

# A Guide to Civil Lawsuits in the United States District Court for the District of Colorado

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*Disclaimer: The contents of this guide are provided for informational purposes only and do not constitute legal advice.*

Welcome. The judges and staff of the United States District Court for the District of Colorado welcome you, for whatever reason brings you to the federal trial court for Colorado – whether you are a participant in a lawsuit, have been called as a witness in a case, have been summoned as a juror, or are a supportive family member or friend and are visiting any of the courthouses of the District of Colorado. The court’s judicial officers, the staff of the court, members of the bar, and the court community share the same goals as those expressed by the late Chief Judge Alfred A. Arraj (after whom the newest federal courthouse in Denver is named) on the day of his taking the oath of office as the sixth U.S. District Judge for Colorado:

“I embark on this new career with a sense of humility, but with a firm and steadfast resolution to administer justice punctually and impartially without regard to the race, the creed or the station in life of the litigants who may appear in the court over which I may preside.”

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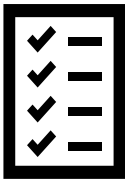
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## **Introduction – Is this Guide for You?**

The U.S. District Court offers this guide as a means to explain the basic steps of a civil lawsuit, define the common terminology, and provide a roadmap to those who are participants (otherwise known as “parties” or “litigants”) to a federal civil trial court matter.

The Guide explains:



- How it should be used,
- The role of court staff and what they can and cannot help with,
- The meaning of basic legal terms,
- Where to find laws, rules, and other resources that may assist parties with their case, and
- Parties’ responsibilities when representing themselves in federal court.

If you are a prisoner seeking to file a case, the Court’s Pro Se Prisoner Handbook may be a useful reference for your potential claims. If you are a defendant in a criminal case, party in a bankruptcy case, subpoenaed witness, or juror, please visit the Court’s website for information that may apply to you.



### **What is a “civil” lawsuit?**

“Civil” means a legal dispute where court action is being requested to resolve a legal matter involving money or the enforcement of legal rights. A civil lawsuit is a legal action in which one party (the plaintiff) sues another party (the defendant). In a civil case, the plaintiff claims that the defendant or defendants failed to carry out some type of legal duty, for example, the duty to comply with a contract or the duty to not violate constitutional rights. Usually, the plaintiff also claims to have suffered a financial loss or personal injury because of the defendant’s actions. In most civil cases, the plaintiff asks the court to order the defendant to pay for the harm alleged to have been suffered by the plaintiff.



### What does “pro se” mean?

“Pro se” is a Latin term meaning “for oneself.” “Pro se” refers to a party to a court proceeding who represents her or himself, without a lawyer. A “pro se” party also may be referred to as “unrepresented” or “self-represented.” “Pro se” parties may only represent their own interests, and not anyone else.

## Filing a Lawsuit Without a Lawyer.

For those who are “pro se” parties to a case and are acting without a lawyer, the U.S. District Court encourages you to seek help from an attorney because federal court cases are complicated and demanding. If you are acting “pro se”, please be aware that this Guide can only provide an explanation of basic concepts and expectations of the federal rules of procedure and evidence, as well as this Court’s own set of particular requirements and standards. **This Guide does not and cannot – by law – provide legal advice, and neither may the judicial officers of the Court nor court staff do so.** There is no substitute for having a lawyer represent you. But if you must represent yourself, to be successful you must learn about the law that applies

in your case and the rules of procedure and evidence, which control what happens as your case moves forward.

## Is the federal court the correct place to file your case?

Federal courts such as this one have limited jurisdiction. Types of cases filed in federal court are:

- cases that deal with a question involving the United States Constitution;
- cases where the United States is a party;
- cases brought under federal law, including statutes; and
- cases where the parties reside in different states and the value of the alleged damages must be more than \$75,000.00.



**Jurisdiction** refers to the power of a court to review and enter orders in a particular kind of case.

If you are thinking about filing a case in this court and your complaint does not fall under any of these categories, the federal court probably is not the appropriate jurisdiction for filing the lawsuit. Other jurisdictions include (but are not limited to) state courts, county courts, probate court, and federal or state administrative agencies. Common types of cases heard by state courts include cases concerning domestic relations such as divorce, child custody, and child support. Please be aware that the U.S. District Court for the District of Colorado is the federal trial court for the State of Colorado. It is not the Denver District Court which is a state court located in the City and County of Denver, Colorado. For more information, visit [HERE](#).

## The Organization of the Federal Courts

The federal court system is made up of courts on three different levels: United States District Courts, United States Circuit Courts of Appeals, and the United States Supreme Court.

### ➤ **First Level: U.S. District Courts**

The first level is comprised of the district courts. District court is where your action will begin and where it will be decided. **This Guide is about actions in the District of Colorado.** The rules and procedures of other federal district courts may be different.

The [District of Colorado](#) is divided into four jury divisions: Denver, Durango, Grand Junction, and Colorado Springs/Pueblo. Each division has a courthouse. However, the main Clerk’s Office is located in the Alfred A. Arraj Courthouse in Denver, Colorado. **All court filings should be made in person at or mailed to this address:**

Clerk of the Court  
U.S. District Court for the District of Colorado  
Alfred A. Arraj United States Courthouse  
901 19th Street, Room A105  
Denver, CO 80294-3589  
Phone: (303) 844-3433



### ➤ **Second Level: U.S. Courts of Appeals**

The U.S. Courts of Appeals courts may also be referred to as circuit courts of appeal. There are thirteen U.S. Courts of Appeals. The [U.S. Court of Appeals for the Tenth Circuit](#) hears appeals from this Court, the U.S. District Court for the District of Colorado, and from U.S. District Courts in Oklahoma, Kansas, New Mexico, Wyoming, and Utah, plus those portions of the Yellowstone National Park extending into Montana and Idaho. Generally, every person who has received a final decision in his/her lawsuit from a U.S. District Court can file an appeal of that decision to the appropriate U.S. Court of Appeals. The Tenth Circuit can be contacted as follows:



Office of the Clerk  
United States Court of Appeals for the Tenth Circuit  
Byron White U.S. Courthouse  
1823 Stout Street  
Denver, CO 80257-1823  
Phone: (303) 844-3157

### ➤ **Third Level: The U.S. Supreme Court**

The [United States Supreme Court](#) is the highest court in the land. It hears only certain cases from the U.S. Circuit Courts of Appeals and from supreme courts of the states. The U.S. Supreme Court has the power to choose which cases it reviews, and it picks very few. The United States Supreme Court can be contacted as follows:

Supreme Court of the United States  
One First Street N.E.  
Washington, DC 20543  
Phone: (202) 479-3000



### **The Role of Court Staff and Judges**

There are a number of people who work at the Court, each with different roles and responsibilities.

- Clerk’s Office staff (the support personnel for the judges and their assistants) can provide general information about court rules and how the process works. They cannot, however:
  - Give legal advice;
  - Explain how court rules apply to the party’s specific case;
  - Recommend a course of action;
  - Predict when a judge will rule on a matter;
  - Predict a judge’s decision on a specific matter; or
  - Explain the meaning of a court order or judgment.
- Judges (including their chambers staff and law clerks):
  - Cannot give legal advice.
  - Cannot communicate privately with parties: all parties –whether represented by counsel or representing themselves – are forbidden from having private communications with the judge(s) assigned to their case. To avoid this issue, all communications with the judge should be submitted in writing through the Clerk’s Office. The communication will be filed in the party’s case and distributed electronically to the opposing party(-ies), unless specially permitted by the court.



## **Before you File your Lawsuit: Things to Know**

### ➤ **Filing a Lawsuit is a Big Responsibility.**

Bringing a lawsuit in federal court takes a long time and is complicated, expensive, and stressful. When you file a lawsuit against someone else, you are asking a federal court to use its power to bring that person (or entity) before a judge to defend him/her/itself. This is a big responsibility.

If you decide to file a lawsuit without a lawyer (known as appearing “**pro se**”), you still are expected to learn and follow all the court rules and procedures. If you do not, there can be negative consequences. For example:

- You have a duty to bring your claims in good faith, and to only say things to the Court that are true and based on evidence that you already have or are likely to get in the lawsuit (not based on what you are guessing is true).
- If you file a lawsuit that is not true or is a waste of time (frivolous), or was filed to harass another **party**, the court can order you to pay a fine and pay the legal fees of the people who the lawsuit is filed against.
- Once you start the case, **you have to keep up with all the deadlines and follow all the rules.** This includes filing and serving all required papers, following the judge’s orders, and responding to the papers filed by the other party/parties. **If you miss deadlines or do not follow the rules, your case could be hurt and even dismissed.**
- If your address changes, you need to tell the Court within five days. If you don’t, the Court could fine you or dismiss your case.



**If you lose your lawsuit, you can be ordered to pay the winning party’s costs, like witness fees (including travel expenses), filing fees, copying costs, deposition costs, scanning costs, and others.**

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#### **What is a party?**

A **party** is someone involved in a lawsuit, such as the plaintiff and defendant.

#### **What is a pro se party?**

A **pro se party** is an individual who does not have an attorney and is representing him or herself.

➤ **Federal Court May Not be the Right Court for Your Claims.**



The U.S. District Court for the District Court of Colorado is a **federal court** (part of the United States government). Federal courts do not have the power (jurisdiction) to hear all claims and all types of cases. On the other hand, state courts, which are part of the state government, have the power to hear almost all types of claims and cases. This federal court can only hear:

- cases with a claim under the United States Constitution;
- cases where the United States is a party;
- cases with a claim under a law passed by the United States Congress; and
- cases where the plaintiff lives in a different state than all of the defendants, and the value of the alleged damages is more than \$75,000.

If your case does not fit into one of these categories, you may need to file it in another court. For example, if your case involves a family law issue or a state law claim (like breach of contract, fraud, negligence, malpractice, or trespass), you can file in state court instead. If you are filing for bankruptcy protection, you need to file in bankruptcy court. If you are appealing a case you already filed, you should file in the appropriate appeals court.



If you would rather have a lawyer represent you instead of handling your lawsuit pro se, check the local resources listed in Part 6 of this Guide.



➤ **For Some Claims, You May Need to Go to an Administrative Agency First.**



The claims in your case may be the kind that you first have to bring to an office (agency) of the government—known as an **administrative agency**—and go through the agency’s claims process. It is your responsibility to find out whether you need to go to an administrative agency first, and how to go through the agency’s process. Going through an agency’s process is known as **exhaustion**. For example, if you were an employee and are claiming that your old employer discriminated against you under Title VII of the Civil Rights Act, you first must file your complaint with the United States Equal Employment Opportunity Commission (EEOC) and go through (exhaust) the EEOC process.



**If You Were Supposed to Exhaust Your Claim with an Administrative Agency, and Did Not, You Could Lose Your Lawsuit for that Reason.**

➤ **There Are Other Ways to Resolve your Claims.**



Instead of filing a federal lawsuit, which can go on for years, you may want to think about other (alternative) ways to resolve your claims. These are known as **Alternative Dispute Resolution (ADR)** options. Some ADR options are listed below.

- **Early settlement negotiations**

*You and the people on the other side can talk and try to work out a solution without going to court or through any formal process.*

- **Mediation**

*You and the other side pick a fair person (mediator) to hear both sides of the story. The mediator does not decide the claims like a judge. He or she helps you and the other side reach a settlement. The Faculty of Federal Advocates lists a group of Colorado mediators on its website: <https://facultyfederaladvocates.org/FFA-Resources>.*

- **Early neutral evaluation**

*You and the other side pick a fair person to hear both sides and give an opinion on how strong each side’s case is. The Colorado Bar Association has a free directory of professionals who do this type of work at <https://www.cobar.org/For-Members/CBA-Sections/Alternative-Dispute-Resolution>.*

- **Arbitration**

*You and the other side pick a fair person (arbitrator) to hear both sides of the story and decide, like a judge, on who wins. The American Arbitration Association website (at <https://www.adr.org>) is a place to learn more about arbitration.*

## If You do File a Lawsuit, Then You Need to:

### ➤ Learn the Rules.

Just like drivers must follow the rules of the road, people involved in lawsuits must follow the rules of the court. In this federal court, there are several different sets of rules that must be followed. These rules, listed below, cover what things must be done and the responsibilities and rights of the parties on both sides:



- [Federal Rules of Civil Procedure](#)
- District Court’s [Local Rules](#)
- District Judges’ [Judicial Practice Standards](#)
- District Court’s approved [Forms](#)

The Federal Rules of Civil Procedure apply to every civil (non-criminal) case in federal district court, including this court (the U.S. District Court for the District of Colorado). This District Court’s Local Rules apply only to civil cases filed here. And, each judge can make rules—called Judicial Practice Standards—that apply only in his or her cases.



### Finding Rules and Forms

The Federal Rules of Civil Procedure and the Federal Rules of Evidence can be found for free online.

The U.S. District Court for the District of Colorado’s Local Rules, Judicial Standards of judges in the U.S. District Court of Colorado, and Electronic Case Filing Procedures, can be found in the clerk’s office or online at: <http://www.cod.uscourts.gov/>

There are two other sets of rules that apply to special issues or parts of a case. These are:



- The Federal Rules of Evidence (“FREs”); and
- The U.S. District Court for the District of Colorado’s Electronic Case Filing (ECF) Procedures.

The FREs cover what types of evidence can be used, by whom, and when. They are especially important if your case goes to trial.

If the court gives you permission to use electronic filing on ECF, you need to follow the court’s ECF Procedures for civil cases.

### ➤ **Use the Court’s Forms and Follow Formatting Rules.**

This court’s forms must be used for certain things, like when a pro se party files a complaint. Forms can be found on the court’s website or in the Court Clerk’s office. All documents must follow the court’s formatting rules (rules for how the document has to look), which are listed in Federal Rule of Civil Procedure 10 and the U.S. District of Colorado Local Rule 10.1 (and in ECF Procedures for electronic filers). A sample document with the right formatting is on the Court’s website (on the “Forms” page).



#### **Filing Formatting Rules**

Type or neatly handwrite all papers

Use 8-1/2” x 11” paper

Use one-inch margins

Double-space your text

At the top (in the “caption”), include the name of the court and the parties,  
and the civil action number

Use a title that tells what is in the filing

Tell which party is making the filing

File with an original signature and date

Include a Certificate of Service

*This is a paper that shows you have sent or given a copy of your papers to the other parties in the case. It is required by Federal Rule of Civil Procedure 5(a).*

## How to Start Your Lawsuit

You need to do four things to start your lawsuit in this court.

1. File the Complaint.
2. File a Civil Cover Sheet.
3. Pay the filing fee OR file a request (application) to waive the fee.
4. Serve the Complaint on the defendant(s).

### 1. File the Complaint.



The Complaint is a written document that has claims by the **plaintiff** against one or more **defendant(s)**. To start a lawsuit, the plaintiff must file his or her Complaint with the Clerk of the U.S. District Court for the District of Colorado.

A Complaint must include specific information in it about who the parties are, where they live (reside), and why the U.S. District Court for the District Court of Colorado is the right court to sue in.

The Complaint also must include specific, true **allegations** of fact telling the plaintiff's side of the story, and tell which laws the plaintiff thinks the defendant(s) has broken. Finally, the Complaint must include allegations about what harm the plaintiff thinks was caused by the defendant(s), and what the plaintiff wants the court to give the plaintiff (like money damages or some other type of relief). If you want a jury, you must say so in your Complaint.

You must sign and date the Complaint before you file it.



#### Rules to Read

Federal Rules of Civil Procedure 3, 8 & 11

U.S. District Court of Colorado Local Rule 8.1



#### What is a plaintiff?

A **plaintiff** is who files the complaint and starts the lawsuit.



#### What is a defendant?

A **defendant** is who the plaintiff's claims are against.



#### What is an allegation?

An **allegation** is a claim that someone did something or that an event occurred.



## **If You are a Pro Se Party and are not Paying a Filing Fee, You Must Use One of the Court’s Complaint Forms.**

There are three Court-approved Complaint forms: (1) a general Complaint that can be used for most cases, (2) an Employment Discrimination Complaint for employment cases, and (3) a Complaint for Judicial Review of a Social Security Decision for appeals of Social Security decisions. Use the one that matches your claims. Find them on the Court’s website (on the “Forms” page) or in the Court Clerk’s office on the first floor of the Alfred A. Arraj Courthouse in Denver, Colorado.



## **Protecting Private Information**

Your Complaint and other papers you file with the Court are public, which means that they can be read by other people. Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1 say that you must make sure certain information cannot be seen. Below are instructions on how to protect that information.

<b>If your Complaint Has this in it:</b>	<b>Then Do This to Protect it:</b>
Social Security Number(s)	Include only the last four digits of the number(s)
Names of minor children	Use initials (“J.D.”) instead of full names (“John Doe”)
Dates of birth	Use only the year
Financial Account Number(s)	Include only the last four digits of the number(s)
Address information from a criminal case	Use only the city and state

## 2. File a Civil Cover Sheet.



Along with your Complaint, you have to file a Civil Cover Sheet. You can find a copy of the Civil Cover Sheet (Form “JS 44”) on the Court’s website (on the “Forms” page) or in the Court Clerk’s office. **Fill it out and file the Civil Cover Sheet with the Court Clerk at the same time you file your Complaint.**

## 3. Pay the Filing Fee



## Or Apply for a Fee Waiver.



As a plaintiff, you must pay a \$400 fee to file your Complaint with the Court. You can pay with cash, money order, cashier’s check, or a credit or debit card.

If you cannot pay the fee, you can ask the Court to waive (order that you not pay) it by filling out and filing a document called an **Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)**. This Application is on the Court’s website (on the “Forms” page) or at the Clerk’s office. **Fill out this Application and file it with the Court Clerk at the same time you file your Complaint.**

If the Court finds that you do not have to pay the filing fee, your Complaint will be filed *in forma pauperis* (also known as “IFP”). The Court’s decision to waive the filing fee does not apply to other costs in your case. You will have to pay those (unless you asked for and received an additional order from the Court).

If the Court turns down your Application and finds that you have to pay the filing fee, the Court will tell you this in a Court Order. The Court Order also will give you a deadline to pay the fee. If you miss the deadline, your case could be dismissed.



## Who Will be My Judge?

If you file a Complaint and an Application for a Fee Waiver, then before you are assigned a judge, your Complaint will go through a special process called **initial review**. Initial review is required under federal law 28 U.S.C. §§ 1915(e)(2), 1915A and Local Rule 8.1.

In the initial review, a judge is not looking at your Complaint to make sure that you will win the case or that your Complaint will survive arguments by the defendant(s) that the case should be dismissed. Instead, the judge doing the initial review is making sure that your Complaint and Application are on the right forms and not missing any required information. The judge also will check to see if any claims in the Complaint are legally frivolous or malicious, seek money from a defendant who is immune from paying, or do not include allegations showing that a law was potentially broken. If the judge finds these problems, he or she may order you to change (amend) the Complaint or Application to fix them. If you are not able to fix these problems, the judge may recommend that all or some of your claims be dismissed.

If the Complaint gets through initial review, then a judge—either a district court judge or magistrate judge—will be assigned to your case under U.S. District Court of Colorado Local Rule 40.1. If a magistrate judge is assigned to your case, you and the defendant(s) will be asked to agree (consent) to the magistrate judge making all decisions in the case. If you do not all agree (it has to be unanimous), then the case will be re-assigned to a district court judge. A magistrate judge also may help the district judge with many tasks in the case but will not make any final decisions or judgments on issues that end the case.

## 4. Serve the Complaint on the Defendant(s).



The last step in getting your lawsuit underway is giving (serving) a copy of the Complaint on the defendant(s) in an official way. This is also known as the **service of process**, and it is very important. The Court can dismiss your case against any defendant(s) who are not served correctly.

Federal Rule of Civil Procedure 4 explains how to serve your Complaint.

### ➤ Service by Summons.

In general, Federal Rule of Civil Procedure 4 requires the plaintiff to serve a **Summons**, along with a copy of the Complaint, on each defendant. (Some defendants can be served with a Waiver of Service of Process instead of a Summons—the next section will say more about that.)

Is the defendant an individual person? A company? A government agency? Federal Rule of Civil Procedure 4 says the way that the Summons and Complaint are served on each defendant depends on what kind of defendant it is. Read each section of the rule carefully to figure out the right way to serve. You may have to hire a process server to serve the Complaint and Summons or ask someone to do it who is over 18 and not a party to the case. **A plaintiff cannot serve the defendant(s) him- or herself.**

### ➤ Waiver of Service.

Under Federal Rule of Civil Procedure 4(d), you can ask three types of defendants—individuals, corporations, and associations—if they will agree to waive formal service and accept a copy of the Complaint. You do this by sending each defendant, via first-class mail, two special forms: a (1) **Notice of a Lawsuit and Request to Waive Service of a Summons** form, and (2) two copies of a **Waiver of the Service of Summons** form. Both of these forms can be found on the Court’s website (on the “Forms” page) or in the Court Clerk’s office. If the defendant agrees to waive service, then he/she/it will sign



### Rules to Read

Federal Rule of Civil Procedure 4



### What is a Summons?

A summons is the document that tells a defendant that he or she is being sued and requires the defendant to come before the court and respond to the Complaint by a specific deadline.

Get a copy of an official Summons from the Court Clerk.



and return the waiver form to you. If the defendant will not waive service, you must go back to the regular way of serving the defendant with a Summons and Complaint. Note that the Federal Rule of Civil Procedure 4 says that the defendant must have a good reason not to waive service. If he/she/it does not have a good reason, then the Court can make the defendant pay the cost of the service of process.

➤ **What to do Once You Serve the Defendant(s).**

For each defendant you serve, you need to file with the Court a paper proving that service was done.

- If you served with a Summons: the second page of the Summons has a place for the person serving each Complaint to fill out service details (like who served the Complaint and Summons, the name of the person served, and the date, place, and time of service). This is called a **proof of service** and must be filed with the Court after service is complete. If Federal Rule of Civil Procedure 4 said you could serve a defendant by certified mail, then attach to the second page of the Summons the green certified mail receipt you received from the Post Office.
- If you served by sending out a Waiver of Service and the defendant returned the Waiver: file the signed Waiver with the Court if/when you receive it back from each defendant.

➤ **If the Court Waived Your Filing Fee, It Can Order the U.S. Marshals to Complete Service in the Case.**

In some instances, such as if your filing fee was waived and you are proceeding *in forma pauperis*, the Court can order the Court Clerk to fill out service of process forms for each of the defendants in the case, and send them to the U.S. Marshals to complete service.

For this reason, it is very important for the Complaint to identify each defendant accurately, with a full name and a complete address for each defendant. If you are missing information, it could delay or prevent the U.S. Marshals from serving your Complaint.

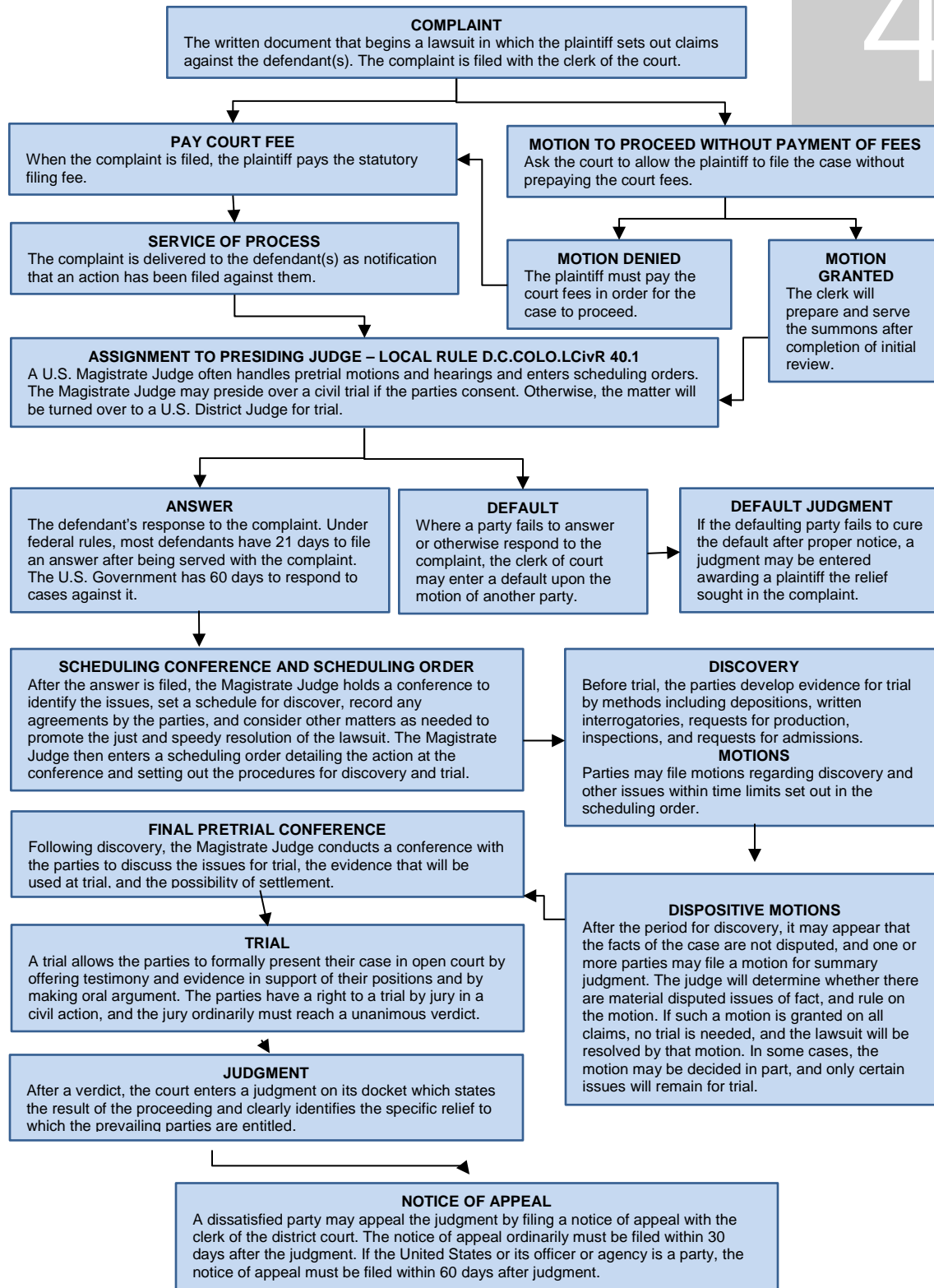


**Under Federal Rule of Civil Procedure 4(m), You Have 90 Days to Serve Your Complaint. The Court Could Dismiss Your Claims Against Defendants Who You Do Not Serve on Time.**

**Civil Case Roadmap** (illustrative of many but not all cases)



**Civil Case Flowchart**



## The Complaint Has Been Filed and Served. What Comes Next?

### 1. The Defendant(s) Should Respond.

After the Complaint is filed and properly served, each defendant in the case should file and serve a response to the Complaint. The deadlines to file a response are set by the rules:

- If served with a Summons, a defendant must file a response within 21 days from the day served.
- If the defendant is a federal defendant, such as a United States agency, the defendant must file a response within 60 days from the day served.

There are several ways a defendant can respond. The most common response is an **Answer** or a **Motion to Dismiss**.

#### Answer



In an Answer, a defendant responds to each allegation in the Complaint. The Answer admits the allegations the defendant believes are true and denies the allegations the defendant believes are not true. The defendant can also say he/she/it does not have enough information to admit or deny an allegation. An Answer must also include certain defenses—called “affirmative defenses”—if the defendant wishes to use them. Otherwise, the defendant loses (waives) the ability to bring up those defenses later in the case.

#### Motion to Dismiss



A motion is a formal request for the court to do something. A Motion to Dismiss is a specific type of motion that, if granted, could end the entire case or certain claims in the case.

Motions to Dismiss usually are filed by defendants. When a defendant files a Motion to Dismiss, the defendant is telling the court that even if everything the plaintiff said in the complaint was true, the law does not allow some or all of the claims to continue.



#### Rules to Read

Federal Rules of Civil Procedure 7, 8, & 12

U.S. District Court of Colorado Local Rule 7.1



Check Federal Rule of Civil Procedure 12(b) for a list of reasons for a Motion to Dismiss. Common reasons are because the defendant thinks no law has been broken, or the court lacks jurisdiction (power) over the defendant or claims.



## The Plaintiff Should File a Response to a Motion to Dismiss.

If a defendant files a Motion to Dismiss, the plaintiff has 21 days to file and send (serve) the defendant a written response. Under certain circumstances, the plaintiff also can file an Amended Complaint to fix problems that the defendant pointed out. Read the rules for more information on whether and how to file an Amended Complaint.

If the plaintiff files a written response to the Motion to Dismiss, the defendant will then have 14 days to file a reply.

Once all these papers are filed, the Court will decide whether to grant or deny the Motion to Dismiss. It may take many months to reach a decision.

If the plaintiff is allowed to file an Amended Complaint, the plaintiff also will need to serve the defendant with the Amended Complaint, which the defendant will respond to, usually with another Motion to Dismiss or an Answer.



### Rules to Read

Federal Rule of Civil Procedure 15

U.S. District Court of Colorado Local Rule 7.1 & 15.1



## What if the Defendant Does Not Respond at All?

If a defendant is served in the right way and fails to respond, and meets a few other requirements, you can seek a default judgment. This is a two-step process. The first step is to ask the court clerk for an **entry of default**. If the court clerk enters default, the second step is to ask the judge for default judgment by filing a **motion for default judgment**.

Read the rules to find out more about what papers you need to file a (1) request for entry of default and (2) a motion for default judgment.



### Rules to Read

Federal Rule of Civil Procedure 55

U.S. District Court of Colorado Local Rule 55.1



## More About Motions...

If you want to ask the court for something, you cannot call or contact the judge on your own. Instead, you must file a **motion** with the court.

There are many types of motions, and different rules and laws apply to each. **Read the rules** (Federal Rules of Civil Procedure, U.S. District of Colorado Local Rules, and Judicial Practice Standards of your judge) and **research the law** to find out which standards apply to your motion.

Motions must be in writing, describe what you are asking for, and explain why the court should grant your request. Also, U.S. District of Colorado Local Rule 7.1(d) says that before you file, you **must** talk to the other parties in your case and ask if they agree with your motion. In your motion, tell the court that you contacted the other parties and describe what they said.



## Motion Checklist

- Follow the court’s rules on formatting. Be sure to sign and date your motion.
- Describe your motion in the caption.
- Tell the court what you are asking for.
- Check all the rules and the law, and tell the court what standard you have to meet to get what you are asking for.
- Tell the court all the reasons why you meet the standard in the rules and law.
- If you are asking for an extension of time, tell the court how many times you have asked for an extension before.
- Contact the other parties in the case, and ask whether they agree or disagree with your motion. If you leave a message, give them a reasonable amount of time to get back to you.
- In your motion, say that you contacted the parties and tell what they said. If all of the parties agree with your motion, add the word “Unopposed” to the motion title in the caption.
- Fill out a Certificate of Service that tells the court when and how you sent your motion to the other parties. File the motion and Certificate of Service with the court, and send copies of these papers to all of the other parties.



**Until and Unless the Court Grants Your Motion, You Must Follow the Rules and Deadlines in Place Before You Filed it.**

## 2. Next Up: Discovery Begins.

Discovery is the part of a lawsuit where each plaintiff and defendant has a chance to gather information from the other that can be used to prove or defend against the other party’s claims in the case. To keep things fair and organized, there are rules about what kinds of information you can get, who you can get it from, and how much time you have to get it.

The discovery phase starts with the court setting a **scheduling conference**. At this conference, you and the other parties will talk about the plan for the case, which will be written down in a **scheduling order**.



### Rules to Read

Federal Rules of Civil Procedure 16 & 26 through 37

U.S. District Court of Colorado Local Rule 16.1 & 16.2, and 26.1 through 37.1

Judicial Practice Standards of your judge or judges

### ➤ **After the Court Sets a Scheduling Conference, Meet with the Other Parties to Prepare a Draft Scheduling Order.**



The scheduling order is a roadmap for the case. It keeps things organized and lets everyone know of deadlines that will apply. A form scheduling order and instructions are available on the Court’s website (on the “Forms” page).

The parties must meet (by phone or in person) to discuss and prepare a draft scheduling order. The meeting to prepare the scheduling order has a special name: it is called a Federal Rule of Civil Procedure **26(f) Conference**. The 26(f) conference must happen at least 21 days before the draft scheduling order is due or the date of the scheduling conference.

### ➤ **File the Draft Scheduling Order.**



The parties must file the draft scheduling order by the deadline.

### ➤ **Prepare and Serve the Other Parties with Your Initial Disclosures.**



Unless the parties agree to something else or the court sets a different deadline, the parties must send each other certain information—called **Initial Disclosures** (also known as 26(a)(1)



Do not file your Initial Disclosures with the court. Just serve them on the other parties in the case.

Disclosures) —within 14 days of the 26(f) Conference. These disclosures must tell the other side what witnesses and documents a party is planning to use to support his/her/its case. The disclosures also contain a calculation of damages and tell the other side if there is an insurance policy that can be available to cover a judgment in the case.



### **Each Party Must Update (Supplement) Initial Disclosures and Other Discovery Responses Throughout the Case.**

If you do not update your disclosures throughout the case, you can be punished (**sanctioned**) by the court. This is true of other discovery responses too.

#### ➤ **Go to the Scheduling Conference.**

At the scheduling conference, the judge will make decisions on anything in the scheduling order that the parties do not agree on. The judge also may want to discuss what experts the parties plan to use, whether settlement is possible, a trial date, and other issues in the case. You should be ready to discuss these things at the conference.



#### **What is a sanction?**

A sanction is a penalty. There are many ways you could be penalized if you do not follow the rules of discovery, like if you do not respond to discovery requests or update them throughout the case. The penalties could have a negative effect on your case.

See Federal Rule of Civil Procedure 37 and U.S. District Court of Colorado Local Rule 37.1 for more information on discovery



### **Proper Court Etiquette**

- Photo ID is required to enter the courthouse. If you do not have photo ID, you may be allowed to enter the courthouse but you will be escorted by court staff at all times.
- Be respectful to the court security officers. They are here for everyone’s protection.
- Do not bring cameras or recording devices. After clearing security, an electronic device such as a cell phone, smartphone, or laptop may be brought into any public area inside the courthouse.
- No weapons, drugs, or other illegal items are allowed.
- Proper dress is required (be neat and clean), and no hats are allowed.
- When the judge enters or leaves the courtroom, everyone must stand up.
- Address the judge as “Your Honor”, and speak clearly.

## ➤ Start Doing Discovery.

Parties are allowed to start discovery after their 26(f) Conference. However, parties usually do not start until after the scheduling conference.

Discovery can be complicated. It is important that you read the rules. Reading a book about how to conduct discovery also can help.



Do not file your discovery requests or responses with the court. Just serve them on the other parties in the case.

There are a variety of tools that can be used to gather information in discovery. These include interrogatories (a type of formal, written question), requests for admission (asking the other side to admit something is true), depositions (a type of interview done under oath), and requests for production (asking for a document, file, or other physical evidence). To use one of these tools, a party sends a request to the other side.



### Rules to Read

Federal Rules of Civil Procedure 16(c) – (e) & 26(a)(3)

U.S. District Court of Colorado Local Rule 16.3

Judicial Practice Standards of your judge or judges



## **You Must Respond to Discovery Requests. If You Do Not, You Could Hurt Your Case and Be Sanctioned.**

When you receive discovery requests, pay attention to your deadline to respond. Missing deadlines and failing to update your responses can hurt your case. When you respond to discovery requests, be sure to keep a copy of the request and what you send to the other parties.

If another party is not responding to discovery or is causing some other problem, it can be necessary to involve your judge. If this happens, check your judge's Judicial Practice Standards on how to go about resolving your dispute.



### 3. After Discovery: Dispositive Motions and Preparing for Trial.

#### ➤ **Motions that Can End the Case (Dispositive Motions).**

After Discovery is over, the plaintiff or the defendant(s) can file a Motion for Summary Judgment under Federal Rule of Civil Procedure 56. This motion is called a dispositive motion because it asks to dispose (get rid) of the case. The motion tells the Court that based on all the important (material) evidence gathered by the parties, the party filing the motion should win, and therefore there is no need to have a trial.

If the motion is granted in full, the case is over and the judge will enter a final judgment. If the motion is granted in part, then the part of the case that has not been decided will go to trial. If the motion is not granted at all, the parties will prepare for trial on the entire case.

#### ➤ **Pre-Trial Preparation.**

Before the trial begins, the parties must fill out a draft final **pretrial order** and go to a **pretrial conference**. The deadline to file the pretrial order and date of the pretrial conference will be set in the scheduling order.

#### ➤ **Meet with the Other Parties to Prepare a Draft Pretrial Order.**



The draft pretrial order is filled out by all parties and will be due at least seven days before the pretrial conference. Read the rules when you work on the draft pretrial order because they will tell you what information should be included, which documents must be filed at the same time, and how to object to the other side's evidence. You can find a copy of a draft final pretrial order and instructions on how to fill it out on the court's website (on the "Forms" page).

#### **Rules to Read**

Federal Rule of Civil Procedure 56

U.S. District Court of Colorado Local Rules 56.1

Judicial Practice Standards of your judge or judges



#### **Rules to Read**

Federal Rules of Civil Procedure 38 through 52

U.S. District Court of Colorado Local Rules 40.1 through 47.2

Judicial Practice Standards of your judge or judges

➤ **File the Draft Pretrial Order.**



The parties must file the draft pretrial order by the deadline.

➤ **Go to the Pretrial Conference.**



At the final pretrial conference, the judge will look at the draft pretrial order and settle any disagreements, and can later sign a final pretrial order that includes everything the parties discussed. The pretrial conference will be with a judge who may or may not be the same judge who will be in charge of the trial.

➤ **Prepare and Send the Other Parties Your Pretrial Disclosures.**



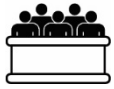
Before trial, by a deadline set by the court, the parties must tell each other and the court what evidence they will use to prove their cases. This information is known as **Pretrial Disclosures**. Your pretrial disclosures will include a list of the witnesses that you will call to testify and a list of the exhibits that you will show to the judge and/or jury. These lists must be filed with the court and served on the defendant(s). There are no federal or court rules about how to mark exhibits, or what exhibit lists and witness lists should look like. Check your judge's Judicial Practice Standards—your judge can have rules about how to prepare these things.



**Think Ahead**

You must plan ahead for trial to make sure that your witnesses and evidence will be available. If you need the court to require a witness to testify, get a subpoena from the Court Clerk's office. Send the subpoena (along with a witness fee) in time for your witness(es) to appear.

#### 4. Trial: An Overview of What Happens.



##### ➤ **If your Case has a Jury, the Parties Will Help Pick the Jurors.**

If your case is going to have a jury, then you will have a chance to be a part of picking the jurors. This process—the jury selection process—has several steps. First, a group (pool) of possible jurors will be randomly picked. The possible jurors can be questioned by a judge to make sure that they can be on a jury.

Once the court has finished asking questions, the parties will have the chance to challenge, or object to, the jurors who are left. These challenges are only allowed if they are made “for cause.” “For cause” means there must be a good reason. A good reason might exist if, for example, one of the jurors cannot look at the case fairly or is not qualified under the law to serve as a juror.

The parties also can object to jurors using “peremptory challenges.” Peremptory challenges are when you ask to remove a juror without a specific reason (cause). This means you can strike a juror for any reason or no reason. Each side only has a few peremptory challenges, and the judge will tell you how many you have.

At the end of the jury selection process, there will be between six and twelve jurors on the jury.



##### ➤ **The Parties Give Opening Statements.**

The trial will start with opening statements by the parties. Opening statements tell what the issues are in the case and what each side will prove. No evidence is shown during the opening statements.

The plaintiff gives the first opening statement because he/she has the responsibility (burden) to prove his or her case. The court can put a time limit on how long the opening statements can be. The goal of the opening statement is not to argue but to convince the jury, based on the evidence you expect to present, that you will win.

## ➤ **The Parties Present Evidence.**

To prove your case, you have to use evidence. Evidence is statements (testimony) by witnesses and exhibits. There are rules about what evidence is allowed and when it can be shown. These rules are called the Federal Rules of Evidence. It is very important to learn these rules. It also can help for you to read a book about how these rules work in a trial.

## **Witness Testimony as Evidence.**

Whoever calls a witness gets to question the witness first. This is called direct examination. Then the other side gets a chance to question the witness. This is called cross examination. Finally, the party who called the witness can ask questions again. This is called redirect examination.

The Federal Rules of Evidence has rules about what types of questions can be asked. The rules also describe how questions can be different in direct examination, cross examination, and redirect examination. For example, leading questions are not allowed on direct examination, but are allowed on cross examination.

## **Exhibits as Evidence.**

To prove your case, you may show documents, videos, or pictures. But just like with witness testimony, there are rules about what you can show. Look at the Federal Rules of Evidence and the judge's practice standards to understand how to use your exhibits.



## The Parties Can Object.

Either party can object to evidence that he or she thinks should not be allowed. If you object, you have to give a reason for the objection. Usually this is done by saying the evidence does not follow one of the Federal Rules of Evidence.

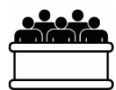
Objections are important because they preserve your case’s record for **appeal**. In other words, if a party thinks the court made a mistake, such as by showing evidence that should not have been allowed, then a party must object or he/she cannot have the decision reviewed by the Court of Appeals.



## ➤ The Parties Give Closing Arguments.

When the parties are done showing all of their evidence, each will be allowed to give a closing argument. A closing argument should review all the evidence and explain how the evidence proves the claims in the case. You cannot introduce new evidence in your closing argument, and you should not include your personal opinions.

Usually the plaintiff will present his or her closing argument first, followed by the defendant(s). The plaintiff is also allowed to stand up after the defendant(s) and challenge anything said in the defendant’s(s’) closing argument. This is called a rebuttal argument.



## ➤ Jury Deliberations and Verdict.

If there is a jury, it will meet to decide the case (reach a **verdict**).

Before the jurors meet, the judge will give them instructions (called a “charge”) that explain what law the jury should follow to decide the case. The parties will have a chance to talk about the jury instructions with the judge before they are read to the jury.



### What is an appeal?

When a trial court issues a final decision, the parties have a right to have the decision be reviewed by another court. When a party exercises this right, it is called an appeal. The court that reviews decisions from the U.S. District Court for the District of Colorado is the U.S. Court of Appeals for the Tenth Circuit.



### What is a verdict?

A verdict is the decision a jury comes to after considering the evidence and arguments presented at trial.

After the judge gives the jury instructions to the jury, the jury will go to a separate room to talk about all of the evidence and reach a verdict. If the jury cannot reach a verdict, the judge will declare a mistrial and the case may be tried again with a new jury. When the jury reaches a verdict, the court will be notified. The judge then will write a document called a final judgment, which is the final decision of the Court. The Court Clerk will enter the judgment into the docket and the case will be closed. If there is no jury, then the judge will decide the case and write the judgment.

## 5. What happens After the Trial Ends and Judgment Has Been Entered?

### ➤ The Parties Can File Motions Called “Post-Judgment Motions.”

Post-judgment motions can be filed for a few different reasons. If a party thinks he/she/it might appeal the court’s decision, the party can file a post-judgment motion that points out whatever mistakes the party believes were made. A party also can ask for a new trial.

Parties also can file post-judgment motions to ask that the damages (money) awarded be increased or decreased, or that the other party pay the winning party’s attorney’s fees.

### ➤ The Winning Party Can Collect Costs.



In addition to the damages the court gives (awards) as part of the judgment, the winning party can get back some of the money they spent litigating the case. This is called the bill of costs. It can include things like filing fees, the cost of serving the complaint and subpoenas (unless these costs were waived), the cost of copying exhibits, and the cost for court reporters hired for depositions. The winning party is often given costs, but not always. Parties should read the judgment carefully to see if costs have been given in their case.



#### Rules to Read

Federal Rules of Civil Procedure 50, 52, 54, 58, 59 & 60

U.S. District Court Local Rule 54.1 & 54.3

U.S. District Court of Colorado Clerk’s Guidelines for Bills of Costs

## 6. Filing an Appeal.

A full discussion of the appeals process is beyond the scope of this handbook. For more information, visit the [U.S. Court of Appeals for the Tenth Circuit’s website](#). Here are a few points to know:

- Appeals from cases in the U.S. District Court for the District of Colorado are heard by the United States Court of Appeals for the Tenth Circuit.
- A **final** order or judgment is the document which announces the final decision with respect to your case (that is, whether you won or lost) and closes the case with the district court. In most cases, a final order or judgment is entered after all issues in the case have been decided in favor of either the plaintiff or the defendant(s). If a final order or judgment is entered, you will see it in the docket of your case.
- In general, only a final order or judgment from the district court can be appealed. This kind of appeal is called an “appeal as of right” and is talked about in the law at [28 U.S.C. § 1291](#). Appeals of non-final orders, known as **interlocutory appeals**, are allowed only in limited circumstances.
- A Notice of Appeal is a one-page document containing your name, a description of the part of the final order or judgment being appealed, and the name of the court where the appeal will be taken (the Tenth Circuit).
- The fee for filing a Notice of Appeal is \$505.00. If you cannot afford to pay the fee all at once, you can file a motion asking to proceed without prepayment of the fee.
- You have thirty days (or sixty days if the case involves a party who is the United States, a federal agency or federal employee) from the date that the final order or judgment was entered on the docket to file a Notice of Appeal. The Notice of Appeal is filed in the district court where the judgment you are appealing was entered. It is very important that you make every effort to meet the appeal deadline. If you miss the deadline, you can file a motion for extension of time, but there is no guarantee your motion will be granted.



### What is an interlocutory appeal?

In some limited circumstances, you may appeal a non-final decision while your case is ongoing. These types of appeals are called **interlocutory appeals**. The limited circumstances are described in the law at [28 U.S.C. § 1292](#). If you choose to file an interlocutory appeal, your Notice of Appeal is filed in the district court where the decision you are appealing was filed.

## **The Clerk’s Office**

**The Clerk of Court's Office, also called the Clerk’s Office, is the administrative part of the Court that maintains the Court's records. All documents that are required to be filed in a case are filed in the Clerk's Office.**



### **Contact Information for the Clerk’s Office:**



Clerk of the Court  
U.S. District Court for the District of Colorado  
Alfred A. Arraj United States Courthouse  
901 19th Street  
Denver, CO 80294  
Phone: (303) 844-3433

### **Office Hours**

The Clerk’s Office is open to the public Monday through Friday, 8:00 a.m. to 5:00 p.m., except for federal holidays [see [USA.gov](http://USA.gov) for list]. You are welcome to visit the Clerk’s Office to ask limited questions of the staff. The front counter is called “the Intake Desk”, which is located on the first floor of the Arraj U.S. Courthouse in Denver.

### **Clerk’s Office Staff**

Clerk’s Office staff [the support personnel for the judges and their assistants] can give general information about your case, court rules, court forms, and how the process works. They cannot give legal advice, which includes advice interpreting the rules of procedure and how they specifically apply to your case, and they cannot explain Court Orders.

### **Reviewing Dockets and Case Files**



Computer terminals are available in the public area of the Clerk’s Office. You can search and review civil and criminal cases, including your case. The case file on your case is called “the docket” – a list of everything filed in your case, the names of the judge and attorneys on the case, their addresses, etc. The computer terminals in the Clerk’s Office may also be used to check the court’s “party index” (a list of all parties in civil cases) and case index (a list of case numbers).

When you ask the Clerk’s Office to see your case file – the docket – you will be directed to the computer terminals, because all case files are stored electronically in the court’s electronic database. Because electronic filing of case documents is so common, the only types of documents that are still available in paper from the Clerk’s Office are documents from “Administrative Records” of agency appeals that have been submitted to the court in paper, such



as the Administrative Record that a Social Security judge reviewed before an appeal to the district court. Sealed (also called “restricted”) documents can be viewed by you if the documents were filed in your case and you are allowed by court order to view it. Any case files that are available on paper may not be taken out of the Clerk’s Office.

The Clerk’s Office will give you copies of documents in your case or from another case but must charge you 50¢ per page; or, if you print from the public computers, 10¢ per page. Customers in need of closed cases older than fifteen years can request directly from the [Denver Federal Records Center \(FRC\)](#) or through the Clerk’s Office. Please remember that most case files are created and stored electronically in the court’s electronic system called [PACER](#) and are available to you there, for a [fee](#).

### **The Court’s Website**

Information about procedures, the [local rules](#), fees, as well as several other subjects covered in this guide may be found on the U.S. District Court’s website. The website also lists the daily schedule of court hearings and trials scheduled before each judge for the coming week, in the “Calendars” section of the website. The website has links to several other judicial websites, including the U.S. Bankruptcy Court, Tenth Circuit Court of Appeals, and other useful links. If you have access to the internet, the address of the Court’s website is <http://www.cod.uscourts.gov/>. You can also view the U.S. District Court’s website at the public computers in the Clerk’s Office.

## **Getting Legal Assistance**

The United States district judges, the United States magistrate judges, the Clerk of the Court, the deputy clerks, and other court staff are considered “officers of the court” and are not allowed to give legal advice. While court staff are allowed to give you information about your case, court rules, court forms, and other general information, they cannot give you legal advice. Legal advice questions should be directed to a lawyer.



### ➤ **Colorado Bar Association Federal Pro Se Clinic**



The Colorado Bar Association runs the Federal Pro Se Clinic, which is located next to the Clerk’s Office in the Arraj U.S. Courthouse. The Clinic helps non-prisoner, pro se parties who are involved in or want to file a civil case. The Clinic has a staff and volunteer lawyers who explain Court rules and procedures, Court orders, and how to formulate claims and draft papers. They also can help you understand if federal court is the right place for your case. Visit <http://www.cobar.org/fpsc> or call 303-380-8786 for more information, including how to request an appointment.

### ➤ **Civil Pro Bono Panel—Getting Free Legal Representation**

The Civil Pro Bono Panel is a court-sponsored program where volunteer (“pro bono”) lawyers willing to represent people with limited finances agree to take on cases when requested by the Court. Not all cases are chosen by judges for appointment of volunteer counsel -- a case and the pro se person’s situation must meet certain requirements. There is no guarantee that a request for appointment of a pro bono lawyer will be granted, and lawyers who are contacted by court staff and asked to consider a pro se person’s case have the freedom to say no.

To ask for a pro bono lawyer, a pro se party must file a motion (request to the court) for appointment of a pro bono lawyer. The U.S. District Court’s website has a form Motion for Appointment of Counsel available online [HERE](#) and in person in the Clerk’s Office.



**While your motion is being considered by the Court, AND when your motion is granted by the court, you are still responsible for your case – meeting all deadlines, filing all necessary documents, responding to the opposing side, etc. – until a pro bono lawyer accepts your case and appears in it.**

Lawyers are also allowed -- either on a pro bono “no-charge” basis, or for a fee -- to represent pro se persons in civil cases in order to handle single or several tasks, and only with the Court’s permission. This means a lawyer can assist you with something like re-writing your complaint, or appearing for you at a hearing, or helping you negotiate a settlement. Just as you can request the Court to appoint a pro bono lawyer to represent you for the entire length of your case, you are also allowed to request appointment of a lawyer to handle one or a few parts of your case. For an example Motion for Appointment of Counsel, see the U.S. District Court’s website page containing forms under “Civil Pro Bono” [HERE](#). See also the "Limited Representation" page on the court's website [HERE](#).

➤ **Other Sources of Legal Assistance**

A list of organizations and services that may be able to give you legal assistance or help you find an attorney appears below. This list does not have every organization– please also refer to your city’s or county’s legal assistance agencies, particularly Colorado Legal Services.

<p>Colorado Legal Services – a great resource itself, also has a complete list of legal agencies – <a href="#">Legal Aid Directory</a>: <a href="https://lawhelp.coloradolegalservices.org/find-legal-help/directory">https://lawhelp.coloradolegalservices.org/find-legal-help/directory</a></p>	<p><a href="#">Metro Volunteer Lawyers</a> - Apply through Colorado Legal Services at 303-837-1313  <a href="https://www.denbar.org/mvl">https://www.denbar.org/mvl</a></p>
<p>ACLU of Colorado 303 E. 17th Ave. Suite 350 Denver, CO 80203 303.777.5482 <a href="http://www.aclu-co.org/">http://www.aclu-co.org/</a></p>	<p>Catholic Charities Immigration Services 4045 Pecos St. Denver, CO 80211 303.742.4971 (Denver) <a href="http://www.ccdenver.org/services/immigration-">http://www.ccdenver.org/services/immigration-</a></p>
<p>Colorado Legal Services - Denver, CO 1905 Sherman Street Suite 400 Denver, CO 80203 303.837.1313 or 303.837.1321 (new clients) <a href="http://www.coloradolegalservices.org/">http://www.coloradolegalservices.org/</a> (offices are located throughout the state of Colorado)</p>	<p>Disability Law Colorado 455 Sherman St #130, Denver, CO 80203 322 N. 8th St. Grand Junction, CO 81501 Denver 303.722.0300; Grand Junction 970.241.6371 <a href="https://disabilitylawco.org/">https://disabilitylawco.org/</a></p>

<p>University of Colorado Clinical Programs                  Univ. of Colorado Law School, UCB 404 Room                  105                  Boulder, CO 80309                  303.492.8126  <a href="http://www.colorado.edu/law/academics/clinics/clinical-education-program-clients">http://www.colorado.edu/law/academics/clinics/clinical-education-program-clients</a></p>	<p>University of Denver Student Law Office                  2255 East Evans Avenue, Suite 335                  Denver, CO 80208                  303.871.6140  <a href="http://www.law.du.edu/index.php/law-school-clinical-program/clinical-programs">http://www.law.du.edu/index.php/law-school-clinical-program/clinical-programs</a></p>
<p>The Colorado Law Project:  <a href="https://www.law.du.edu/the-colorado-law-project">https://www.law.du.edu/the-colorado-law-project</a>                  The mission of the Colorado Law Project (CLP) is to provide Coloradans with access to reliable legal information. Includes research help, training, and workshops.</p>	<p>The Colorado Law Project’s <a href="#">Recursos en Español</a>:</p> <ul style="list-style-type: none"> <li>• Sobre al Proyecto de Derecho de Colorado</li> <li>• Bibliotecas De Derecho Y Bibliotecarios De Colorado</li> <li>• Recursos en Español</li> </ul>
<p>Colorado Judicial Branch Self-Help Centers (state courts):   <a href="https://www.courts.state.co.us/userfiles/file/Self_Help/Sherlocks/Contact%20list%20for%20public(18).pdf">https://www.courts.state.co.us/userfiles/file/Self_Help/Sherlocks/Contact%20list%20for%20public(18).pdf</a></p>	<p>Justice and Mercy Legal Aid Center (JAMLAC) seeks justice for those struggling with poverty and oppression.                   913 North Wyandot Street                  Denver, CO 80204                  303-839-1008  <a href="https://jamlac.org/">https://jamlac.org/</a></p>
<p>U.S. Bankruptcy Court Self-Help website page:   <a href="https://www.cob.uscourts.gov/filing-without-attorney">https://www.cob.uscourts.gov/filing-without-attorney</a></p>	<p>Tenth Circuit Court of Appeals Self-Help website page:   <a href="https://www.ca10.uscourts.gov/clerk/filing-your-appeal/pro-se">https://www.ca10.uscourts.gov/clerk/filing-your-appeal/pro-se</a></p>

## **District Court Locations, Fees, and Rules of Procedure**

This chapter of the Guide includes information regarding U.S. District Court division locations in Colorado, the current fee schedule, and the current national and local rules of procedure and forms for federal cases.



### **U.S. District Court of Colorado Division Locations**

- **DENVER, CO**

**Alfred A. Arraj U.S. Courthouse**  
901 19th Street, Denver, CO 80294  
HOURS: 8:00 AM to 5:00 PM // PHONE 303-844-3433

**Byron G. Rogers U.S. Courthouse**  
1929 Stout Street, Denver, CO 80294  
HOURS: 8:00 AM to 5:00 PM // PHONE 303-844-3433



- **COLORADO SPRINGS, CO**

212 N. Wahsatch Avenue, Colorado Springs, CO 80903  
HOURS: 8:00 AM to 5:00 PM // PHONE 303-844-3433  
*Mail correspondence to Alfred A. Arraj U.S. Courthouse*

- **GRAND JUNCTION, CO**

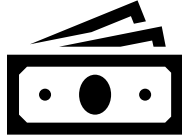
**Wayne Aspinall U.S. Courthouse**  
402 Rood Avenue, Grand Junction, CO 81501  
HOURS: 8:00 AM to 5:00 PM // PHONE 303-844-3433  
*Mail correspondence to Alfred A. Arraj U.S. Courthouse*

- **DURANGO, CO**

**U.S. District Court in the LaPlata County Courthouse**  
Suite 150, 1060 E. 2nd Avenue, Durango, CO 81301  
HOURS: 8:00 AM to 5:00 PM // PHONE 303-844-3433  
*Mail correspondence to Alfred A. Arraj U.S. Courthouse*

## Fee Schedule at the U.S. District Court for the District Court of Colorado

The Fee Schedule effective January 1, 2019, is available [HERE](#). Notable fees include:



- The combined docket and administrative fee for filing a civil complaint or notice of removal totaling \$400.00.
- Photocopying of any record: \$0.50 per page.
- Printing of a document from the court’s computer system: \$0.10 per page.
- The combined docket and administrative fee for filing a Notice of Appeal totaling \$505.00.

## Federal Rules and Court Forms

- The [Federal Rules of Civil Procedure](#) are the rules used to manage civil proceedings in the United States District Courts.
- The [Federal Rules of Criminal Procedure](#) are the rules used to manage criminal proceedings and prosecutions in the United States District Courts.
- The [Federal Rules of Evidence](#) are the rules used to manage how evidence is admitted in most cases in the United States District Courts.
- The [Federal Rules of Appellate Procedure](#) are the rules used to manage procedure in the United States Courts of Appeals.
- The [Federal Rules of Bankruptcy Procedure](#) are the rules used to manage procedures for bankruptcy cases.
- The U.S. District Court for the District of Colorado maintains on its website and in the Clerk’s Office rules and forms applicable only for this District, including:
  - [Local Rules of Practice](#)
  - [Judicial Practice Standards](#)
  - [Forms](#)
  - [Electronic Filing Rules](#)



## **Glossary of Common Legal Terms**



-A-

### **ACTION**

Another word for lawsuit or case.

### **ADMISSIBLE EVIDENCE**

Admissible evidence is evidence that the court allows to be introduced at trial. The Federal Rules of Evidence govern the admissibility of evidence in federal court.

### **ADR (ALTERNATIVE DISPUTE RESOLUTION)**

A Court-sponsored or private program offering methods by which a complaint can be resolved outside of a court case. Mediation is one type of alternative dispute resolution.

### **AFFIDAVIT**

A statement of fact written by a witness, which the witness swears or affirms to be true before a notary public.

### **AFFIRMATIVE DEFENSE**

Allegation included in the answer that, under legal rules, defeats all or a portion of the plaintiff's claim.

### **ALLEGATION**

A statement of claimed fact. A statement is only an allegation until it is proven.

### **AMEND (A DOCUMENT)**

Making changes to a document that has already been filed with the court is called amending the document. The change itself is called an amendment. Certain documents cannot be amended without prior approval of the Court. Typically, amended documents, when accepted by the Court, take the place of the original documents.

### **AMENDED PLEADING (COMPLAINT OR ANSWER)**

A revised version of the original complaint or answer that was filed with the Court.

### **AMOUNT IN CONTROVERSY**

The amount in controversy is a term used in the diversity jurisdiction statute. The term refers to the dollar value of what the plaintiff asks the court for in his or her complaint. For a federal court to have diversity jurisdiction, the amount in controversy must exceed \$75,000.00.

### **ANSWER**

The written response to a complaint.

### **APPEAL**

An appeal is the transfer of a case from a lower court to a higher court for review of the lower court's decision. All final orders by the U.S. District Court, District of Colorado can be appealed

to the U.S. Court Appeals for the Tenth Circuit. **The Notice of Appeal in a civil case must be filed within 30 days, or 60 days if the United States is a party in the case, from the date of entry of the judgment that is being appealed.**

#### APPLICATION TO PROCEED IN FORMA PAUPERIS (IFP)

An application to proceed in forma pauperis is another term for "Application to Proceed in District Court Without Prepaying Fees and Costs." Plaintiffs who cannot afford the fee to file a complaint must file this application with the court to ask permission to file a complaint without paying the filing fee and to have the U.S. Marshals Service serve the summons and complaint on the defendants. An Application to Proceed in District Court Without Prepaying Fees and Costs (Long Form) is available on the court's website.

#### ARBITRATION

Arbitration is a form of alternative dispute resolution; in other words, another way to resolve a dispute without filing a lawsuit. An arbitrator, or group of arbitrators, hears the dispute in a less formal setting and manner than a court trial and enters a decision. There are different types of arbitration, each with their own procedural rules.

-B-

#### BENCH

The large desk area, usually located at the front of the courtroom, where the judge sits.

#### BENCH TRIAL

A trial in which the judge, rather than the jury, determines the law, the facts, and the verdict of the lawsuit. A bench trial is also known as a "court trial."

#### BILL OF COSTS

A bill of costs is a form the winning party of a lawsuit completes and files after final judgment is entered in a case, requesting that costs be awarded against the losing party for certain of the winning party's lawsuit costs, in a hearing held by a deputy clerk. Bills of costs are governed by 28 U.S.C. § 1920, Federal Rule of Civil Procedure 54 and District of Colorado local rule 54.1

#### BURDEN OF PROOF

Under legal rules, one party or the other bears responsibility for proving or disproving one or more elements of a claim. What must be proven or disproven is the burden of proof.

#### BREACH

When individuals fail to perform as they have agreed, or contracted to do, they commit a breach of the agreement or contract.

#### BRIEF

A brief is a written document filed in a case by a party in which the party presents facts, law, and an argument of how the facts may be applied to the law either for or against a particular motion.



-C-

#### CAPTION

A formatted heading on the first page of every document filed with the Court, listing the case number and judge(s) assigned to the case, names of the parties, and other identifying information. The specific information that must be included in the caption is explained in Rule 10(a) of the Federal Rules of Civil Procedure.

#### CASE

Another term for lawsuit or action.

#### CERTIFICATE OF SERVICE

A document showing that a copy of a particular document — for example, amended complaint — has been mailed or otherwise provided to (in other words, “served on”) all of the other parties in the lawsuit. A certificate of service form is available on the Court’s website.

#### CHALLENGE FOR CAUSE

A request by a party that the Court excuse a juror whom they believe to be too biased to be fair and impartial, or unable perform his or her duties as a juror for other reasons.

#### CHAMBERS

The private offices of an individual judge and the judge’s staff.

#### CITATION/CITING

A reference to a law, rule, or case.

#### CLAIM

A statement made in a complaint, in which the plaintiff(s) argue that the defendant(s) violated the law in a specific way; sometimes called a count.

#### CLOSING ARGUMENTS

An oral statement by each party summarizing the evidence and arguing how the jury (or, in a bench trial, the judge) should decide the case.

#### COMPLAINT

A legal document in which the plaintiff tells the Court and the defendant how and why the defendant violated the law in a way that has caused harm to the plaintiff.

#### COMPULSORY COUNTERCLAIM

A claim by the defendant against the plaintiff that is based on the same events or transactions as the plaintiff’s claim against the defendant.

#### CONTEMPT OF COURT

Actions by a party or witness in a case, found by the Court to be committed in violation of the Court’s authority, or to interfere with or obstruct the Court’s administration of justice.

#### CONTINUANCE

An extension of time ordered by the Court.

#### COUNSEL

Attorney(s); lawyer(s).

#### COUNTERCLAIM

When a defendant makes a claim against the plaintiff, it is called a counterclaim.

#### COURT OF APPEALS

A court that hears appeals from the district courts located within its circuit, as well as appeals from decisions of federal administrative agencies. This Court's decisions are appealed to the U.S. Court of Appeals for the Tenth Circuit.

#### COURT REPORTER OR STENOGRAPHER

A person specially trained and licensed to record testimony in the courtroom or, in the case of depositions, another location.

#### COURTROOM DEPUTY

A Court employee who assists the judge in the courtroom and sits at a desk near the judge.

#### CROSSCLAIM

A new claim made against a co-party (by a plaintiff against a co-plaintiff or by a defendant against a co-defendant).

#### CROSS-EXAMINATION

The opposing party's questioning of a witness following direct examination, generally limited to the areas covered during the direct examination.

-D-

#### DAMAGES

The money that can be recovered in the courts by the plaintiff for the plaintiff's loss or injury due to the defendant's violation of the law, or vice versa – the defendant's loss or injury caused by the plaintiff, when the defendant raises a counterclaim.

#### DELIBERATE

At trial, after having heard all the evidence, closing arguments, and instructions from the judge, the jurors go to the jury room to talk in secret and decide who will win the case. This process is referred to as deliberating or jury deliberations.

#### DE NOVO REVIEW

De novo review means the court will consider a matter without deferring to the findings of any previous decision maker. For example, if a district judge conducts a de novo review of a magistrate judge's report and recommendation, he or she considers the same information reviewed by the magistrate judge and comes to his or her own conclusion.

## DECLARATION

A written statement signed “under penalty of perjury” by a person who has personal knowledge that what he or she states is true; declarations may contain only facts, and may not contain law or argument. The person who signs a declaration is called a declarant.

## DEFAULT

A defendant who has been properly served with the complaint but does not file an answer or other response is said to be in default.

## DEFAULT JUDGMENT

If a defendant does not file an answer or other response to the complaint, there is a procedure by which the court may enter a default judgment against the defendant, which means the plaintiff has won the case.

## DEFENDANT

The person, company, or government agency against whom the plaintiff makes claims.

## DEFENSES

The reasons given by the defendant why the plaintiff’s claims should be dismissed.

## DEMAND FOR JURY TRIAL

Federal Rule of Civil Procedure 38 explains how and when to demand a jury trial in a civil case.

## DEPONENT

The person who answers the questions in a deposition; a deponent can be any person who may have information about the lawsuit, including one of the other parties to the lawsuit.

## DEPOSITION

A question-and-answer session, before trial and outside the courtroom, in which one party to the lawsuit asks another person, who is under oath, questions about the events and issues in the lawsuit. The process of taking a deposition is called deposing.

## DEPOSITION NOTICE

A notice served on the deponent specifying the time and place of the deposition.

## DIRECT EXAMINATION

The process during a trial in which a party calls witnesses to the witness stand and asks them questions.

## DISCLOSURES

Information that each party must automatically give the other parties in a lawsuit.

## DISCOVERY

The formal process by which a party to a lawsuit asks other people to provide information about the events and issues in the case. Discovery methods include depositions, interrogatories,

requests for document production, requests for admission, and physical or mental examinations. The general provisions governing discovery are addressed in Federal Rule of Civil Procedure 26.

#### DISCOVERY PLAN

The joint proposed discovery plan required by Rule 26(a) of the Federal Rules of Civil Procedure, which must include the parties' views about, and proposals for, how discovery should proceed in the lawsuit. Rule 26(f) of the Federal Rules of Civil Procedure requires that prior to the initial case management conference, the parties discuss and create a discovery plan, which must include the parties' views and proposals about how discovery should proceed in the lawsuit.

#### DISPOSITIVE

If a motion is dispositive, it may end a case or end certain claims within a case.

#### DISTRICT JUDGE

A federal judge who is nominated by the President of the United States and confirmed by the United States Senate to a lifetime appointment.

#### DIVERSITY JURISDICTION

A basis for federal court jurisdiction in lawsuits in which none of the plaintiffs live in the same state as any of the defendants and the amount in controversy exceeds \$75,000. See United States Code, 28 U.S.C. § 1332, the diversity jurisdiction statute, for more information.

#### DOCKET

The docket is the computer file maintained by the court for each case, which lists the title of every document filed, the date it was filed, and the date it was entered onto the docket.

-E-

#### EARLY NEUTRAL EVALUATION

An ADR (alternative dispute resolution) process in which a magistrate judge provides the parties with an informal analysis of the two sides' claims and defenses.

#### ELECTRONICALLY STORED INFORMATION

Electronically stored information (ESI) is information that is stored in a computer, such as an e-mail, or in another electronic device. There are special discovery rules for electronically stored information.

#### ELEMENTS (of a claim or defense)

The individual parts of a plaintiff's claim or a defendant's defense, each of which must be proved or the claim or defense fails, are referred to as the elements of the claim or defense.

#### ELECTRONIC CASE FILING (ECF)

Also known as "e-filing," the process of submitting documents to the Court for filing and serving them on other parties electronically through the Internet. The United States Courts use an e-filing system called "Electronic Case Filing" or "ECF."

#### ENTRY OF DEFAULT

A formal action taken by the Clerk of Court in response to a plaintiff's request when a defendant has not responded to a properly-served complaint; the Clerk must enter default against the defendant before the plaintiff may file a motion for default judgment.

#### EVIDENCE

Testimony, documents, recordings, photographs, and physical objects that tend to establish the truth of important facts in a case.

#### EX PARTE MOTION

A motion that is filed without notice to the opposing party.

#### EXHIBITS

Documents or other materials that are presented as evidence at trial or as attachments to motions or declarations.

#### EXPERT DISCLOSURES

The disclosures required by Rule 26(a)(2) to the other parties of the identity of, and additional information about, any expert witnesses who will testify at trial.

#### EXPERT WITNESS

A person who has scientific, technical, or other specialized knowledge that can help the Court or the jury understand the evidence.

-F-

#### FEDERAL QUESTION JURISDICTION

Federal courts are authorized to hear lawsuits in which at least one of the plaintiff's claims arises under the Constitution, laws, or treaties of the United States.

#### FEDERAL RULES OF CIVIL PROCEDURE

The procedural rules that apply to every federal district court in the United States.

#### FEDERAL RULES OF EVIDENCE

The rules for submitting, considering, and admitting evidence in the federal courts.

#### FILING

The process by which documents are submitted to the Court and entered into the case docket.

#### FILING FEE

The amount of money the Court charges the plaintiff to file a new lawsuit.

#### FINAL PRETRIAL CONFERENCE

The court may hold a final pretrial conference to create a trial plan, including a plan to help the admission of evidence. The conference must be held as close to the start of trial as is reasonable,

and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

In a bench trial, after hearing all the evidence and arguments, the judge writes findings of fact and conclusions of law to be issued with his or her written judgment, explaining what facts he or she found to be true and the legal consequences of those facts.

#### FRIVOLOUS

Frivolous means not worth serious consideration.

-G-

#### GENERAL JURISDICTION

A court of general jurisdiction is one that has the authority to hear cases of all kinds. State courts are courts of general jurisdiction.

#### GOOD FAITH

Acting in good faith means having honesty of intentions; for example, negotiating in good faith is negotiating with an open mind and a sincere desire to reach an agreement.

#### GROUND

The reason for a claim is sometimes referred to in legal documents as the grounds for that claim; for example, if you present the reasons you object to another party's discovery requests, you are giving the grounds for your objections.

-H-

#### HEARING

A formal proceeding before the judge for the purpose of resolving one or more issues.

#### HEARSAY

Evidence presented by a witness who did not see or hear the incident in question but heard about it from someone else. With some exceptions, hearsay generally is not admissible.

-I-

#### IMPEACHMENT

The process of challenging the accuracy of evidence. Typically, a witness is impeached by questioning the witness to show that he or she is not telling the truth.

#### INCOMPETENT PERSON

An incompetent person is a person who does not have the legal capacity to do something, such as testifying, because of that person's age or difference in mental development.

#### INDISPENSABLE PARTY

An indispensable party is a person or an entity that has such an interest in a lawsuit that they must be included in the lawsuit before a judge can issue a final judgment.

#### INDIVIDUAL CAPACITY

Individual capacity means the person was acting for himself or herself rather than acting on behalf of an employer or someone else.

#### INITIAL DISCLOSURES

The disclosures that the parties are required to serve within 14 days of their initial case management conference.

#### INTERROGATORIES

Written questions served on another party in the lawsuit, which must be answered (or objected to) in writing and under oath.

-J-

#### JUDGMENT

A final document issued by the Court stating which party wins on each claim. Unless there are post-judgment motions, the entry of judgment closes the case and starts the time to file an appeal.

#### JURISDICTION

The power of the Court to review and enter orders in a particular kind of case.

#### JURISDICTIONAL STATEMENT

A jurisdictional statement is a paragraph in a complaint that explains to the Court how it has the power to decide the issues in the lawsuit.

#### JURY BOX

The rows of chairs, usually located against a side wall near the front of the courtroom, where the jury sits during a trial are referred to as the jury box.

#### JURY DELIBERATIONS

The process in which the jury, after having heard all the evidence, closing arguments from the parties, and instructions from the judge, meets in private to decide the case.

#### JURY INSTRUCTIONS

The judge's directions to the jury about its duties, the law that applies to the lawsuit, and how it should evaluate the evidence.

#### JURY SELECTION

Jury selection is the process by which the jury is chosen. Usually jury selection includes a type of questioning referred to as voir dire.

## JURY TRIAL

A jury trial is where a group of citizens decides the factual issues in a lawsuit. This means that the jury will weigh the evidence presented by the parties, decide what to believe, and determine what they believe happened. In addition, the court will instruct the jury on the law, the jury will apply the law to the facts that they have found, and they determine who wins the lawsuit.

-K-

(No definitions)

-L-

## LECTERN

The stand for holding papers in front of the bench in the courtroom where an attorney or pro se party making arguments on a motion stands and speaks to the judge.

## LIMITED JURISDICTION

A court of limited jurisdiction is a court whose power to decide cases is limited to certain types of cases. Federal courts are courts of limited jurisdiction.

## LITIGANTS

The parties (persons, corporations, government agencies) to a lawsuit.

## LOCAL RULES

Specific federal court rules that set forth additional requirements to the Federal Rules of Civil Procedure; for example, the Local Rules of the United States District Court for District of Colorado explain some of the additional procedures that apply only to this Court.

-M-

## MAGISTRATE JUDGE

A judicial officer who is appointed by the Court for an 8-year, renewable term and has some, but not all, of the powers of a district judge. A magistrate judge may handle civil cases from start to finish if all parties consent. In non-consent cases, a magistrate judge may hear motions and other pretrial matters assigned by a district judge.

## MATERIAL FACT

A material fact is a fact that is significant or important in a case.

## MEDIATION

An ADR process in which a trained mediator helps the parties talk through the issues in the case to seek a satisfactory end of all or part of the dispute.

## MEET AND CONFER

When the parties get together to discuss an issue or issues, they "meet and confer." Under Local Rule 7.1(a), parties must meet and confer before filing any civil motion, with a few exceptions.



#### MENTAL EXAMINATION

If the physical or mental condition of a party is disputed in a lawsuit, the court may order that person to submit to a physical or mental examination by a suitably licensed or certified examiner, such as a physician or psychiatrist. Unlike other discovery procedures, such examinations can only be obtained by filing a motion with the court, or by agreement of the parties.

#### MINOR

A minor is a person who has not reached full legal age. For most purposes, a minor is someone under age eighteen.

#### MOTION

A formal petition or request to the Court asking for a specific ruling or order (such as dismissal of the plaintiff's lawsuit). Can be made in writing or verbally, in person, during a court hearing.

#### MOTION FOR SANCTIONS

A motion for sanctions is a request that the Court punish a party or person. If granted, the Court may order either monetary or non-monetary punishment in an attempt to deter the unwanted behavior. For example, such a motion may be filed if a party violates Federal Rule of Civil Procedure 11 or fails to follow other procedural requirements.

#### MOTION FOR SUMMARY JUDGMENT

Asks the Court to decide a lawsuit without a trial because the evidence shows that there is no real dispute about the key facts, and the facts and law show that the opposing party loses.

#### MOTION IN LIMINE

A motion asking the judge to settle an issue relating to the trial, usually argued shortly before the beginning of trial.

#### MOTION TO ALTER OR AMEND JUDGMENT

Under Federal Rule of Civil Procedure 59(e), after the final judgment is entered, either party may file a motion to alter or amend the judgment if the party believes a mistake was made in the judgment that could be corrected by changing it.

#### MOTION TO COMPEL

Asks the Court to order a person to make disclosures, or to respond to a discovery request, or to provide more detailed disclosures or a more detailed response to a discovery request.

#### MOTION TO DISMISS

Asks the Court to deny claims in the complaint for a reason in Federal Rule of Civil Proc. 12.

#### MOTION TO STRIKE

Under Federal Rule of Civil Procedure 12(f), a party can move to strike certain parts of a complaint or other pleading because it is redundant, immaterial, impertinent, or scandalous.

#### MOVING PARTY

The party who files a motion is referred to as the moving party.

-N-

#### NOTICE OF ELECTRONIC FILING (NEF)

An email generated by the court's Electronic Filing (ECF) system that is sent to every registered attorney, and party associated with a case every time a new document is filed. The NEF contains details about the filing and a link to the new document.

#### NOTICE OF DEPOSITION

Gives all of the information required under Rules 30(b) and 26(g)(1) of the Federal Rules of Civil Procedure, and must be served on opposing parties to a lawsuit before the deposition may take place. The notice is used to inform all parties that a deposition will be taking place and provides the necessary information for them to attend. The notice must meet the requirements of District of Colorado Local Rule 30.1.

-O-

#### OBJECTION

An objection is a protest about the legal basis for a question. Objections are made verbally at hearings or trial, and objections are made in writing to discovery requests.

#### OFFICIAL CAPACITY

A government official acting in his or her official capacity is acting within the scope of his or her duties as an official.

#### OPENING STATEMENTS

At the beginning of a trial, the parties have an opportunity to make opening statements, which generally describes the issues in the case and what the party expects to prove during the trial.

#### OPPOSING PARTY

Generally, the party you are either suing or defending against is referred to as the opposing party. When a motion is filed, the party against whom the motion is filed is called the opposing party.

#### ORAL ARGUMENT

Oral argument refers to the verbal presentation a lawyer, or pro se party, makes to the judge in a court hearing in support of his or her position.

#### OVERRULE AN OBJECTION

During examination of witnesses at trial, a judge overrules an objection by a party when the judge disagrees with the objection to the evidence being admitted or the question being asked. This means that the evidence will be admitted or the question may be asked, unless the judge later sustains a different objection.

-P-

#### PACER SYSTEM

“Public Access to Electronic Court Records” is an internet database where docket information is stored. There is a charge for use of the system, which may be waived.

#### PARTIES

The plaintiffs and the defendants are referred to as the parties or the litigants in the lawsuit.

#### PEREMPTORY CHALLENGE

During jury selection, after all of the jurors challenged for cause have been excused, the parties may request that additional jurors be excused without having to give any reason for the request.

#### PERJURY

A false statement made under oath, punishable as a crime.

#### PERSONAL SERVICE

Personal service is delivery of the summons and complaint (or other court document) directly to a party named on the summons and complaint (or other court document).

#### PERMISSIVE COUNTERCLAIM

A claim by the defendant against the plaintiff that is not based on the same events or transactions as the plaintiff’s claim against the defendant.

#### PHYSICAL OR MENTAL EXAMINATION

If the physical or mental condition of a party is at issue in a lawsuit, the Court may order that person to have a physical or mental examination by a medical professional such as a physician or psychiatrist; unlike other discovery procedures, physical or mental examinations can be obtained only by filing a motion with the court, or by agreement of the parties.

#### PLEADINGS

Formal documents that are filed with the court, such as complaints and answers.

#### PLAINTIFF

The person who filed the complaint and claims to be injured by a violation of the law.

#### PRETRIAL DISCLOSURES

The disclosures required by Rule 26(a) (3) of the Federal Rules of Civil Procedure of certain information about evidence that you may present at trial.

#### PRIVILEGED INFORMATION

Information that is protected by legal rules, such as the attorney-client privilege, and an attorney’s “work product” or legal analysis from disclosure during discovery and trial.

#### PRO BONO REPRESENTATION

Legal representation by an attorney that is free to the person represented.

**PRO SE**

A Latin term meaning “for oneself.” A pro se party is a party without a lawyer.

**PROCESS SERVER**

A person authorized by law to serve the complaint and summons on the defendant.

**PROOF OF SERVICE**

A document attached to each document filed with the court (or filed separately at the same time as the document) in which the filer affirms that he or she served the document on other parties.

**PROPOSED ORDER (OR OTHER DOCUMENT)**

A document a party may be required by court rules to submit with a filing such as a motion that can serve as the final order.

**PROTECTIVE ORDER**

A court order limiting discovery, either as to how discovery may be conducted or what can be discovered.

-Q-

**QUASH A SUBPOENA**

After a motion, the Court’s action vacating a subpoena so that it has no legal effect.

-R-

**REBUTTAL**

The final stage of presenting evidence in a trial, presented by the plaintiff.

**RE-DIRECT EXAMINATION**

At trial, after the opposing party has cross-examined a witness, the party who called the witness may ask the witness questions about topics covered during the cross-examination.

**REPLY**

Refers to both the answer to a counterclaim and the response (opposition) to a motion.

**REPORT AND RECOMMENDATION**

After a federal district judge refers an issue for factual and legal findings by a magistrate judge, the magistrate judge files a report and recommendation containing those findings.

**REQUEST FOR ADMISSION**

A discovery request that a party admit a material fact or element of a claim.

#### REQUEST FOR ENTRY OF DEFAULT

The first step for the plaintiff to obtain a default judgment by the Court against a defendant; directed to the Clerk of Court, the request must show that the defendant has been served with the complaint and summons, but has not filed a written response in the required time.

#### REQUEST FOR INSPECTION OF PROPERTY

A discovery request served on a party in order to enter property controlled by that party for the purpose of inspecting, measuring, surveying, photographing, testing or sampling the property or any object on the property relevant to the lawsuit.

#### REQUEST FOR PRODUCTION (OF DOCUMENTS, ETC.)

A common discovery request served by a party seeking documents or other items relevant to the lawsuit from another party.

#### REQUEST FOR WAIVER OF SERVICE

A written request that the defendant accept the summons and complaint without formal service.

-S-

#### SANCTION

A punishment the Court may impose on a party or an attorney for violating the Court's rules or orders.

#### SERVE, SERVICE

The act of providing a document on a party according to the requirements found in Rules 4 and 5 of the Federal Rules of Civil Procedure.

#### SERVICE OF PROCESS

The formal delivery of the original complaint in the lawsuit to the defendant according to with the requirements for service found in Rule 5 of the Federal Rules of Civil Procedure.

#### STATEMENT OF UNDISPUTED FACTS

A list of facts filed in a summary judgment motions with citations to the evidence showing that those facts are true.

#### STATUS CONFERENCE

A hearing the judge may hold during the course of the lawsuit to assess the progress of the case, or address problems the parties are having.

#### STATUTE

A statute is a formal written law. Federal statutes are found in the United States Code.

#### STATUTE OF LIMITATIONS

A legal time limit by which the plaintiff must file a complaint; after the time limit, the complaint may be dismissed as time-barred.

#### STIPULATION

A written agreement signed by all the parties to the lawsuit or their attorneys.

#### STRIKE

When the court orders that a document or a portion of a document be deleted or otherwise ignored, it is said to strike the document or portion of it.

#### SUBJECT MATTER JURISDICTION

A federal court has subject matter jurisdiction only as defined by Congress over cases arising under the Constitution, treaties or laws of the United States and diversity cases in which the parties are from different states and the amount in controversy is greater than \$75,000.

#### SUBPOENA

A document issued by the Court requiring a non-party to appear for a court proceeding or deposition or to make certain documents available at a specific time and place.

#### SUBPOENA DUCES TECUM

A form of subpoena used to require a non-party deponent to bring specified documents to a deposition.

#### SUBSTANTIVE LAW

Determines whether the facts of each individual lawsuit constitute a violation of the law for which the Court may order legal relief (money) or a just solution.

#### SUMMARY JUDGMENT

After a motion, a decision by the Court to enter judgment in favor of one of the parties without a trial, because the evidence shows that there is no real dispute about the material facts, and the facts and law show that the opposing party loses.

#### SUMMONS

A document from the Court that you must serve on the defendant along with your original complaint to start your lawsuit.

-T-

#### TAKING A MOTION UNDER ADVISEMENT

If the court decides to consider a motion further after a hearing and to later send the parties a written opinion, it is said to be taking a motion under advisement or under consideration.

#### TIME-BARRED

When the time limit has passed by which a person must make a particular legal claim or it is too late (in other words, when the statute of limitations has run); the claim is said to be time-barred.

#### TRANSCRIPT

The written version of what was said during a court proceeding or deposition as typed by a court reporter or court stenographer.

-U-

#### UNDISPUTED FACT

A fact about which all the parties agree is an undisputed fact.

#### UNITED STATES CODE (U.S.C.)

The United States Code is the published, official collection of federal laws.

-V-

#### VACATE

When a court sets aside an order it previously made so that the order has no more force, it is said to have vacated the order.

#### VENUE

Venue refers to the place where the lawsuit is filed.

#### VERDICT

When the jury or judge decides who wins a trial, the decision is called a verdict.

#### VERDICT FORM

In a jury trial, the form the jury fills out to record their verdict is called a verdict form

#### VOIR DIRE

Part of the jury selection process in which potential jurors are asked by the judge or parties questions designed to reveal biases that would interfere with fair and impartial jury service.

-W-

#### WAIVER OF SERVICE, WAIVING SERVICE

A defendant's written, signed agreement that he or she does not require a document (usually the complaint) to be served on him or her in accordance with the formal service requirements of Rule 4 of the Federal Rules of Civil Procedure.

#### WITH PREJUDICE

A final decision on the merits (strengths) of the claim. If your claims are dismissed with prejudice, you may not file another complaint in which you assert those claims again.

#### WITHOUT PREJUDICE

Without a final decision on the merits which would prevent the claim from being re-filed. Dismissal without prejudice is sometimes also referred to as dismissal “with leave to amend” because you are permitted to file an amended complaint or other document.

-X, Y, Z-

(No definitions)