington, VA 22202

Re: Seizure # _____

Case # _____

Prop: _____

Seizure date: _____

Seizure place: _____

Owner: _____

Dear Forfeiture Analyst:

I hereby claim ownership of the property listed above. I contest the seizure and forfeiture of the property and demand its prompt release.

I am requesting a waiver of the bond. My declaration in support of request to proceed in forma pauperis is enclosed.

I am also demanding speedy filing of a judicial forfeiture complaint, and a speedy trial on the merits.

Please send all correspondence relating to this case to me at the following address:

and send a copy to my lawyer at the following address:

Sincerely,

[signature of claimant]

Re: Seizure # _____
Case # _____
Prop: _____
Seizure date: _____
Seizure place: _____

Owner: _____

**DECLARATION IN SUPPORT OF REQUEST TO PROCEED
IN FORMA PAUPERIS**

I, _____, being first duly sworn, depose and say that I am the claimant in the above-entitled case; that in support of my motion to proceed without being required to pay the cost bond, I state that because of my poverty I am unable to pay the cost bond.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost bond are true.

1. Are you presently employed? _____

a. If the answer is yes, state the amount of your salary _____ or wages per month and give the name and address _____ of your employer.

b. If the answer is no, state the date of your last _____ employment and the amount of the salary and wages per _____ month which you received.

ANSWER:

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source? _____

a. If the answer is yes, describe each source of income, _____ and state the amount received from each during the _____ past twelve months.

ANSWER:

3. Do you own any cash or checking or savings account? ____

a. If the answer is yes, state the total value of the items owned.

ANSWER:

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

a. If the answer is yes, describe the property and state its approximate value.

ANSWER:

5. List the persons who are dependent upon you for support and state your relationship to those persons.

ANSWER:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____.

[signature of claimant]

Date:

Drug Enforcement Administration
Group 35
400 6th Street S.W.
Washington, D.C. 20024

Re: Seizure #

Case #
Prop:
Owner:

PETITION FOR EXPEDITED RELEASE

Claimants, _____, through undersigned counsel, petition for the expedited release of their automobile, described above. As grounds for this petition claimants state the following:

1. Claimant's automobile, was seized from their residence located at _____
2. Claimants own the subject vehicle outright. It has no liens on it, took out a second mortgage on their home to pay off the car note.

3. Statement of facts and circumstances:

a. Claimants have valid, good faith ownership of the subject automobile. No one other than them has any interest in the car. The car was purchased entirely from proceeds from their employment.

b. The claimants here can show that they did more than "reasonably attempt to ascertain the use of the property in a normal and customary manner."

c. The regulations require that claimants show they "did not know or consent to the illegal use of the property, or, in the event that the owner knew or should have know of the illegal use, the owner did what reasonably could be expected to prevent the violation." Claimants assert that

I declare under penalty of perjury that the foregoing is true and correct.

CT\DOC1

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA :

:

Petitioner, :

:

v. :

CA #:

:

FUNDS IN BANK ACCOUNT :

NUMBER _____, IN THE NAME :

OF _____ :

Respondent :

VERIFIED CLAIM OF _____

Claimant, _____, through undersigned counsel, files this verified claim praying for the release and restitution of the funds in his bank account at _____. As grounds for this claim claimant states the following:

1. I am the owner of the funds in the bank account at _____ Bank, Account No. _____, which was impounded by the United States of America. I hereby demand its restitution and claim the right to defend this action.

VERIFICATION

I, _____, do hereby verify that I have read the foregoing Claim, and declare under penalty of perjury that the allegations therein are true and correct.

Executed on this ____ day of _____, 1989.

[signature of claimant]

BY: [signature of attorney]

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing verified claim was served, by mail, upon Assistant United States Attorney _____, this _____ day of _____, 1989.

[signature]

CT\DOC2

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA :

:
Petitioner, :

v. : CA #:
:

FUNDS IN BANK ACCOUNT :
NUMBER _____, IN THE NAME :
OF _____ :

:
Respondent :

ANSWER TO COMPLAINT FOR FORFEITURE IN REM

Claimant, _____, through undersigned counsel, answers the Complaint For Forfeiture In Rem as follows:

1. Claimant does not dispute the legal contentions, in paragraph one, that 21 U.S.C. Sec. 881(a)(6) provides for the forfeiture of "money and all other things of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title II of the Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., and for the forfeiture of all proceeds traceable to such an exchange." Claimant denies that the contents of his bank account, which are the subject of this action, were "furnished or intended to be furnished in exchange for a controlled substance" or "proceeds traceable to such an exchange."

2. Claimant admits the allegations of jurisdiction and venue in paragraph two.

3. Claimant admits the allegations in paragraph three.

4. Claimant admits the allegations in paragraph four.

5. Claimant admits the allegations in paragraph five.

6. Claimant admits that the bank account was seized by the Park Police and later adopted by the Federal Bureau of Investigation. He also admits that, on _____, a search warrant was executed for the premises at _____, _____. He is without sufficient information to admit or deny the allegation that a bank statement for his account was found in a metal strong box containing a large quantity of illegal drugs. He denies that the ledgers seized were drug business ledgers, that he was

engaged in narcotics activities, and that the funds in the bank account were furnished or intended to be furnished in exchange for controlled substances or were proceeds of such exchanges.

First Defense

7. The complaint fails to state a claim upon which relief may be granted.

Second Defense

8. The complaint must be dismissed, pursuant to United States v. \$8,850 in United States Currency, 461 U.S. 555 (1983), because the unreasonable and unjustified delay between the seizure of the property and the bringing of this forfeiture action deprived the claimant of due process of law.

First Counterclaim

9. The lengthy period of time claimant's money has been illegally withheld from him has resulted in the loss of its use in respondent's business and personal affairs, for which he seeks reasonable interest.

WHEREFORE, claimant prays:

1. That this action be dismissed for lack of subject matter jurisdiction;
2. That the subject bank account be ordered released to claimant immediately;
3. That he be awarded reasonable interest;
4. That he be awarded attorneys fees; and
5. For such other and further relief as may be deemed just and equitable.

[signature]

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing answer was served, by mail, upon Assistant United States Attorney ____ [name, address] _____, this _____ day of _____, 1989.

[signature]

The above information was brought to you by F.E.A.R. (Forfeiture Endangers American Rights) at (201) 827-2177 and the Grassroots Party. The Grassroots Party, a non-profit political organization, operates a 24 day message line with recorded information.

Minnesota Grassroots Party Information Line
612/773-9683

Mail Box	Prerecorded Message	Mail Box	Prerecorded Message
111	Opening Message	441	Accurate Hemp Info
260	Intro. Bill of Rights	442	Hemp for the Ecology
261-70	Bill of Rights	443	Hemp for fuel
411	Information - Directory	444	Hemp for trees
421	Intro / Grassroots Party	445	Hemp for Paper
431	How to get active	446	Info on Drug Testing
432	How to Join / GRP	447-450	Marijuana as medicine
434	Upcoming Events/National	451	Hemp based products
435	Legislative Alert	482	GRP address / phone #s

Courtesy of:
Minnesota Grassroots Party
P.O. Box 8011
St. Paul, MN 55108
Call for FREE INFORMATION!
(612) 773-9683
(612) 822-3396
We need ACTIVISTS!
Please donate you time,
energy and intellect.

"Prohibition will work great injury to the cause of temperance. ...for it goes beyond the bounds of reason in that it attempts to control a man's appetite by legislation and makes a crime out of things that are not crimes. A prohibition law strikes a blow at the very principles upon which our government was founded"
-- Abraham Lincoln