

Guide to Civil Legal Cases in the United States District Court for the District of Colorado



This Guide is not legal advice. It is for informational purposes only.

All of us at the United States District Court for the District of Colorado share the same goals as our late Chief Judge Alfred A. Arraj, the person for whom this courthouse was named. We are committed to administering justice in a fair and timely way. We do not discriminate based on race, beliefs, or social standing. We hope this Guide will give you greater access to our court.

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Welcome to the U.S. District Court for the District of Colorado. This Guide has helpful information for anyone wanting to learn:

- the basic steps in a federal civil case,
- what the court staff does and how they can help you,
- common legal terms,
- where to find laws, rules, and other resources you may need to know for your case, and
- your responsibilities if you represent yourself in federal court.

This Guide does not have information about criminal cases or bankruptcy cases, or information for subpoenaed witnesses or jurors. It only explains federal civil cases, and it will not answer all your questions. Visit our website for more information about other topics: <http://www.cod.uscourts.gov/>.

If you are a prisoner who wants to file a case, see the court's other publication, A Guide for Prisoners: How to File a Lawsuit Without a Lawyer, available at <http://www.cod.uscourts.gov/RepresentingYourself.aspx>.

How to Use this Guide

This Guide is for people involved in a federal lawsuit. It is divided into these main sections:

- What is a civil lawsuit?
- Is this the right court for my case?
- Things to consider before you start your case
- Filing a Civil Case
- Civil Case Roadmap
- Not all cases go to trial
- Appeals
- The Court Clerk's Office
- Legal Resources and Help
- U.S. District Court Locations, Fees, and Rules
- Common Legal Terms



Starting a Civil Case Without a Lawyer



If you are a participant in a federal civil case, you are also called a “party” or a “litigant”. The party that starts the case is the plaintiff. The defendant is the party you are suing.



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 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 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. Usually:

- The plaintiff claims the defendant did not follow their legal duty, such as not following a contract or violating the plaintiff’s constitutional rights.
- The plaintiff claims they lost money (financial loss) or were harmed (personal injury) because of the defendant’s actions.
- The plaintiff asks the court to order the defendant to pay for the alleged harm. The plaintiff may also ask the court to order the defendant to do something to repair the harm.

What does it mean to be “pro se”?

If you are pro se (you do not have a lawyer), we encourage you to talk to a lawyer. Federal cases are complicated. You may not be able to handle it on your own. This Guide only explains:

- basic legal concepts,
- the basics of federal rules of procedure and evidence, and
- general district court requirements and standards.

If you choose to represent yourself, you must learn the laws and rules that apply to your case.



What does “pro se” mean? If you don’t have a lawyer, you are pro se.

If you are representing yourself without help from a lawyer, you are a “pro se litigant.” “Pro se” is a Latin term meaning “for oneself.” You might also be called:

- unrepresented, or
- self-represented.

You are allowed to represent yourself and your own interests, but you may NOT represent anyone else, including any company you may own in whole or in part.



***Important!* This Guide is NOT legal advice, and court staff CANNOT give legal advice.**



***Important!* 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.**

What are the *federal* courts?

The *federal* court system has three levels:

- district courts,
- appeals courts, which are also called circuit courts, and
- the U.S. Supreme Court.

U.S. District Courts

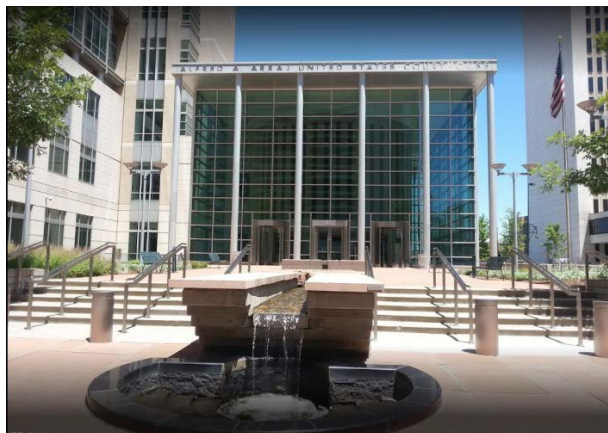
The district courts are the **first** level. That's where federal cases begin and are decided. This Guide is for one particular federal district court — the District of Colorado. The rules for other district courts may be different. The District of Colorado has 4 jury divisions with a courthouse in each division:

- Denver,
- Durango,
- Grand Junction, and
- Colorado Springs/Pueblo.

Documents for all four divisions are filed in person or by mail at the main Clerk's Office in Denver, Colorado at:

Clerk of the Court

U.S. District Court for the District of Colorado
901 19th Street, Room A105
Denver, CO 80294-3589
Tel.: (303) 844-3433



U.S. Appeals Courts

The appeals courts (or circuit courts) are the **second** level. Generally, anyone who loses a district court case can appeal to their appeals court. There are 13 U.S. Courts of Appeals in the nation. Appeals from the District of Colorado go to the U.S. Court of Appeals for the Tenth Circuit, whose website is: <https://www.ca10.uscourts.gov/>. (The Tenth Circuit Court also hears appeals from district courts in nearby states other than Colorado.) You may contact the Tenth Circuit Court of Appeals at:

Office of the Clerk

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

U.S. Supreme Court

The U.S. Supreme Court is the **third** and highest level. It hears only certain cases from the appeals courts and from the state supreme courts. The U.S. Supreme Court has the power to choose which cases it will decide. It only accepts a very small number of the cases that are sent for its review. Its website is: <https://www.supremecourt.gov/>. You may contact the U.S. Supreme Court at:

U.S. Supreme Court

One First Street N.E.
Washington, DC 20543
Tel.: (202) 479-3000



Judges and Court Staff at This Courthouse

Many people work at the courthouse, including judges and the Clerk's Office staff.

The **Clerk's Office staff** support the judges and their assistants. They can also give general information about court rules and how the process works.

They CANNOT:

- Give legal advice,
- Explain how court rules apply to a specific case,
- Recommend that you take or not take a particular action,
- Predict when or how a judge will decide a motion or a case, or
- Explain a court order or judgment.

Judges, including their office staff and law clerks, may NOT:

- Give legal advice, or
- Communicate privately with any party in a case assigned to them, unless given special permission to do so, such as when the judge is handling settlement discussions.

You must communicate with your assigned judge in writing. To do that, you must do one of two things:

(1) You may take your document to the Clerk's Office. The Clerk will file it in your case and send it electronically to the other side. You are still responsible for mailing a copy of your document to the other side, unless you signed up to file documents electronically.

(2) You may sign up to file and receive documents electronically. For more information about this option, go to:

<http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx>.

Access to Legal Rules

If you file your case, you must learn the applicable law and follow all the rules of this federal court. The rules explain what each side must do, and each party's rights and responsibilities. The following rules and procedures are the minimal tools you will need to navigate your case through the civil case process:



1. **Federal Rules of Civil Procedure** (“FRCP” or “Fed. R. Civ. P.”). These Rules apply to all civil cases in any federal district court. You can read them for free online:
<https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure>.
2. **Federal Rules of Evidence** (“FRE” or “Fed. R. Evid.”): These Rules describe the evidence that can be used if your case goes to trial. You can read them for free online:
<https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.
3. **District Court’s Local Rules**: The Local Rules apply to civil cases in this district. Find them at the Clerk’s Office or for free online:
<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx>.
4. **District Court’s Electronic Case Filing (“ECF”) Administrative Procedures**: If the court gives you permission to file your civil case online, the Electronic Case Filing Procedures tell you how. Find them at the Clerk’s Office or for free online:
www.cod.uscourts.gov/http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx.
5. **Judicial Practice Standards**: Each judge can make rules that apply only in his or her cases. These are called Judicial Practice Standards. Find them at the Clerk’s Office or for free online:
<http://www.cod.uscourts.gov/JudicialOfficers.aspx>.
6. **Forms approved for use in this District**: You must use the court’s approved forms and follow format rules. You can get court forms and instructions from the Clerk’s Office or the Court’s website:
<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>.

Things to Consider Before Starting Your Case



Filing a lawsuit is not easy. Federal civil cases take a long time to move through the court, sometimes several years. The process is complicated, expensive, and can be very stressful. If you file your lawsuit without a lawyer (pro se), you must learn and follow the same legal rules and procedures that lawyers follow. The court will not help you learn the law and the rules.

You must also:

- Bring your claims in good faith. If you file a lawsuit that is false, frivolous, or to harass another party, the court can order you to pay a fine AND the opposing parties' legal fees.
- Be truthful. Tell the truth based on the evidence you have now or are likely to get, not based on what you guess is true.
- Meet all deadlines and follow all court rules. This includes deadlines for filing and serving, following the judge's orders, and answering papers filed by the other parties. If you miss a deadline or do not follow the rules, your case could be hurt or dismissed.
- Tell the court within 5 days if your address changes. If you don't, the court could fine you or dismiss your case.



Important! If you lose your case, the court can order you to pay the other party's costs, including but not limited to witness fees and travel expenses, filing fees, copying, depositions, and scanning.



Is this the right court for my case?

The U.S. District Court for the District of Colorado is a federal court of limited jurisdiction. That means it can only hear:

- cases dealing with a question about the U.S. Constitution, a U.S. treaty, federal law or statute, or where the U.S. is a party, and
- cases where the parties live in different states and the amount the two sides are fighting over is more than \$75,000.

If your case is about something else, you may need to file your case in a different court, such as:

- A state court, for a divorce, child custody, child support, or other family law case
- A state court, for breach of contract, fraud, negligence, malpractice, trespass, etc.
- Bankruptcy court
- A probate court
- A federal or state administrative agency (for example, a Worker's Comp. claim)
- An appeals court for a case you already filed. (You must file in the appropriate appeals court.)



Important! The U.S. District Court for the District of Colorado is a federal court. It is NOT the Denver District Court, which is a state court. For more information about state courts, go to:

<https://www.courts.state.co.us/Courts/>.

Some claims must go to an Administrative Agency first.



For many kinds of cases, the law says you cannot sue until you “exhaust all available administrative remedies.” Usually that means using the agency’s grievance process before you file your case. It’s up to you to find out if your case requires you to use an administrative process first.

Example: If you are claiming that your old employer discriminated against you under Title VII of the Civil Rights Act, you must file your complaint first with the U.S. Equal Opportunity Commission (EEOC), and “exhaust” – meaning, complete – the EEOC process.



Warning! If the law requires you to exhaust all available administrative options first and you skip this step, the court can dismiss your case.



Try Other Ways to Resolve Your Claim.



A federal civil case can take years. There are other ways—outside of court—to resolve your claims. These are called Alternate Dispute Resolution methods, also known as “ADR”. ADR can be faster, less expensive, and less stressful. Here are a few kinds of ADR methods:

- **Informal settlement negotiations**
You and the other people in your case meet and talk. You work together to try to find a solution without going to court or through any formal process.
- **Mediation**
You and the other people in your case pick a fair person (called a mediator) to listen to both sides of the story. The mediator is not a judge and does not decide who wins. The mediator helps you make an agreement (settlement). To find a list of mediators in Colorado, visit this website: [DColoMediators.org](https://www.dcolomediators.org).
- **Early neutral evaluation**
You and the other people in your case pick a fair person to hear both sides. The person will say how strong each side’s case is. To find a free list of professional evaluators, visit the Colorado Bar Association website: www.cobar.org/For-Members/CBA-Sections/Alternative-Dispute-Resolution.
- **Arbitration**
You and the other people in your case pick a fair person (called an arbitrator) to hear both sides. The arbitrator will decide who wins, like a judge. To learn more about arbitration, visit the American Arbitration Association website: www.adr.org.

Filing a Civil Case

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Here are the steps the plaintiff follows to start a civil case:

1. File the Complaint.
2. File a Civil Cover Sheet.
3. Pay the filing fee or apply to waive the fee.
4. Serve the Complaint on the defendant.

1. File the Complaint.



The Complaint is a written document that makes claims against the defendant(s). These claims are also called allegations. The Complaint must include:

- Information about the parties:
 - o Who the parties are,
 - o Where they live, and
 - o Why the U.S. District Court for the District of Colorado is the right court for this case.
- The plaintiff's side of the story:
 - o What the plaintiff claims the defendant did,
 - o What happened, and
 - o Which law(s) the plaintiff thinks the defendant broke.
- The harm the plaintiff thinks the defendant caused.
- What the plaintiff wants the court to do:
 - o Give the plaintiff money, or
 - o Provide another type of relief.



Rules to Read

Federal Rules of Civil Procedure 3, 8 & 11

U.S. District Court of Colorado Local Rule



What is an allegation?

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

If you want a jury, you must say that in your Complaint.

Sign and date the Complaint. Then file it with the Clerk of the U.S. District Court for the District of Colorado.



If you do not have a lawyer, you must use the court’s pro se forms to file your case. Use the form that is right for your case.

- General Complaint - for most cases
- Employment Discrimination Complaint - for employment cases
- Complaint for Judicial Review of a Social Security Decision - to appeal a Social Security decision

You can get the forms and instructions from the Court’s website, or the Clerk’s Office.



Protecting Private Information:

Court files are not private!

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 says that you must make sure certain information cannot be seen. Below are instructions on how to protect your private information.

If Your Complaint Has This in It:	Then Do This to Protect it:
Social Security Numbers	Provide the last 4 numbers only. <i>Examples:</i> “The social security number ending in 2335.” or “SSN: xxx-xx-2335.”
Names of minor children	Use initials (“J.D.”) instead of full names (“John Doe”). Use the child’s initials instead. <i>Example:</i> “ELH agrees with this request.”
Dates of birth	Only use the year. <i>Examples:</i> “Prisoner was born: 1966.” or “Prisoner was born: [REDACTED] 1966.”
Financial Account Numbers	Show only the last four digits of the number. <i>Examples:</i> “The bank account number ending in 6159.” or “Bank Account #: [REDACTED] 6159.”
Address information from a criminal case	Use only the city and state.

2. File a Civil Cover Sheet.



You must fill out as completely as possible and file a Civil Cover Sheet with your Complaint.

You can get the Civil Cover Sheet (Form JS 44) from the:

- Court's website, or
- Clerk's Office.

3. Pay the filing fee or apply to postpone the fee.



The Clerk charges \$405 to file your Complaint with the court. You can pay by:

- cash,
- money order,
- cashier's check, or
- credit or debit card.

If you cannot afford the fee, you can ask the court to proceed without prepaying the fee. To do that, fill out a form titled: *Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)*.

You can get the Application from the:

- Court's website, or
- Clerk's Office.

File this Application with your Complaint.

If the court approves your Application, you do not have to pay the filing fee when you filed your Complaint, **but you will have to pay other costs in your case**. You will have to ask for another court order to waive or postpone these other costs.

If the court does not approve your Application, the court will order you to pay the filing fee by a certain deadline. **If you miss the deadline, your case could be dismissed.**

4. **Serve the Complaint on the defendant.**

Finally, you must give (serve) a copy of your Complaint to each defendant. This is called service of process. It is a very important step. **If the defendant is not served correctly, the court can dismiss your case.** Federal Rule of Civil Procedure 4 explains how to serve.

➤ **Service by Summons.**

If defendant(s) do not waive service (see Waiver of Service below), you must have them served with a Summons with the Complaint. You CANNOT serve the defendant(s) yourself. You can:

- Hire a process server, or
- Ask someone 18 or over who is not a part of this case.

The Summons tells the defendant(s):

- You filed a Complaint,
- To go to court and respond to the Complaint, and
- The deadline to respond.

➤ **Waiver of Service – An easier way to serve.**

You might be able to serve a Waiver of Service of Process. If the defendant is an individual or a company, you can ask the defendant to agree to accept a copy of the Complaint instead of formal service. A government agency and its employees, however, cannot be served through the standard waiver process. There are several additional steps under Federal Civil Rule 4(i) and (j) that you must follow when serving government defendants.

You must send (by first class mail) to each defendant:

- Notice of a Lawsuit and Request to Waive Service of a Summons, and
- 2 copies of Waiver of the Service of Summons.

You can get the forms you need from the court's website or at the Court Clerk's Office.

If the defendant agrees to waive service, he or she will sign the Waiver and send it back to you.

If the defendant does not agree, you must serve the Summons and Complaint in the regular way (see Service by Summons above). The defendant must have a good reason not to waive service. If no good reason, the court can order the defendant to pay for the service.



Deadline to serve – You have 90 days to serve your Complaint after filing your case. If you miss the deadline, the court can dismiss your case.



Warning! If the defendant’s name and address information on your forms is incorrect, it will take longer to serve the defendant(s).

The U.S. Marshal can serve your papers for free if you do not have a lawyer and the court waived your filing fee. Ask the Clerk.

➤ **After Serving the Defendant – Proof of Service.**

You must file a paper with the court to prove the defendant was served correctly. Follow these steps:

If Defendant was served by...	Fill out and file at the Clerk’s Office
Waiver of Service	Waiver with defendant’s signature
Summons	Page 2 of the Summons with a completed Proof of Service
Certified Mail (if allowed by Federal Rule of Civil Procedure 4)	Page 2 of the Summons with the green certified mail receipt from the Post Office attached





Initial Review is Required for Some Cases

If you file a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form), a judge will make an initial review of your Complaint. This is required by federal law and Local Rule 8.1 of this District's Local Rules.

The initial review judge checks basic things, such as making sure:

- Your forms are complete,
- You used the correct court-approved forms,
- Your claims are not frivolous or malicious,
- Your claim does not ask for money from someone who is immune from paying, and
- Your claim shows a law was potentially broken.

If the judge finds any problems, the judge may mail you a court order telling you to correct the Complaint. If you do not correct the problem(s), the judge may recommend dismissing some or all of your claims.

If your Complaint passes initial review, or if you pay the filing fee, the Clerk assigns a

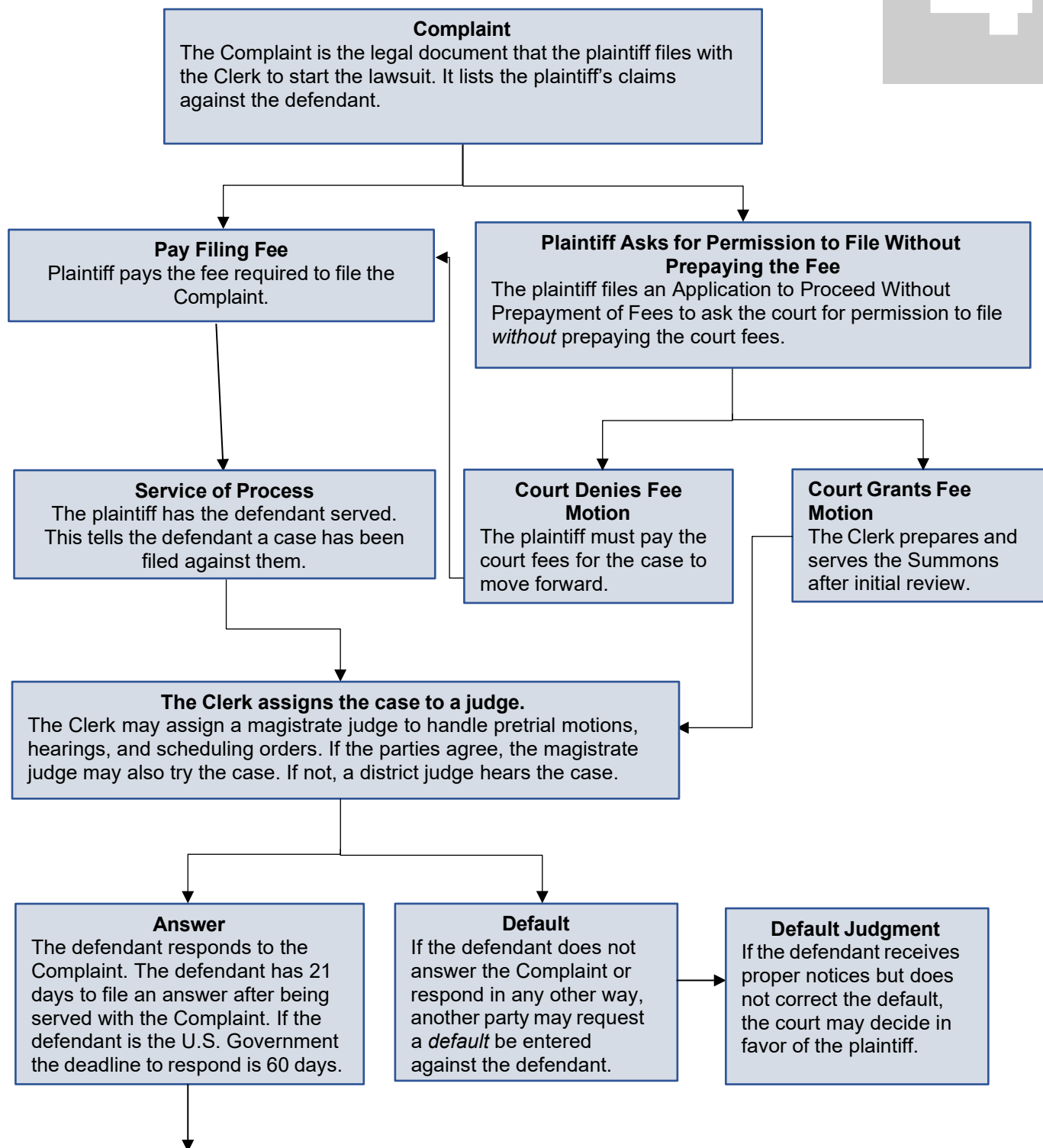
- district judge, or
- magistrate judge.

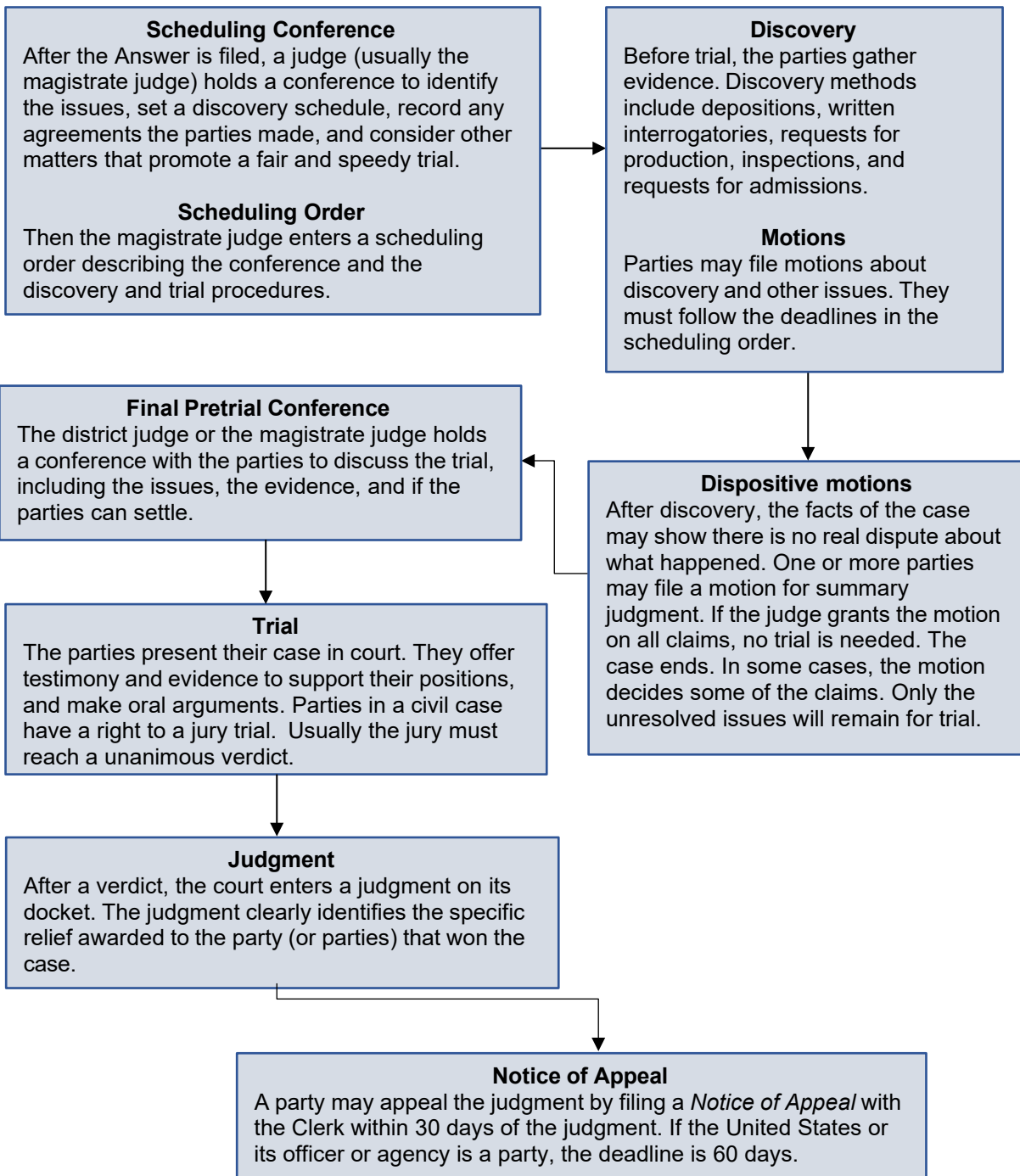
If a magistrate judge is assigned, you and the defendant will be asked to agree to let the magistrate judge make all decisions in your case. If you do not all agree, a district judge will hear your case instead. Although a magistrate judge may still help the district judge, the magistrate judge will not make any final judgments in your case.

Civil Case Roadmap

(shows the major steps in many but not all cases)

4





What happens after the Complaint is filed?

The defendant(s) can respond. Most defendants respond by filing:

- An Answer, or
- A Motion to Dismiss.

The defendant has the following deadlines to file a response:

- 21 days after being served the Summons, or
- 60 days after being served if the defendant is a federal defendant, such as a U.S. agency.

What is an Answer?



An Answer is a written document that the defendant(s) files to respond to the plaintiff's Complaint. The defendant's Answer will:

- Admit if any claims (allegations) are true,
- Deny any claims believed not to be true,
- Say if there is not enough information to admit or deny a claim, and
- Include any "affirmative defenses" the defendant wants to use, meaning special legal defenses – for example, the plaintiff's claim or claims were already decided by state or federal court or are filed late. If no affirmative defenses are included, the defendant cannot bring them up later without permission from the court.

What is a Motion to Dismiss?



A motion is a written request for a specific court order. If the defendant files a motion at this step, it would probably be a Motion to Dismiss your Complaint. For the court to approve such a motion, the defendant would have to give one of the reasons listed in Federal Rule of Civil Procedure 12(b).

Common reasons for a Motion to Dismiss include:

- The defendant thinks no law was broken, or

- The court does not have jurisdiction over the defendant or the claims.

If the court grants the motion, some of the claims or the whole case could end.



Important! If the defendant files a Motion to Dismiss, the plaintiff should file a response to the defendant’s motion.

- The plaintiff has 21 days to file and serve the defendant a written response to the Motion to Dismiss.
- The plaintiff may also be able to file and serve an Amended Complaint to fix the problems the defendant pointed out. To learn more about an Amended Complaint, read Federal Rule of Civil Procedure 15 and Local Rule 15.1.

If the plaintiff files a response to the Motion to Dismiss, then the defendant has 14 days to file a reply in support of their Motion to Dismiss. After the deadline for the defendant’s reply, the judge will be able to decide the motion. This could take many months.

If the plaintiff files an Amended Complaint, the defendant must file another response. Usually the defendant files another Motion to Dismiss or an Answer.



What if the defendant does not respond to the Complaint?

If the defendant was served properly but does not file an Answer or a motion in your case (and meets a few other requirements), you may ask for a “default judgment.” This means asking the judge to decide the case in your favor.

Follow these steps:

1. Ask the Clerk for an entry of default.
2. If the Clerk enters the default, file a Motion for Default Judgment.



Read these rules to learn more about entry of default and default judgment:

Federal Rule of Civil Procedure 55, Local Rule 55.1



What is a motion?

Neither party is allowed to communicate with the judge outside the courtroom. If you want to make a request in your case, you must file a motion. Your motion must:

- Be in writing so the other parties can be served a copy of your motion,
- Say what orders you want the court to make,
- Explain why you want the order, and
- Confirm you asked the other parties if they agree with your motion, and state what they said.

There are many different kinds of motions. Read the Federal Rules of Civil Procedure, Local Rules, and Practice Standards to find out which is right for your case.



To File a Motion:

- Place the Motion's title in the caption.
- Follow the court rules for formatting the document. (Local Rule 10.1)
- Say what you want the court to do.
- List the applicable rule and law that applies to your Motion and say how your Motion meets the standard.
- If you are asking for more time, tell the court how many times you have already asked for more time. (Local Rule 6.1)
- Ask the other parties in the case if they agree with your Motion. Give them enough time to answer you before you file the Motion. (Local Rule 7.1)
- Confirm you discussed the motion with the other parties and state what they said. If they all agree, write "Unopposed" in the Motion's title in the caption.
- Sign and date your Motion.
- Fill out a Certificate of Service showing how and when you mailed (or e-filed if you were approved to do so) your Motion to the other parties.
- File the Motion and the Certificate of Service with the court. Send copies to all the other parties.

Scheduling Conferences and Initial Disclosures

➤ **The judge in your case will set a date for a Scheduling Conference.**

At that conference, you and the other parties will talk about a plan for your case. The plan will be written in a Scheduling Order. The scheduling order is the “roadmap” for the case. It makes the process clear for all parties and lets everyone know about the deadlines. You can get a Scheduling Order form and instructions on the Forms page of the court’s website.

➤ **Before your Scheduling Conference, you must meet with the other parties to prepare a Draft Scheduling Order.**



This meeting can be in person or by phone. The meeting is called a “Federal Rule of Civil Procedure 26(f) Conference.” This meeting must take place at least 21 days before the draft scheduling order deadline, or the date of the scheduling conference.

File the Draft Scheduling Order by the deadline set by the judge, usually 7 days before the Scheduling Conference.

➤ **Initial Disclosures**



The parties have 14 days after the 26(f) Conference to send each other certain information. This information is called Initial Disclosures or 26(a)(1) Disclosures. Initial Disclosures tell the other side about:

- the witnesses and documents that will be used to support the case,
- how damages were calculated, and
- any insurance policy that can cover a judgment.

Serve your Initial Disclosures on the other parties. **Do not file them with the court.**



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



Important! You must update Initial Disclosures and other discovery responses during your case. If you do not update your disclosures, the court can penalize you.



➤ **Go to the Scheduling Conference.**

If the parties cannot agree about something in the Scheduling Order, the judge will decide at the scheduling conference. At the conference, be ready to talk about:

- A trial date (so bring your calendar!),
- The experts the parties plan to call,
- Whether settlement is possible, and
- Other issues in the case.



Important! Be Ready for Court:

- Bring photo ID. If you do not have one, the court staff must be with you at all times in the courthouse.
- Treat the court security officers (also known as “CSOs”) with respect.
- No cameras or recorders. After security checks them, you may bring your electronic items (cell phone, smartphone, laptop) into any public area in the courthouse.
- No weapons, drugs or illegal items.
- Wear clean, neat clothes. No hats.
- Stand up when the judge enters or leaves the courtroom.
- Speak clearly. Say “Your Honor” when you speak to the judge. Stand when speaking to the judge, unless the judge tells you otherwise.



Discovery

Discovery happens before your trial starts. It is when the parties collect and exchange information and evidence needed to support or defend against a claim. There are rules about:

- the kind of information you can get,
- who you can get information from, and
- how much time you have to get it.

For more information about discovery, see Federal Rules of Civil Procedure 26-37 and Local Rules 26.1-37.1.



Important! Discovery is complicated. You should read the rules and learn about how to do discovery.

➤ **When does discovery start?**

Parties may start discovery after the 26(f) Conference, but most parties wait until after the scheduling conference.

➤ **Is there a deadline to complete discovery?**

Yes. Your judge will set a discovery deadline. If you need more time, you may file a motion. But the judge may not approve your motion.

➤ **Does the court monitor discovery?**

No. The court has only minimal involvement with your discovery process. Your judge will only step in if you have disagreements that you cannot solve on your own. Do not file your discovery requests and responses with the court (unless the judge asks you to do so or there is a motion for a summary judgment that refers to information in the discovery).

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.



Important! If the other party sends you a discovery request:

- Keep a copy of the request and your answer, and
- respond by the deadline, which is normally 30 days later.

If you do not respond to a discovery request, it could hurt your case and the court may penalize you by, for example, ordering you to pay money to the other side or dismissing your case.

If another party does not answer your discovery request or does not answer correctly, you may ask the court for help. See your judge's Practice Standards.

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.

Not all cases go to trial.

After discovery, one or more parties may file a motion for summary judgment. This motion tells the court there is no need for a trial because the outcome of the trial is obvious. The party who files the motion is saying they should win the case.

The court's response to the motion for summary judgment may be to:

Rules to Read

Federal Rule of Civil
Procedure 56

Local Rule 56.1

Judicial Practice
Standards

- grant (approve) the summary judgment motion entirely, and the case will end. The judge will decide in favor of the party that asked for the summary judgment.
- grant (approve) the summary judgment motion partially. Only the issues that are still in dispute will move on to the trial.
- deny the motion. The case will move on to trial (unless the parties agree to a settlement).

➤ **Prepare for Your Trial.**



Before the trial, the parties must:

1. File a Proposed Final Pretrial Order at least 7 days before your Pretrial Conference. Download this form and instructions from the Court's website. The instructions explain what to put in your Proposed Final Pretrial Order, and what other documents you must file at the same time. They also explain how to object to the other party's evidence.
2. Go to a Pretrial Conference. The judge will look at your proposed pretrial order and make decisions about any disagreements you still have. Later, after all issues are settled, the judge will sign the final pretrial order. You may or may not have the same judge at your trial.
3. Send Pretrial Disclosures to the other parties by the deadline. All parties must notify (serve) the other parties about what evidence they will use. This evidence is called Pretrial Disclosures. It includes lists of witnesses you plan to call, and exhibits you plan to show the judge and/or jury.

There are no court rules about how to mark exhibits or format witness lists. But your judge may have rules, so check your judge's Practice Standards. You must also file your lists of witnesses and exhibits with the court.

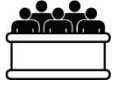
Note: The dates and deadlines for these steps are listed in your Scheduling Order or Final Pretrial Order.



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. Make sure your witnesses and evidence are ready and available for the trial. If you need the court to order a witness to go to court, get a subpoena from the Clerk's Office. It's best to send the subpoena and witness fee to the witness no later than 14 days before the trial.

Steps in a Jury Trial



➤ **If there is a jury, the parties help select the jurors.**

The parties participate in a process called “*voir dire*” to select jurors who can be fair to both sides. In *voir dire*, the parties ask the potential jurors questions. These potential jurors are chosen randomly from a pool of eligible jurors.

The judge may also ask the potential jurors questions.

Next, each side has a chance to challenge or object to the remaining jurors. If a potential juror’s answers show they cannot be fair or they are not qualified, they can be eliminated “for cause.” That means there is a valid, legal reason to remove the juror.

A potential juror can also be eliminated for no specific reason. This is called a “peremptory challenge.” Each side gets only a few of these eliminations, also called “strikes.” The judge will tell you how many. The final jury will have 6-12 jurors.



➤ **Parties make opening statements.**

The opening statement is a speech. Each side makes one. These statements summarize the issues in the case and say what each side expects to prove during the trial. Opening statements are not evidence or a legal argument. They simply help the jury understand what to expect, and what you consider important. You may use this time to convince the jury that you will win your case.

The plaintiff goes first. That is because the plaintiff has the burden of proof, which means that the plaintiff must present enough evidence to show that what the plaintiff claimed happened is more likely true than not. Then the defendant makes an opening statement. The court may put a time limit on opening statements.



➤ **Parties present evidence.**

Each side uses evidence to prove their case. The plaintiff presents evidence first, then the defendant presents. Evidence includes witness testimony and exhibits.

The Federal Rules of Evidence explain what kinds of evidence are allowed. Read the rules and learn about how the rules work at a trial.



What is witness testimony?

Witness testimony is what witnesses say during questioning. What they say is evidence in your case.

Whoever calls a witness gets to ask questions first. Witnesses are questioned by:

- direct examination (questioning) first, then
- cross-examination by the other party, and
- redirect (more questions by the party that did the direct examination).

The Federal Rules of Evidence explain what kinds of questions can be asked, and when to ask them. For example, you cannot ask a question that suggests the answer (a “leading question”) during direct questioning. But you can do so on cross-examination.



What are exhibits?

Exhibits are evidence you use to prove your case. You may show:

- documents,
- videos, or
- pictures.

The Federal Rules of Evidence and your judge’s Practice Standards explain how to use your exhibits.



Can I object?

Yes. If a party presents evidence that you think is not allowed under the rules, you may object. You must give your reason for objecting. Usually the reason is because one of the Federal Rules of Evidence does not allow the question or evidence.



Important! If you think improper evidence was allowed, and you do not object, you cannot ask the Court of Appeals to review the decision later. You must object to any mistake you believe takes place in order to appeal later. (See Appeals below.)

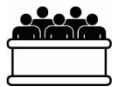


➤ **Parties give closing arguments.**

Closing arguments are made after all evidence from both sides has been presented. It's when the parties take turns to summarize their side to the jury. Each party says why they think their evidence proves their case. The plaintiff goes first. Then the defendant(s) present their closing argument. The defendant(s) can challenge anything said during the plaintiff's closing argument. Afterwards, the plaintiff may have another (rebuttal) argument to challenge anything the defendant(s) said.



Important! Parties may *not* use their closing argument to present new evidence or give their personal opinions.



➤ **The jury reaches a verdict.**

The jurors talk about all the evidence in the case, and make a final decision about the case. All of the jurors must agree on their decision. This decision is called a verdict.

How does the jury reach a verdict?

The judge explains the law and the jury's duty to the jurors. These are called "jury instructions." The judge and the parties talk about the jury instructions before the judge reads them to the jury.

Next, the jury will meet in a private room to consider the case so they can decide. If the jurors cannot all agree, the judge declares a mistrial. The case may be tried again with a new jury.

Once they decide, the jurors let the judge know they completed their deliberations. The judge issues a written judgment called a final judgment with the verdict. The Court Clerk enters the judgment into the docket and the case is closed.

If there is no jury, the judge decides the case and writes the final judgment.



Federal Rule of Civil Procedure 50, 52, 54, 58, 59 and 60

Local Rule 54.1 and 54.3

Guidelines for Bills of Costs

After the final judgment.

Either party may file a motion (a request) after the final judgment. These are called "post-judgment motions." A party may file a post-judgment motion to:

- appeal the court's decision because of mistake(s) made in the trial,
- ask for a new trial,
- ask the court to change the amount of money awarded, or
- ask the court to order the other party to pay the winning party's attorney fees.

➤ **The Winning Party Can Collect Costs.**



If you win the case, you may be able to get back some of the money you spent on the case. This is called the bill of costs. It can include costs for:

- filing fees,
- service fees, if not waived,
- copying, and
- court reporters at depositions.

Read your judgment carefully to find out if the court awarded you these costs. Even if you are not specifically awarded costs, the local rule on costs says you can still be awarded costs if you win.

Appeals

An appeal means asking a higher court to review and reverse the decision of a district court. Appeals from the District of Colorado are sent to the U.S. Court of Appeals for the Tenth Circuit. Appeals are complicated. This handbook does not provide detailed information about appeals. You can find more information about appeals here:

<https://www.ca10.uscourts.gov/clerk/filing-your-appeal/pro-se>.

In general, you can only appeal a district court case when all issues in the case are decided, and there is a final order or judgment on the district court's docket. [28 U.S.C. § 1291](#). This kind of appeal is called an *appeal as of right*.

In very limited situations you can appeal an order that is not final. That means your case is still ongoing. This kind of appeal is called an *interlocutory appeal*. [28 U.S.C. § 1292](#). File in the district court where the decision you are appealing was filed.

You must file a *Notice of Appeal*. A *Notice of Appeal* is a 1-page document that lists:

- your name,
- a description of the final order, judgment, or particular section you want to appeal, and
- the name of the court you are appealing to (the Tenth Circuit).



Important! The filing fee for a Notice of Appeal is \$605.

If you cannot afford to pay the fee all at once, file a motion to proceed without prepayment of the fee.

Deadline: You have **30 days** from the date the final order or judgment was docketed to file your *Notice of Appeal* in the district court where the judgment was entered. If you miss the deadline, you may file a motion to ask for more time. The court may or may not approve your motion.

If your case involves a party that is the U.S., a federal agency, or federal employee, the deadline is **60 days**.

The Court Clerk's Office

The Clerk's Office keeps all the court's records. All papers for your case must be filed.

You may contact the Clerk's Office at:



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



Visiting the Clerk's Office. The Clerk's Office is open Monday-Friday, 8 a.m. to 5 p.m., except federal holidays. See [USA.gov](https://www.usa.gov) for a list of holidays. The Clerk's Office is on the 1st floor of the Arraj Courthouse in Denver. Go to the front counter, called the Intake Desk.

How the Clerk's Office Can Help You. You can ask the Clerk's Office staff limited questions. They can give you general information about:

- your case,
- court rules, and
- how the process works.

They cannot give you legal advice, such as:

- how to interpret the rules of procedure,
- how rules apply to your case, or
- explain court orders.



How can I review dockets and case files?

Electronic records. Most of the Clerk's Office records are electronic. The Clerk's Office keeps electronic records for every civil and criminal case that is filed. These records are also called a docket. A docket keeps chronological track of everything filed in a case, including the name of your judge and the names and addresses of lawyers and parties in your case.

You may use a public computer terminal at the Clerk's Office to search for information in civil cases, including:

- party index (names of all parties in civil cases), and
- case index (list of all civil case numbers).

Viewing Your Case File. Most of the Clerk's Office records are electronic. You may use a public computer terminal at the Clerk's Office to access your case file.

Administrative records. The only paper documents still available are the Administrative Records from appeals cases. These documents were filed with the court in paper form. You may not take any paper case files out of the Clerk's Office.

Sealed or restricted documents. You may use a public computer terminal at the Clerk's Office to see sealed documents filed in your case if you have the court's permission to do so.

Closed case files. If you need files from cases closed more than 15 years ago,

- Click on Denver Federal Records Center (FRC), or
- Ask the Clerk's Office. Most case files are available electronically (for a fee) through the district court's electronic recordkeeping system, known as PACER. To use PACER without being charged fees, there is a [fee waiver form](#) available on the website:

http://www.cod.uscourts.gov/Portals/0/Documents/PACER/PACER_Exemption_Request_Form.pdf

Do I have to pay to get copies of my case files? Copies from the Clerk's Office are 50¢ per page. You can print files from the public computer for 10¢ per page.

Note: Most case files are available electronically through PACER (for a fee).

How the Court's Website Can Help You.

The U.S. District court website has helpful information about

- court procedures,
- local rules, which can be found online at:
<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx>,
- fees,
- links to other court websites, including
 - U.S. Bankruptcy court, and
 - 10th Circuit Court of Appeals, and
- other useful links.

The Calendars section of the website has the daily court schedule. It includes all trials and court hearings for all judges in the coming week.

To visit the court's website,

- Go to www.cod.uscourts.gov/, or
- You may use the public computers in the Clerk's Office or at a public library.

The Court Can Give You Legal Information – Not Legal Advice

Officers of this court include:

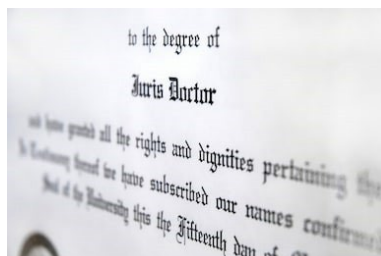
- district judges,
- magistrate judges,
- court clerks,
- deputy clerks, and
- other court staff.

Court officers **CANNOT** give legal advice.

They **CAN** give you information about:

- your case,
- court rules,
- court forms, and
- other general information.

If you need legal advice, talk to a lawyer.



Legal Resources & Help



- **Colorado Bar Association Federal Pro Se Clinic**

The Colorado Bar Association has a special place to help people with federal civil cases. The place is called the Federal Pro Se Clinic. It is next to the Clerk's Office in the Arraj Courthouse. The Clinic helps people who do not have lawyers and who are not in prison.

The Clinic explains:

- Court rules and procedures,
- Court orders,
- How to write claims and other papers, and
- If federal court is right for your case.

For more information and to make an appointment,

- Go to the Colorado Bar Association's website: <http://www.cobar.org/fpsc>, or
- Call (303) 824-5395

- **Civil Pro Bono Panel – FREE Legal Help**

The Civil Pro Bono Panel is a court program made up of volunteer (called "pro bono") lawyers who agree to help low income people with their case for free.

Not everyone qualifies. You must meet certain requirements. A judge must recommend your case to the Panel. And, the pro bono lawyer must accept the case.

To request a pro bono lawyer, you must file a motion that asks the court to appoint one for you. Fill out a *Motion for Appointment of Counsel* form. You can get the form at the Clerk's Office or at the court's website:

<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>.



While waiting for a pro bono lawyer to take your case, you MUST:

- Meet all deadlines,
- File all documents, and
- Respond to requests from the other parties.

You can also ask the court for a pro bono lawyer to help you with just part of your case, such as:

- rewriting your complaint,
- representing you at a hearing, or
- helping you make a settlement.

This is called "Limited Representation."

- **Colorado Bar Association Free Limited Appearances Program (FLAP) – Additional FREE Legal Help**

Provides free courtroom assistance and advice to people without lawyers. Volunteer attorneys give legal information, advice, and/or representation before, during, and immediately after certain hearings and conferences before a judge, in non-prisoner cases only. Available through the Colorado Bar Association's Young Lawyers Division, by contacting (303) 824-5311 or jham@cobar.org.

- **Other Legal Help:**

The organizations and services listed below can help you or help you find a lawyer. Also check your city or county legal help agencies, especially Colorado Legal Services.

ACLU of Colorado

303 E. 17th Avenue, Suite 350
Denver, CO 80203
303.777.5482
www.aclu-co.org/

Catholic Charities Immigration Services

4045 Pecos Street
Denver, CO 80211
303.742.4971
www.ccdenver.org/services/immigration-services

Colorado Judicial Branch Self-Help Centers (state courts)

[www.courts.state.co.us/userfiles/file/Self_Help/Sherlocks/Contact%20list%20for%20public\(18\).pdf](http://www.courts.state.co.us/userfiles/file/Self_Help/Sherlocks/Contact%20list%20for%20public(18).pdf)

Colorado Law Project (CLP)

CLP provides access to reliable legal information, including research help, training, and workshops.

www.law.du.edu/the-colorado-law-project

Colorado Legal Services

Colorado Legal Services has helpful offices all over Colorado.

Main Office:

1905 Sherman Street, Suite 400
Denver, CO 80203
303.837.1313 or 303.837.1321

New clients: www.coloradolegalservices.org/

For a complete list of legal agencies, see Colorado Legal Services' [Legal Aid Directory: https://lawhelp.coloradolegalservices.org/find-legal-help/directory](https://lawhelp.coloradolegalservices.org/find-legal-help/directory)

Disability Law Colorado

Offices in Denver and Grand Junction:
455 Sherman Street #130
Denver, CO 80203
Tel.: 303.722.0300

322 N. 8th Street
Grand Junction, CO 81501
Tel.: 970.241.6371
<https://disabilitylawco.org/>

Justice and Mercy Legal Aid Center (JAMLAC)

JAMLAC helps those struggling with poverty and oppression.
913 North Wyandot Street
Denver, CO 80204
Tel.: 303-839-1008
<https://jamlac.org/>

Metro Volunteer Lawyers

Apply through Colorado Legal Services: 303-837-1313
www.denbar.org/mvl

Recursos en Español:

(Colorado Law Project's Spanish resources)

- Sobre el Proyecto de Derecho de Colorado
- Bibliotecas de Derecho y Bibliotecarios DE Colorado
- Recursos en Español
- <https://www.law.du.edu/the-colorado-law-project/recursos-esp%C3%B1ol>

Tenth Circuit Court of Appeals Self-Help website page

www.ca10.uscourts.gov/clerk/filing-your-appeal/pro-se

University of Colorado Clinical Programs

University of Colorado Law School
UCB 404 Room 105
Boulder, CO 80309
Tel.: 303.492.8126

www.colorado.edu/law/academics/clinics/clinical-education-program-clients

University of Denver Student Law Office

2255 East Evans Avenue, Suite 335
Denver, CO 80208
Tel.: 303.871.6140

www.law.du.edu/index.php/law-school-clinical-program/clinical-programs

U.S. Bankruptcy Court Self-Help website page

www.cob.uscourts.gov/filing-without-attorney

Court Locations, Fees, and Rules of Procedure

U.S. District Court of Colorado Divisions



DENVER, CO

Alfred A. Arraj U.S. Courthouse
901 19th Street
Denver, CO 80294
Monday - Friday 8 am to 5 pm
Tel.: 303-844-3433

Byron G. Rogers U.S. Courthouse
1929 Stout Street
Denver, CO 80294
Monday - Friday 8 am to 5 pm
Tel.: 303-844-3433

COLORADO SPRINGS, CO

212 N. Wahsatch Avenue
Colorado Springs, CO 80903
Monday - Friday 8 am to 5 pm
Tel.: 303-844-3433
Send mail to Alfred A. Arraj U.S. Courthouse.

GRAND JUNCTION, CO

Wayne Aspinall U.S. Courthouse
402 Rood Avenue
Grand Junction, CO 81501
Monday - Friday 8 am to 5 pm
Tel.: 303-844-3433
Send mail to Alfred A. Arraj U.S. Courthouse.

DURANGO, CO

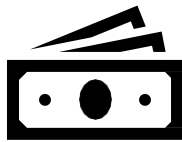
U.S. District Court in LaPlata County Courthouse
1060 E. 2nd Avenue, Suite 150CO 81301
Monday - Friday 8 am to 5 pm
Tel.: 303-844-3433
Send mail to Alfred A. Arraj U.S. Courthouse.

DISTRICT COURT FEE SCHEDULE

To see the current fee schedule, click here:

<http://www.cod.uscourts.gov/CourtOperations/FeeSchedule.aspx>.

Some important fees include:



- The filing fee for a *Civil Complaint* or *Notice of Removal* is \$405.
- Copies are 50¢ per page.
- Copies printed from the court's public computers are 10¢ per page.

FEDERAL RULES

Each U.S. court has rules and procedures:

- The [Federal Rules of Civil Procedure](https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure) are for civil cases in the U.S. District Court (https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).
- The [Federal Rules of Evidence](https://www.uscourts.gov/rules-policies/current-rules-practice-procedure) explain how evidence is admitted in most cases in the U.S. District Court (https://www.uscourts.gov/rules-policies/current-rules-practice-procedure).
- The [Federal Rules of Criminal Procedure](https://www.uscourts.gov/rules-policies/current-rules-practice-procedure) are for criminal cases and prosecutions in the U.S. District Court (https://www.uscourts.gov/rules-policies/current-rules-practice-procedure) .
- The [Federal Rules of Appellate Procedure](https://www.uscourts.gov/rules-policies/current-rules-practice-procedure) are for cases in the U.S. Courts of Appeals (https://www.uscourts.gov/rules-policies/current-rules-practice-procedure).
- The [Federal Rules of Bankruptcy Procedure](https://www.uscourts.gov/rules-policies/current-rules-practice-procedure) are for bankruptcy cases in the U.S. Courts of Appeals (https://www.uscourts.gov/rules-policies/current-rules-practice-procedure).

- The rules and forms for U.S. District Court, District of Colorado are on the court's website and in the Clerk's Office. They include:



- [Local Rules of Practice](http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx)
(<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx>)
- [Judicial Practice Standards](http://www.cod.uscourts.gov/JudicialOfficers.aspx)
(<http://www.cod.uscourts.gov/JudicialOfficers.aspx>)
- [Forms](http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx#SelfRepresentation)
(<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx#SelfRepresentation>)
- [Electronic Filing Rules](http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx)
(<http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx>)

Common Legal Terms



-A-

ACTION

Another word for lawsuit or case.

ADMISSIBLE EVIDENCE

Evidence the court allows to be used in court. To decide if evidence is admissible, federal judges follow the Federal Rules of Evidence.

ADR (ALTERNATIVE DISPUTE RESOLUTION)

Methods of resolving legal disputes without official court proceedings. Mediation and arbitration are examples of ADR.

AFFIDAVIT

A written statement that someone swears or affirms to be true in front of someone who is legally authorized, like a judge or notary public.

AFFIRMATIVE DEFENSE

A defendant's response to a civil case that gives the court new evidence that proves his or her defense and shows that the defendant is not at fault.

ALLEGATION

A statement or claim that is made but has not yet been proven true or false.

AMEND (A DOCUMENT)

To add to or change a document that has been filed in court. The change itself is called an amendment. Not all documents can be amended. Some require the court's permission. In most cases, when the court accepts an amended document, it replaces the original document.

AMENDED PLEADING (COMPLAINT OR ANSWER)

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

AMOUNT IN CONTROVERSY

The dollar value of a plaintiff's claim. For a federal court to hear a case, the amount in controversy must be more than \$75,000 if the case is between citizens of different states and no federal question is involved.

ANSWER

A statement that a defendant writes to answer a civil complaint and say what defense they will use.

APPEAL

When someone who loses at least part of a case asks a higher court (called an "appellate court") to review the decision and say if it was right. This is called "to appeal" or "to take an appeal." The person who appeals is called the "appellant." The other person is called the "appellee." All final orders made by the U.S. District Court for the District of Colorado can be appealed to the Tenth Circuit Court of Appeals. A Notice of Appeal in a civil case must be filed within **30 days** of the date of entry of the judgment being appealed. If the United States is a party in the case, the deadline is **60 days**.

APPLICATION TO PROCEED IN FORMA PAUPERIS (IFP)

Another term for "Application to Proceed in District Court Without Prepaying Fees or Costs." Plaintiffs who cannot afford the filing fee must file this Application to ask for permission to file without paying the filing fee or to have the U.S. Marshals Service serve the defendant(s). The Application (Long Form) is available at the court's website.

ARBITRATION

An out-of-court process that is similar to a trial, but less formal and usually quicker. There are different kinds of arbitration, each with their own procedures.

-B-

BENCH

The desk and chair (not an actual bench) where a judge sits in the courtroom. Sometimes bench means judge. For example, to "approach the bench," means to move closer to the judge.

BENCH TRIAL

A trial where a judge, not a jury, determines the law, the facts, and the verdict of the case. A bench trial is also called a "trial to the court."

BILL OF COSTS

A form the winning party completes and files after the final judgment is entered in a case. It asks for some of the winning party's legal costs to be awarded against the losing party. That means the losing party would pay these. A deputy clerk holds a hearing to decide. Bills of costs must follow the rules in 28 U.S.C. § 1920, Federal Rule of Civil Procedure 54, and District of Colorado Local Rule 54.1.

BURDEN OF PROOF

The preponderance of the evidence standard. In civil cases, the plaintiffs must prove their claim(s) are more likely true than not.

BREACH

A violation of a legal obligation or duty.

BRIEF

A written statement that each side gives the court stating facts, law, and arguments showing why the court should decide that they are right.

-C-

CAPTION

A heading required on the first page of all court documents that lists the name and contact information of the lawyer or person without a lawyer, the court, case number, document name, and names of everyone involved in the case. Caption requirements are explained in Rule 10(a) of the Federal Rules of Civil Procedure and District of Colorado Local Rule 10.1.

CASE

Another word for lawsuit or action.

CERTIFICATE OF SERVICE

A form showing that a copy of a particular document was mailed or otherwise provided (“served”) to another party in a case. Certificate of Service forms are available on the court’s website.

CHALLENGE FOR CAUSE

A lawyer’s request that the court excuse a juror from a case because he or she may not be able to perform his or her duties fairly or for some other legal reason.

CHAMBERS

A judge’s private office. Also usually where the judge’s clerks work.

CITATION/CITING

A reference to a law, rule, or case.

CLAIM

A statement made in a complaint in which a plaintiff argues that a defendant violated the law in a specific way.

CLOSING ARGUMENTS

A speech made at trial after all the evidence has been presented. The closing argument reviews and summarizes the evidence, and forcefully explains why the verdict should be in favor of the arguing party. In bench trials (without a jury), both sides may waive closing arguments on the theory that the judge has almost surely already arrived at a decision.

COMPLAINT

The first written statement in a lawsuit, in which the plaintiff's claims against the defendant are listed. Also called the "initial pleading" or "petition."

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

Ignoring or disobeying a court order on purpose or interfering with or obstructing the court's administration of justice. Contempt of court can be punished with a fine and/or jail.

CONTINUANCE

When the court postpones a hearing or deadline to a later date.

COUNSEL

Attorney(s); lawyer(s).

COUNTERCLAIM

A defendant's claim against the plaintiff.

COURT OF APPEALS

A court that hears appeals from the district courts in its circuit and from decisions made by federal administrative agencies. Decisions made by this district court may be appealed to the U.S. Court of Appeals for the Tenth Circuit.

COURT REPORTER OR STENOGRAPHER

A person who makes a word-for-word record of what is said in court (or at a deposition), usually with a stenographic machine, shorthand or audio recording, and then produces a transcript of the proceedings upon request.

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

Money that a defendant pays a plaintiff in a civil case if the plaintiff wins – or vice versa if there is a counterclaim. Damages may be compensatory (compensate for loss or injury) or punitive (punish and discourage future misconduct).

DELIBERATE

When the jurors go to the jury room to talk in secret and decide who will win the case. This happens at the end of the trial, after hearing the evidence, closing arguments, and instructions from the judge. This process is also called deliberating or jury deliberations.

DE NOVO REVIEW

When the court considers a decision that has already been decided by a previous court. For example, a district judge who does a *de novo* review of a magistrate judge's report and recommendation will consider the same information reviewed by the magistrate judge, as if the decision were starting again.

DECLARATION

A statement (usually written) that says the person who makes the statement (the declarant) does so under penalty of perjury. Declarations may only contain facts, not law or arguments. A declaration can be used as a substitute for an affidavit. 28 U.S.C. § 1746.

DEFAULT

When a defendant in a civil case receives legal notice, but does not file an answer with the court by the deadline and does not go to the court hearing, the defendant is "in default." When this happens the court can decide the case without the defendant's input.

DEFAULT JUDGMENT

A court decision in favor of the plaintiff that happens because the defendant does not answer or go to the court hearing s/he was told about. The plaintiff then wins the case.

DEFENDANT

The person, company, or government agency against whom the plaintiff makes a claim(s).

DEFENSES

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

DEMAND FOR JURY TRIAL

Asking for a trial with a jury. See Federal Rule of Civil Procedure 38 to learn 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 held before a 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 to the deponent that indicates the time and place of the deposition.

DIRECT EXAMINATION

The process during a trial when a party asks witnesses questions.

DISCLOSURES

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

DISCOVERY

The formal process in which parties in a lawsuit ask 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 basic rules for discovery are in Federal Rule of Civil Procedure 26.

DISCOVERY PLAN

A plan the parties discuss and create before the initial case management conference. Rule 26(f) of the Federal Rules of Civil Procedure requires a discovery plan. The plan must include the parties' views and proposals about how discovery should proceed in the lawsuit as required by Rule 26(a) of the Federal Rules of Civil Procedure.

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 cases where none of the plaintiffs lives in the same state as any of the defendants, and the amount in controversy is more than \$75,000. See 28 U.S.C. § 1332 for more information.

DOCKET

The computer file maintained by the court for each case. The docket 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

One method of resolving a legal dispute without a court trial. With this method, a magistrate judge or other neutral person gives the parties an informal analysis of the two sides' claims and defenses. This may help you resolve your case through settlement.

ELECTRONICALLY STORED INFORMATION (ESI)

Any data stored on an electronic device. There are special discovery rules for ESI.

ELEMENTS (of a claim or defense)

The individual parts of a plaintiff's claim or a defendant's defense. Each element must be proved for the claim or defense to be proved.

ELECTRONIC CASE FILING (ECF)

Also called "e-filing," or filing documents to the court and serving them on other parties electronically. The U.S. Courts use an e-filing system called "Electronic Case Filing" or "ECF."

ENTRY OF DEFAULT

The Clerk's formal response to a plaintiff's request when a defendant has not responded to a properly-served complaint. The Clerk must enter a default against the defendant before the plaintiff may file a motion for a default judgment.

EVIDENCE

Witness testimony, documents, recordings, photos, and physical objects that prove the truth of important facts in a case.

EX PARTE MOTION

A motion that is filed without notice to the opposing party. These are generally not permitted except under very limited circumstances.

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 about the identity and background of 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

The power of federal court to hear particular kinds of cases. Federal courts can hear cases in which at least one of the plaintiff's claims is related to the Constitution, a treaty, or law of the United States.

FEDERAL RULES OF CIVIL PROCEDURE

The rules that all U.S. federal district courts must follow.

FEDERAL RULES OF EVIDENCE

The evidence rules that must be followed for submitting, considering, and admitting evidence in all U.S. federal courts.

FILING

The way 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 case or process a document.

FINAL PRETRIAL CONFERENCE

A conference held close to the start of trial. Each party (and/or the party's lawyer) must go to the final pretrial conference. The goal is to create a plan for the trial, including a plan for admitting evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

What the judge issues at the end of a bench trial (a trial without a jury) after hearing all evidence and arguments. These *findings of fact* and *conclusions of law* along with the written judgment show the facts the judge found to be true and the legal consequences of those facts.

FRIVOLOUS

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

Making an honest effort to do something, with no intent to defraud someone. For example, negotiating in good faith is negotiating with an open mind and a sincere desire to reach an agreement.

GROUNDS

The legal reason given for a 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 in front of a judge to resolve 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 is usually not accepted as evidence.

-I-

IMPEACHMENT

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

INCOMPETENT PERSON

Someone who does not have the legal authority to do something, such as testifying, because of that person's age or level of understanding to make or communicate responsible personal decisions.

INDISPENSABLE PARTY

A person or entity that has such a great interest in a case that they must be included in the case before a judge can issue a final judgment.

INDIVIDUAL CAPACITY

When a person acts for him or herself, and not on behalf of an employer or someone else.

INITIAL DISCLOSURES

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

INTERROGATORIES

Written questions sent by one party in the case to the other party. The questions must be answered (or objected to) in writing and under oath, within a certain period of time.

-J-

JUDGMENT

A document issued by the court that says the final decision(s) in the case. Unless there are post-judgment motions, the entry of judgment closes the case and starts the timeline to file an appeal.

JURISDICTION

The power of the court to hear and make orders in a particular kind of case.

JURISDICTIONAL STATEMENT

A paragraph in a complaint that explains to the court why the court has jurisdiction over the case.

JURY BOX

The rows of chairs, usually located near the front of the courtroom to one side, where the jury sits during a trial.

JURY DELIBERATIONS

When a jury goes to a private jury room to discuss the evidence, arguments, and judge's instructions 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

The process by which a jury is chosen. It usually includes a kind of questioning of potential jurors, called *voir dire*.

JURY TRIAL

A trial where a group of people called a jury (not a judge) decides the facts of a case. At the end of the trial, they meet together in private to discuss the evidence, arguments, and the judge's instructions. The jury applies the law to the facts of the case, and makes its decisions.

-K-

(No definitions)

-L-

LECTERN

The stand for holding papers in front of the bench in the courtroom. This is where a lawyer or *pro se* party stands to make arguments or speak to the judge.

LIMITED JURISDICTION

Courts that can only decide certain kinds of cases. Federal courts are courts of limited jurisdiction.

LITIGANTS

The parties (persons, corporations, government agencies) in a legal case.

LOCAL RULES

Local court requirements in addition to the Federal Rules of Civil Procedure. These will be listed in the Local Rules of the U.S. District Court for District of Colorado.

-M-

MAGISTRATE JUDGE

A judge that has some, but not all, of the powers of a district judge. If all parties in a case agree, a magistrate judge may handle civil cases from start to finish. If the parties do not all agree, a district judge may assign a magistrate judge to hear motions and other pretrial matters. Magistrate judges are appointed by the court for 8-year, renewable terms.

MATERIAL FACT

A fact that is significant or important in a case.

MEDIATION

One method of resolving a legal dispute without a court trial. With this method, a trained mediator helps the parties to try to make an agreement about part or all of the dispute.

MEET AND CONFER

When parties get together to discuss the issue(s) of their case before filing a civil motion. Local Rule 7.1(a) requires parties to “meet and confer.” (There are some exceptions to this rule.)

MENTAL EXAMINATION

Court-ordered exam if a party’s physical or mental condition is in dispute. The court may order that party to allow a certified doctor or psychiatrist to examine him or her. Unlike other discovery procedures, this kind of examination can only take place if the parties agree or if the court grants a party’s motion.

MINOR

A person who has not reached adult legal age. For most purposes and in most states, a minor is a person under age 18.

MOTION

A written or oral request or petition that asks the court for a specific ruling or order, such as to dismiss the plaintiff's lawsuit.

MOTION FOR SANCTIONS

A request that the court punish a party or person. If granted, the court may order a monetary or non-monetary punishment to try 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

A request that the court decide a case without a trial because the evidence shows there is no real dispute about the key facts, and the facts and law show that the opposing party loses.

MOTION IN LIMINE

A request that the court settle an issue related to a trial, usually argued shortly before the beginning of trial, such as a motion to exclude certain evidence.

MOTION TO ALTER OR AMEND JUDGMENT

A motion to correct or amend a final judgment that has been entered if the party believes a mistake was made in the judgment that could be corrected by changing it. Federal Rule of Civil Procedure 59(e) allows either party to file this motion.

MOTION TO COMPEL

A request that the court order a person to disclose or disclose in more detail, or to respond to a discovery request or respond in more detail.

MOTION TO DISMISS

A request that the court deny a claim(s) in the complaint for a reason listed in Federal Rule of Civil Procedure 12.

MOTION TO STRIKE

A motion to delete a certain part of a complaint or other pleading because it is redundant, immaterial, impertinent, or scandalous. Federal Rule of Civil Procedure 12(f) allows a party to move to strike, or the court may do so on its own.

MOVING PARTY

The party who files a motion.

-N-

NOTICE OF ELECTRONIC FILING (NEF)

The email notice to all parties and lawyers in a case from the court's Electronic Filing system that a new document was filed. The notification includes a link to the newly filed document.

NOTICE OF DEPOSITION

The notice informing all parties in a case that a deposition will take place. The notice must be served before the deposition may take place. It provides the information the parties need to attend. The notice must meet the requirements of District of Colorado Local Rule 30.1 and Rules 30(b) and 26(g)(1) of the Federal Rules of Civil Procedure.

-O-

OBJECTION

A protest about the legal basis for a question. A party may object verbally at a hearing or trial, and in writing if protesting a discovery request.

OFFICIAL CAPACITY

The scope of duties of a government official.

OPENING STATEMENTS

Statements parties make at the beginning of a trial. Opening statements generally describe the issues in the case and say what the party expects to prove during the trial.

OPPOSING PARTY

The party you are suing or defending against. When a motion is filed, the party against whom the motion is filed is called the opposing party.

ORAL ARGUMENT

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

When the judge disagrees with the objection to the evidence being admitted or the question being asked. If a judge overrules an objection, the evidence will be admitted or the question may be asked, unless the judge later sustains a different objection.

-P-

PACER SYSTEM

A digital database that stores case information for federal appellate, district, and bankruptcy courts. PACER stands for “Public Access to Court Electronic Records.” There is a fee to use PACER, but you may ask for a fee waiver.

PARTIES

The plaintiffs and the defendants in the case. Parties may also be called litigants.

PEREMPTORY CHALLENGE

A party’s objection to a juror without needing to give a reason. Each side is allowed a certain number of peremptory challenges.

PERJURY

A false statement made under oath. Perjury is a crime.

PERSONAL SERVICE

In-person delivery of a summons and complaint (or other court document) 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

Court ordered exam if a party’s physical or mental condition is in dispute. The court may order that party to allow a certified doctor or psychiatrist to examine him or her. Unlike other discovery procedures, this kind of examination can only take place if the parties agree or if the court grants a party’s motion.

PLEADINGS

Written 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

Information and evidence that must be disclosed before trial. See Rule 26(a)(3) of the Federal Rules of Civil Procedure.

PRIVILEGED INFORMATION

Information that legal rules allow to be kept private, such as lawyer-client conversations and a lawyer’s “work product,” and legal analysis. These do not have to be disclosed during discovery or the trial.

PRO BONO REPRESENTATION

Free legal representation from a lawyer for the client he or she represents.

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 a defendant the summons and complaint.

PROOF OF SERVICE

A document attached to or with a document filed with the court that shows the filer affirms that he or she served the document on the listed party (or parties).

PROPOSED ORDER

A document that a party submits for the judge to sign that orders whatever the party is asking the judge to do in a motion. It is usually filed with the motion.

PROTECTIVE ORDER

A court order that limits discovery, such as how discovery may be done or what can be discovered.

-Q-

QUASH A SUBPOENA

After receiving a request to do so, a court may terminate 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

Both the answer to a counterclaim and the opposition to a response to a motion (motion → response → reply). See District of Colorado Local Rule 7.1(d).

REPORT AND RECOMMENDATION

A magistrate judge's report of factual and legal findings, and the recommendation containing those findings. This happens after a federal district judge refers an issue to a magistrate judge.

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 in obtaining a default judgment against a defendant. The plaintiff files documents showing that the defendant was properly served but never filed an answer or response. The Clerk then enters default against the defendant.

REQUEST FOR INSPECTION OF PROPERTY

A discovery request to enter property for the purpose of inspecting, measuring, surveying, photographing, testing, or sampling the property or any object on the property relevant to the lawsuit. The request must be served on the party that controls the property.

REQUEST FOR PRODUCTION (OF DOCUMENTS, ETC.)

A common discovery request served by a party that wants to get documents or other items from another party that are relevant to their legal case.

REQUEST FOR WAIVER OF SERVICE

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

-S-

SANCTION

A punishment the court imposes for violating the court's rules or orders.

SERVE, SERVICE

Providing or delivering a document to a party according to the requirements listed in Rules 4 and 5 of the Federal Rules of Civil Procedure.

SERVICE OF PROCESS

The formal delivery of the original complaint in the case to the defendant according to the requirements for service listed in Rule 4 of the Federal Rules of Civil Procedure.

STATEMENT OF UNDISPUTED FACTS

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

STATUS CONFERENCE

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

STATUTE

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

STATUTE OF LIMITATIONS

A legal deadline by which the plaintiff must file a complaint. After the legal deadline, the complaint may be dismissed as “time-barred.”

STIPULATION

A written agreement signed by all parties or the lawyers in the case.

STRIKE

To delete or otherwise ignore a portion of a document.

SUBJECT MATTER JURISDICTION

The kinds of cases that federal district courts may hear. These are defined by Congress and include cases about the Constitution, treaties or laws of the United States, and diversity cases where the parties live in different states and the amount in controversy is more than \$75,000.

SUBPOENA

A document issued by a court that orders a person to go to court or to a deposition.

SUBPOENA DUCES TECUM

A kind of subpoena used to require a deponent or witness to bring specified documents to a deposition or court.

SUBSTANTIVE LAW

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

SUMMARY JUDGMENT

To decide the case without a trial because the evidence shows there is no real dispute about the material facts, and the facts and law show the opposing party loses. A party must ask the court for summary judgment.

SUMMONS

A written court order that is served on the defendant along with the complaint to start a legal case.

-T-

TAKING A MOTION UNDER ADVISEMENT

When the court needs more time to consider a motion and will send its written opinion to the parties after the hearing.

TIME-BARRED

When it is too late to make a particular legal claim because the legal deadline has passed. In other words, the statute of limitations has run.

TRANSCRIPT

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

-U-

UNDISPUTED FACT

A fact about which all parties agree.

UNITED STATES CODE (U.S.C. or U.S.C.A.)

The published, official collection of federal laws.

-V-

VACATE

When a court sets aside an order it made previously so the order is no longer valid.

VENUE

The place where the lawsuit is filed.

VERDICT

A jury's or judge's decision about who wins a trial.

VERDICT FORM

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

VOIR DIRE

Part of the jury selection process when the judge or parties ask potential jurors questions that are designed to reveal biases that could interfere with fair 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 formally served according to Rule 4 of the Federal Rules of Civil Procedure.

WITH PREJUDICE

A final decision based on the strengths of the claim. A claim that is dismissed with prejudice may not be filed again in another complaint.

WITHOUT PREJUDICE

A claim that may be filed again in another complaint or amended complaint.

-X, Y, Z-

(No definitions)