

United States District Court  
Middle District of Florida



## **GUIDE FOR PROCEEDING WITHOUT A LAWYER**

This guide is the product of librarians, lawyers, and judges around the district, with special thanks to the Tampa Chapter of the Federal Bar Association and the Pro Se Assistance Subcommittee of the Bench Bar Fund Committee. This guide aims to help a person proceeding in court without a lawyer. As only a guide, it is not authority and should not be cited as authority. This guide was last updated on October 13, 2020.

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## 1. Introduction

If you are reading this guide, you are probably thinking about bringing or defending a lawsuit without a lawyer's help. Federal court can be an intimidating place, and there are a lot of things you need to think about and know before bringing or defending a lawsuit.

This guide will not answer all your questions about how to represent yourself in a lawsuit. Instead, it summarizes basic steps required to file and pursue a lawsuit or defend a lawsuit filed against you. This is just a guide. It is not a set of rules or an official document. You should not cite it as authority.

If you are reading this guide on a computer, you can click on any red-colored, italicized text to access another website that will have more information on the topic. If you find a broken link, just use a keyword search to find the website. If you are reading this guide in hardcopy, you cannot take advantage of a link, but know that any italicized text indicates there is a website with more information on the topic.

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## 2. Definitions

### 2.1 Action

An action is, collectively, the claims a party asserts in a pleading.

### 2.2 Answer

An answer is the response to a complaint. In that document, the defendant states defenses and, for each allegation in the complaint, admits it, denies it, or states the defendant is without knowledge of it.

### 2.3 Case

A case is the content of the docket in an action (for example, if remand occurs, the action returns to state court, but the case remains in federal court).

### 2.4 Claim or Claim for Relief

A claim or "claim for relief" is the basis for relief a party asserts in a count of a pleading and is similar to the state court term "cause of action."

## **2.5 Complaint**

A complaint is the document that gets the lawsuit started. In that document, the plaintiff states a claim or claims, a demand specifying the relief sought, the facts supporting the claim or claims, and the basis for the court's jurisdiction (in other words, the court's authority to decide the action).

## **2.6 Defendant**

A defendant is the party being sued.

## **2.7 Discovery**

Discovery is the process by which parties collect information from each other and "discover" facts about the dispute.

## **2.8 Docket**

The docket is a chronological list of each court event and document in the case.

## **2.9 Judge**

The judge is the person who presides over the action. In the Middle District of Florida, each action is randomly assigned a United States District Judge and a United States Magistrate Judge.

## **2.10 Judgment**

A judgment is the final action by the court that ends the lawsuit in the district court.

## **2.11 Lawsuit**

A lawsuit, also called an action, is a legal claim or accusation that one person or entity makes against another in a court to get resolution from the court. A lawsuit usually begins when someone files a complaint.

## **2.12 Litigant**

A litigant, also known as a party, is a person or entity in the lawsuit.

## **2.13 Mediation**

A mediation is a settlement conference. A certified, qualified mediator presides over a mediation. The goal of a mediation is to settle the action. The Local Rules require most litigants to participate in a mediation.

## **2.14 Motion**

A motion is a request to the court for some relief. An example is a motion for an extension of a deadline.

### **2.15 Order**

An order is an action by the judge directing someone to do something or deciding a matter.

### **2.16 Plaintiff**

A plaintiff is the party suing.

### **2.17 Pro Se Litigant**

A pro se litigant is a person who proceeds in court without the help of a lawyer.

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## **3. Things to Know Before Representing Yourself**

Representing yourself carries responsibility and risk. Consider them carefully. Here are some:

- If you miss a deadline, submit a document that is false, make a false statement, disregard a court order, refuse to follow a court rule, or ask for something to which you know you are not entitled, you may lose on that ground alone and the court may impose a fine against you or hold you in contempt.
  - Lying in a court document is perjury and is a crime punishable by imprisonment.
  - Rule 11 of the Federal Rules of Civil Procedure prohibits anyone from bringing a claim that is clearly frivolous or meant only to harass someone. If the court determines that you have brought a claim for an improper or unnecessary purpose, the court may impose a sanction against you, including ordering you to pay the other side's attorney's fee.
  - If you are not a licensed lawyer, you may represent only yourself. Representing anyone but yourself is illegal.
  - If you lose your action, you likely will have to pay some costs that the winning party incurred during the lawsuit. Costs can be expensive.
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## 4. Rules Everyone Must Follow

The saying “Ignorance of the law is no excuse” is true here. You are responsible for following the rules and procedures that govern the court process, including the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of the United States District Court for the Middle District of Florida, and, if you or the other party appeal the final decision, the Federal Rules of Appellate Procedure. Here are the websites for those rules (you can also get a copy of the Local Rules at any clerk’s office):

### **Federal Rules of Civil Procedure**

*[www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)*

### **Federal Rules of Evidence**

*[www.uscourts.gov/sites/default/files/rules-of-evidence.pdf](http://www.uscourts.gov/sites/default/files/rules-of-evidence.pdf)*

### **Federal Rules of Appellate Procedure**

*[www.uscourts.gov/sites/default/files/rules-of-appellate-procedure.pdf](http://www.uscourts.gov/sites/default/files/rules-of-appellate-procedure.pdf)*

### **Local Rules of the United States District Court for the Middle District of Florida**

*[www.flmd.uscourts.gov/LocalRules.htm](http://www.flmd.uscourts.gov/LocalRules.htm)*

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## 5. Preliminary Questions to Ask

### 5.1 Is this the right court to decide my dispute?

The United States District Court for the Middle District of Florida is one of 94 trial courts in the federal court system. A federal court can decide only certain types of actions. This is known as “subject matter jurisdiction.” Generally, this court can hear only a dispute that falls into one or more of these four categories:

- A dispute that involves a right in the United States Constitution;
- A dispute that involves a federal law (as opposed to a state law or local ordinance);

- A dispute that involves the United States of America (or any of its agencies, officers, or employees in their official capacities) as a party; and
- A dispute between citizens of different states with an amount in controversy that is more than \$75,000.

If your dispute does not fall into one of those categories, you should not bring your lawsuit here. Instead, consider state, local, or administrative courts (or perhaps arbitration, mediation, or other types of alternative-dispute-resolution means).

If your dispute falls into one of those categories and you want to proceed in federal (as opposed to state) court, you must decide whether the Middle District of Florida is the correct venue. Generally, you may file a civil action in the district where any defendant lives or where the claim arose (28 U.S.C. §1391). If that district is the Middle District of Florida, you then must figure out the proper division of the Middle District of Florida. There are five divisions with clerk's offices. Division offices and their associated counties are:

- **Fort Myers:** Charlotte, Collier, DeSoto, Glades, Hendry, and Lee;
- **Jacksonville:** Baker, Bradford, Clay, Columbia, Duval, Flagler, Hamilton, Nassau, Putnam, St. Johns, Suwannee, and Union;
- **Ocala:** Citrus, Lake, Marion, and Sumter;
- **Orlando:** Brevard, Orange, Osceola, Seminole, and Volusia; and
- **Tampa:** Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota

## 5.2 Is there an alternative to representing myself?

Most people who sue or are being sued hire a lawyer familiar with the law and the court's rules. A lawyer can accept your action for an hourly rate or on contingency under which you agree to pay a percentage of recovery as the fee if you win your action, and no fee (but sometimes costs and expenses) if you do not. The lawyer likely will screen your action to make sure you have a reasonable chance of winning. Some laws may require the other side to pay

for your lawyer if you win. Other laws may require you to pay for the other side's lawyer if you lose.

If you want to have a lawyer represent you but you cannot afford one, you may contact Florida Legal Services at (407) 801-4350. Its staff can explain the options for obtaining legal services for free or at a reduced rate. The Florida Bar also has a lawyer referral service you may contact at (800) 342-8011 or <https://lrs.floridabar.org>. A referral service does not guarantee a lawyer for you; it merely will try to refer you to lawyers who may consider—in their discretion and under their terms—serving as your lawyer.

Depending on where you live, you might also consider contacting one of the following referral services or legal-aid organizations. Some organizations offer free legal help, free clinics in various subjects, and ask-a-lawyer events. If you do not see your area, you can go to [www.lsc.gov](http://www.lsc.gov) and enter your county, and it will provide a list of services or organizations in your area.

This court is not affiliated with these services or organizations and merely provides them as a possible source of help for you. This list is not exhaustive; there might be other organizations that can help you.

### **Fort Myers**

Lee County Legal Aid Society  
(239) 334-6118  
[www.leecountylegalaid.org](http://www.leecountylegalaid.org)

Florida Rural Legal Service Inc.  
(239) 334-4554  
(800) 277-7680  
(888) 582-3410  
[www.frls.org](http://www.frls.org)

### **Jacksonville**

Jacksonville Area Legal Aid, Inc.  
(904) 356-8371  
(866) 356-8371  
[www.jaxlegalaid.org](http://www.jaxlegalaid.org)

Jacksonville Bar Association Lawyer Referral Service  
(904) 399-5780  
[www.jaxbar.org/public-resources/lawyer-referral-services](http://www.jaxbar.org/public-resources/lawyer-referral-services)



Three Rivers Legal Services, Inc.  
(866) 256-8091  
*www.trls.org*

## **Ocala**

Community Legal Services of Mid-Florida  
(352) 629-01-05  
*www.clsmf.org*

## **Orlando**

Community Legal Services of Mid-Florida  
(407) 841-7777  
*www.clsmf.org*

Legal Aid Society of the Orange County Bar Association  
(407) 841-8310  
*www.legalaidocha.org*

Orange County Bar Association Lawyer Referral Service  
(949) 440-6747  
(877) 257-4762  
*www.lrisoc.org*

## **Tampa**

Bay Area Legal Service, Inc.  
(813) 232-1343  
(800) 625-2257  
*www.bals.org*

Gulfcoast Legal Services  
(941) 746-6151 (Bradenton)  
(727) 821-0726 (St. Petersburg)  
(727) 443-0657 (Clearwater)  
(941) 366-1746 (Sarasota)  
*www.gulfcoastlegal.org*

St. Michael's Legal Center  
(813) 289-5385  
*www.stmichaelslegalcenter.com/seeking-assistance*

Hillsborough County Bar Association Lawyer Referral Service  
(813) 221-7780  
*[www.hillsbar.site-ym.com/?LRIS](http://www.hillsbar.site-ym.com/?LRIS)*

You can also move the court to ask a lawyer to represent you. But unlike in a criminal matter, you do not have a right to counsel in a civil action. Asking a lawyer to represent you is reserved for extraordinary circumstances, and a lawyer can say no.

### **5.3 Free Face-to-Face Legal Information Program**

The Jacksonville, Orlando, and Tampa Chapters of the Federal Bar Association allow a pro se litigant to meet face-to-face with a lawyer to ask general questions about procedures governing an action in federal court. The lawyer cannot provide legal advice or represent the litigant. No appointment is necessary.

#### **Jacksonville**

Every Tuesday, 11:00 to 12:30  
Bryan Simpson United States Courthouse  
Clerk's Office  
300 North Hogan Street  
Jacksonville, FL 32202  
(904) 549-1900  
*[www.flmd.uscourts.gov/legal-information-program](http://www.flmd.uscourts.gov/legal-information-program)*

#### **Orlando**

Every Tuesday, 11:00 to 12:30  
George C. Young United States Courthouse  
Clerk's Office  
401 West Central Boulevard  
Orlando, FL 32801  
(407) 835-4205  
*[www.flmd.uscourts.gov/legal-information-program](http://www.flmd.uscourts.gov/legal-information-program)*

#### **Tampa**

Every Tuesday, 11:00 to 12:30  
Sam M. Gibbons United States Courthouse  
Clerk's Office  
801 North Florida Avenue  
Tampa, FL 33602  
(813) 301-5400

*www.flmd.uscourts.gov/legal-information-program*

#### **5.4 If I represent myself, what will I have to do?**

If you cannot find a lawyer to represent you, you can pursue your claim or defend a lawsuit by appearing without a lawyer (except a business and corporate entity must be represented by a lawyer).

If you sue, you must diligently prosecute your action or your action will be dismissed. You are responsible for doing everything necessary for the action to move forward. You must:

- Prepare, file, and serve a pleading and legal memoranda;
- Gather evidence, bring the action to trial, and have a witness who can testify about your claim;
- Locate, serve, and reimburse each witness for the expenses the witness incurs in having to appear;
- Provide required discovery (for example, the names and contact information of each witness you plan to call at trial and each document you plan to introduce at trial);
- Answer the opposing party's discovery requests (in other words, upon request, give them the evidence in your possession not subject to protection, even if the evidence is bad for you);
- Prepare and serve your discovery requests;
- File each disclosure required by court rules;
- Know and meet each deadline and filing requirement;
- Attend each court hearing and meeting;
- Attend a court-ordered mediation and pay for some of its costs or attend a court-ordered settlement conference before a United States Magistrate Judge; and
- Arrange for and attend depositions, if necessary.

If you are the defendant, you do not have the burden of proving the claim against you, but you do have the burden of proving an affirmative defense and must do many of the same things to successfully defend yourself.

### **5.5 Can the court give me legal advice?**

Although the staff of the clerk's office can give basic, general information about court rules and procedures and certain forms, they are prohibited from giving legal advice, interpreting or applying a court rule, or otherwise participating, directly or indirectly, in any action. They cannot explain the meaning of a rule, interpret case law, explain the result of taking or not taking an action, answer whether jurisdiction is proper, answer whether a complaint properly presents a claim, or give advice on the best procedure to accomplish a particular objective.

A judge cannot give legal advice because the judge will rule on motions by the parties and may ultimately decide the dispute. A judge must remain neutral. A law clerk or other judicial staff member likewise cannot give legal advice. When pursuing your action, you generally cannot speak to the judge or a law clerk without the other party (or the other party's lawyer) present. Except for a proceeding in open court, your communication with the judge must be in writing and filed with the clerk's office, with a copy sent to each party (or the party's lawyer if the party is represented). No filing may be in the form of a letter. Sending correspondence directly to a judge or to a judge's chambers is improper.

The court library staff is prohibited from giving legal advice or helping complete a form. A staff member can show you where a book is in the library and how to make a copy of a page from a book.

### **5.6 What information can the court give me?**

The clerk's office maintains a computer record for each lawsuit. It includes a docket, which is a chronological list of all court events and documents filed in a case. You can view the docket at a public-access terminal in one of our clerk's offices. A copy of a document in the docket costs \$.50 a page if made by a clerk's office employee and \$.10 a page if made by the litigant using a terminal. The clerk's office staff may provide basic docket information, in person or over the phone, but may charge a fee of \$31 for a records search.

If you have internet access, you can also register for PACER (Public Access to Court Electronic Records) and view and print the documents in a case. To register, go to the PACER registration page on the PACER website ([www.pacer.gov](http://www.pacer.gov)) or call (800) 676-6856. Using PACER may cost \$.10 a page for viewing or printing. PACER will give you details when you register. Problems with PACER should be addressed to PACER, not to the court.

## 6. Getting the Action Started



### 6.1 Drafting the Complaint (First Step)

Every civil action starts with a complaint. A complaint outlines a problem or reason for the lawsuit, which is also known as a claim or cause of action. A complaint (and all other documents filed with the court) must be on 8 ½" x 11" paper, double-spaced, and typed using certain typefaces required by the Local Rules. A judge may allow you file a handwritten document. Here are the things that must be in a complaint and with a complaint.

- **Caption.** A complaint, a motion, a notice, and a similar document filed with the court must have a caption that includes

United States District Court Middle District of Florida Jacksonville Division	
JOHN SMITH, <i>Plaintiff,</i>	
v.	Case No. 3:13-cv-5555-J-34PDB
SHERIFF OF DUVAL COUNTY, <i>Defendant.</i>	
<b>Complaint and Demand for Jury Trial</b>	

the court's name and division (Fort Myers, Jacksonville, Ocala, Orlando, or Tampa), the parties' names and designations (plaintiff or defendant), the case number if known, and a descriptive title, such as "Complaint." Here is an example of a caption you would see at the top of a complaint:

- **Subject-Matter Jurisdiction.** A complaint must include a short statement of the basis for subject-matter jurisdiction, which is what gives the court, as a federal court, the authority to hear and resolve your claim. As explained in the above section, "Is This the Right Court to Decide My Dispute?" your action must involve a right in the United States Constitution, a federal law, the United States of America or one of its agencies as a party, or a dispute between citizens of different states with an amount in controversy that is more than \$75,000. You must tell the court which category matches your facts and how it matches those facts so the court knows it can hear and resolve your claim.
- **Claim or Claims.** A complaint must include a short statement of the claim or claims showing you are entitled to relief. In this section, you must include the core facts that support each element of your claim. When you write your claim, you must explain what happened by stating facts, not conclusions or what relief you want. For example, do this, "The Commissioner of the Social Security Administration issued a final decision denying my claim for disability benefits on July 27, 1997"; not this, "The Commissioner of the Social Security Administration denied me my right to benefits." A complaint is no place for a citation to a case, an argument, a long diatribe, or a rambling narrative.
- **Demand for Relief.** A complaint must include a demand for judgment stating the relief sought, such as damages (money), a court order, and possibly a jury trial (you usually must ask for one in your complaint if you want one).

If you are seeking a temporary restraining order (an immediate order prohibiting the other side from doing something or requiring the other side to do something), you must follow the Local Rules and the Federal Rules of Civil Procedure addressing a temporary restraining order. If you are seeking a preliminary injunction (an order at the beginning of the action prohibiting a

party from doing something or requiring a party to do something pending resolution), you must follow the Local Rules and Federal Rules of Civil Procedure addressing a preliminary injunction. A request for a temporary restraining order, a preliminary injunction, or an injunction must be in the complaint. A request for a temporary restraining order and a preliminary injunction also must be in a motion.

- **Signature Block.** A complaint (and other documents filed with the court, except for exhibits) must include a signature block for each person filing it. A signature block must include a signature, name, address, and phone number. If you change your name, phone number, or address, you must update your information with the court.
- **Attachments.** Any written document referenced in a complaint (a contract or a right-to-sue notice, for example) may be attached to a complaint.
- **Civil Cover Sheet.** A complaint must come with a civil cover sheet. You can get the form from the clerk’s office or from the court’s website:

Civil Cover Sheet Form JS 44  
[www.uscourts.gov/sites/default/files/js044.pdf](http://www.uscourts.gov/sites/default/files/js044.pdf)

- **Summons.** A complaint must come with a summons for each defendant. You can get the form from the clerk’s office or from the court’s website:

Summons/Civil Form AO 440  
[www.uscourts.gov/sites/default/files/ao440.pdf](http://www.uscourts.gov/sites/default/files/ao440.pdf)

The Administrative Office of the United States Courts offers forms for civil complaints and related documents. They are on the United States Court website, [www.uscourts.gov/forms/civil-forms](http://www.uscourts.gov/forms/civil-forms):

Form	Name/Description
AO 85	<i>Notice, Consent, and Reference of a Civil Action to a Magistrate Judge</i>
AO 85A	<i>Notice, Consent, and Reference of a Dispositive Motion to a Magistrate Judge</i>
AO 88	<i>Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action</i>
AO 88A	<i>Subpoena to Testify at a Deposition in a Civil Action</i>
AO 88B	<i>Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises</i>
AO 239	<i>Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)</i>

AO 240	<i>Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)</i>
AO 398	<i>Notice of a Lawsuit and Request to Waive Service of a Summons</i>
AO 399	<i>Waiver of the Service of Summons</i>
AO 440	<i>Summons in a Civil Action</i>
AO 441	<i>Summons on Third-Party Complaint</i>
JS 44	<i>Civil Cover Sheet</i>
Pro Se 1	<i>Complaint for a Civil Case</i>
Pro Se 2	<i>Complaint and Request for Injunction</i>
Pro Se 3	<i>Defendant's Answer to the Complaint</i>
Pro Se 4	<i>Complaint for a Civil Case Alleging Breach of Contract</i>
Pro Se 5	<i>Complaint for a Civil Case Alleging Negligence</i>
Pro Se 6	<i>Complaint for a Civil Case Alleging that the Defendant Owes the Plaintiff a Sum of Money</i>
Pro Se 7	<i>Complaint for Employment Discrimination</i>
Pro Se 8	<i>Complaint for Violations of Fair Labor Standards</i>
Pro Se 9	<i>Complaint for Specific Performance or Damages Based on Contract to Convey Real Property</i>
Pro Se 10	<i>Complaint for the Conversion of Property</i>
Pro Se 11	<i>Third Party Complaint</i>
Pro Se 12	<i>Complaint for Interpleader and Declaratory Relief</i>
Pro Se 13	<i>Complaint for Review of Social Security Decision</i>
Pro Se 14	<i>Complaint for Violation of Civil Rights (Prisoner)</i>
Pro Se 15	<i>Complaint for Violation of Civil Rights (Non-Prisoner)</i>

## 6.2 Filing the Complaint (Second Step)

If you are suing, you must pay a filing fee of \$400 by money order, cashier's check, or in-person credit card. If you cannot afford the filing fee, you can apply to the court for permission to proceed without paying the filing fee up front. That is called proceeding "in forma pauperis." To do so, you must complete and file an affidavit-of-indigency form so the court can consider your finances and whether you cannot afford the filing fee. You can get the form from the clerk's office or the court's website:

Application to Proceed Without Prepayment of Costs-Long Form AO 239

[www.uscourts.gov/sites/default/files/ao239\\_1.pdf](http://www.uscourts.gov/sites/default/files/ao239_1.pdf)

Filing the form does not guarantee you can proceed without prepaying the filing fee. The court makes that decision. Even if the court waives the filing fee, you are still responsible for other costs of litigation, including costs for a photocopy, deposition transcript, witness, and mediation. If your request to proceed in forma pauperis is denied, you must pay the filing fee or the court will dismiss your action.

You must file your complaint and other documents by mail or in person at a clerk's office. If you mail your documents, addresses (and phone numbers) for the Middle District of Florida courts are below. File your action in the division that covers the county or counties that have the closest connection to your



dispute. See the section above titled “Is this the right court to decide my dispute” The clerk there will provide a case number.

**Fort Myers**

Clerk’s Office  
2110 First St., Rm. 2-194  
Ft. Myers, FL 33901  
(239) 461-2000

**Jacksonville**

Clerk’s Office  
300 N. Hogan St., Rm. 9-150  
Jacksonville, FL 32202  
(904) 549-1900

**Ocala**

Clerk’s Office  
207 N.W. Second St., Rm. 337  
Ocala, FL 34475  
(352) 369-4860

**Orlando**

Clerk’s Office  
401 W. Central Blvd., Ste. 1200  
Orlando, FL 32801  
(407) 835-4200

**Tampa**

Clerk’s Office  
801 N. Florida Ave.  
Tampa, FL 33602  
(813) 301-5400

### **6.3 Serving the Summons and the Complaint (Third Step)**

Service of process is the procedure used to notify a defendant of the lawsuit. Because it is fair and important for someone to have an opportunity to respond to allegations and defend against a claim, service of process is required by law, is exacting, and must be done in one of several specific ways. If service of process is not done according to the law, the court can dismiss your complaint. Rule 4 of the Federal Rules of Civil Procedure states the requirements for service of process. (Note that Rule 4 includes special requirements for service

of process when suing the United States, one of its agencies, or one of its employees.)

If you are the one suing, you must complete a summons form (one for each defendant) and present it to the clerk's office, where a clerk will sign the form and stamp it with the court's seal. From there, you will need each official summons (the one with the clerk's signature and seal) and a copy of the complaint and each of its attachment (one copy for each defendant). You must serve those documents on each defendant within 90 days of filing the complaint or risk dismissal of your action.

There are three ways to serve process:

- **Personal Service.** You can tell someone else to personally deliver or serve the summons and complaint. The server must be older than 18 and cannot be a party in the action. The server then must complete and sign the back of the original summons form and return it to you so you can file it with the court. That is called the return of service. It is proof to the court that the defendant knows about the action.
- **Waiver of Service.** A defendant may waive service of process, which means the defendant agrees to respond to the complaint even though you did not personally serve the defendant with the summons and complaint. You can get a waiver-of-service form from the clerk's office or from the court's website:

**Form 1:**

*[www.uscourts.gov/sites/default/files/ao398.pdf](http://www.uscourts.gov/sites/default/files/ao398.pdf)*

**Form 2:**

*[www.uscourts.gov/sites/default/files/ao399.pdf](http://www.uscourts.gov/sites/default/files/ao399.pdf)*

Once you have completed those two forms, you can mail them to each defendant with a copy of the complaint and each of its attachments. If the defendant completes the form and either you or the defendant returns it to the court, you do not have to complete personal service of process.

- **Service by U.S. Marshal.** If the court allows you to proceed in forma pauperis and waives the filing fee, and if the court further finds your complaint is not subject to dismissal (for example, because it is frivolous or the person being sued is immune from

liability), the court will direct the U.S. Marshal to complete service of process at no cost to you. But note that for each defendant, you still must provide a completed summons and a copy of the complaint to the clerk's office for forwarding to the U.S. Marshal.

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## 7. Pretrial

### 7.1 Filing and Serving Documents

Pretrial proceedings include exchanges of documents between the parties. The documents vary, but there are several rules to follow that never change during litigation:

- You must file original documents with the court. That includes each document you write (such as a motion and memorandum of law) and exhibit. You must sign each document you have written.
- You may file a document in the clerk's office in person or by mail. In-person filing must be done Monday through Friday, 8:30 a.m. to 4:00 p.m. The clerk's offices are closed on federal holidays and occasionally during an emergency. If you want a file-stamped copy of any document for your records, provide the clerk with a copy of that document (if you are not filing the document in person, you also need to provide a self-addressed, stamped envelope for a file-stamped copy).
- When you file a document, you must also mail or deliver a copy of that document to each other party's lawyer. If a party does not have a lawyer, you must instead mail or deliver a copy directly to that party. (There is a rare exception for an *ex parte* proceeding, meaning a proceeding that does not include the opposing party.)
- With every filing except the complaint, you must include a certificate of service stating when and how you served a copy of that document on each party or the party's lawyer. Here is an example of a certificate of service:

I, [name of person filing document], certify that on [month, day, year] I served a copy of this document on [name of other party's attorney or other party if not represented by an attorney] by [mailing, hand delivering, faxing] it to [him, her] at [address, fax number].

## **7.2 Responding to the Complaint**

After the plaintiff has finished service of process, the defendant has 21 days to respond, usually by an answer or motion to dismiss. More time may be given under certain statutes or if the defendant waived service of process. Rule 12 of the Federal Rules of Civil Procedure provides details. An answer includes the defendant's responses to the plaintiff's claim (he or she admits or denies each allegation), and any affirmative defense (for example, a claim is barred by the statute of limitations). The defendant also may bring a counterclaim against the plaintiff.

## **7.3 Case Management**

When an action is filed, Rules 16 and 26 of the Federal Rules of Civil Procedure and the Local Rules govern case management. Read those rules carefully for deadlines.

One obligation near the beginning of a lawsuit is to meet with the other party's lawyer (or, if unrepresented, the party) in person or by telephone, for a "case management conference" to develop a mutually agreeable discovery plan and mutually agreeable deadlines and dates as part of a "case management report" that must be filed with the court. In the report, the parties can also inform the court of any preliminary disputes or special considerations. The conference is also a good time to discuss how to resolve differences and settle without further court action. The conference is not meant to be adversarial; it is meant to be a cordial meeting of adults sharing a goal of the speedy, just, and inexpensive resolution of the dispute.

Once the report is filed, the court will use it to develop a "case management and scheduling order" that will govern the timeline for the action, including deadlines for completing discovery, deadlines for filing certain motions, and designation of the month and year in which the action will be tried (if not disposed of earlier).

## 7.4 Motions

A motion is a party's oral or written request to the court asking the court to do a particular thing or rule a particular way. You must file each written motion with the court and serve a copy on each other party's lawyer (or, if unrepresented, the party). Before filing a motion with the court, consult the rules regarding filing and serving a motion, paying particular attention to Local Rule 3.01. Violating a rule may cause the court to strike or deny your motion.

There are two types of motions: dispositive and non-dispositive. The Magistrate Judge assigned to an action can rule on a non-dispositive motion, which, if granted, affects the action but does not dispose of it or bring it to a close. Within a certain number of days, any party may request that the District Judge reconsider a Magistrate Judge's ruling on a non-dispositive motion but must show that the Magistrate Judge's ruling is clearly erroneous or contrary to law. A dispositive motion (a motion that can dispose of the action or bring it to a conclusion) is handled differently. A Magistrate Judge does not have the authority to rule on a dispositive motion unless the parties agree to allow their action to proceed entirely with the Magistrate Judge. If the parties do not agree, the Magistrate Judge instead, upon request from the District Judge, prepares a report and recommendation to be submitted to the District Judge who will make the final decision on the dispositive motion. Any party may object to the Magistrate Judge's report and recommendation within 14 days.

The parties can mutually consent to having the Magistrate Judge assigned to the action, as opposed to the District Judge assigned to the action, hear all matters, whether dispositive or non-dispositive. An advantage to consent typically is obtaining a set date (as opposed to a set term) for the trial to begin if the action proceeds to trial.

Usually, the court does not schedule a hearing on a motion. Instead, the court sends a written decision in an order to the parties. If a dispositive motion is submitted and the judge dismisses all claims, the written decision is a judgment. The judgment is final and concludes United States District Court proceedings but may be appealed to the United States Court of Appeals for the Eleventh Circuit within a specified number of days as stated in the Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure. More information about an appeal is below under the heading "Appeal."

To write a motion, it may help to begin with a form or sample that fits your situation. If you cannot find one which fits your situation, you may write your request yourself, including the relevant facts and citations to law as you need them. Motion forms can be found in books in law libraries. Here is the start of a typical motion:

[Name of the party filing the motion] asks the court to [statement of the relief requested]. Below is a memorandum of law in support of this request.

A motion has at least three parts but sometimes may include four. In the first part, the movant asks the court to act. If the court does as the party requests, the motion is granted; if the court does not do as the party requests, the motion is denied. A motion may be granted in part and denied in part.

The second part of a motion is a memorandum of law, which is required by the Local Rules. A memorandum of law is the section in which the movant provides the court with authority and argues why the court should allow the request under that authority. Citations to the law are included in a memorandum of law because whatever the party requests must be within the court's authority. If granting the request is not within the court's authority, the court is prohibited from granting it and therefore must deny it. A memorandum of law is part of the motion; not a separate document.

The third part of a motion is a "Rule 3.01(g) certificate." Local Rule 3.01(g) requires almost every motion to include (1) a statement from the moving party that the moving party has made a good-faith effort to confer with the other party to resolve the motion and (2) a statement that the other party either opposes it or does not oppose it. Rule 3.01(g) has additional requirements. Take a moment to read Rule 3.01(g) very carefully. Failing to comply with Rule 3.01(g) is the number one reason motions are denied.

Occasionally, as a fourth part of a motion, a sworn declaration or an affidavit may be included so the court has the facts to rule on the motion. A sworn declaration or an affidavit is not required for all motions.

Common types of motions include requests for compelling discovery, dismissing claims, and extending time.

A copy of motion papers must be sent to each party in the lawsuit to give the party a chance to oppose the motion. Opposing a motion can be as much work

as preparing a motion because the response must state why the court should deny the motion and also include a memorandum of law.

The motion process includes a deadline for a response. Days must be counted in a specific manner. Time periods vary, but a response to a motion is usually due within 14 days of the date stated in the motion's certificate of service. Rule 6 of the Federal Rules of Civil Procedure guides computing time, extending time, and motions.

Under the Local Rules, a party must obtain permission to file a reply to a response. If you file a reply without permission, the court likely will strike it or refuse to consider it.

## 7.5 Disclosures and Discovery

Disclosures of facts are often made during a lawsuit. Some disclosures are required while others are not. If you are wondering whether you or another party must disclose a fact, consult the rules and the law for guidance. Rule 26 of the Federal Rules of Civil Procedure is a good place to start.

Discovery is the process by which parties exchange facts relevant to the action. A party may not seek discovery from the court. A party may not seek discovery until after the case management conference discussed in the above section, "Case Management."

There are rules regarding discovery just as there are rules for other court processes. A party can get facts from another party by asking for them. There are several ways to do this:

- **Interrogatory.** An interrogatory is a written question to the other party for information that will prove or disprove a fact. A response to an interrogatory must be in writing and under oath. Interrogatories are governed by Rules 26 and 33 of the Federal Rules of Civil Procedure.
- **Request for Production.** A request for production is a written request to the other party for a copy of a document or access to any other tangible thing that will prove or disprove a fact. Requests for Production are governed by Rules 26 and 34 of the Federal Rules of Civil Procedure.
- **Deposition.** A deposition is an in-person, recorded, question-and-answer event used by a party to ask the other party or a

witness questions about the facts surrounding the action. A party seeking the deposition of another party should try to work with the schedules of others and, at a minimum, must serve 14-days advance notice of its time and place. A party seeking the deposition of a non-party may request a subpoena from the clerk's office and serve the summons on the non-party. The party setting the deposition hires and pays for a court reporter to transcribe the deposition. Depositions are governed by Rules 26, 30, 31, 32, and 33 of the Federal Rules of Civil Procedure.

- **Request for Admission.** A request for an admission is just that—a written request to another party asking him or her to admit a fact important to proving a claim or narrowing the issues. A response to a request for admission must be in writing and under oath. Requests for Admission are governed by Rules 26 and 33 of the Federal Rules of Civil Procedure.

A party must not file a discovery document with the court unless the document is used during a hearing or at trial, is necessary for a motion (such as a motion to compel discovery or for summary judgment), or the court orders the document to be filed.

Parties may share information informally, and they often do so when trying to negotiate a settlement of their claims so they can avoid the time and cost of continuing with the lawsuit.

The discovery process may not be used to harass; it must be used in a manner that is efficient, effective, and fair. Rule 26 of the Federal Rules of Civil Procedure requires that discovery be proportional, so the relevancy of the material, the burden of obtaining and producing the material, and the amount or importance of the action are all considered in determining whether the discovery is appropriate. If the court grants a motion to compel discovery, the court must order the other side to pay expenses in bringing the motion unless certain circumstances apply.

The court publishes a handbook on civil discovery practice. The handbook is not law, and therefore is not binding. But it is highly persuasive and, as a general overview of discovery practice in this court, serves as a helpful resource for litigants and lawyers alike. You can view the form at the clerk's office or on the court's website:

*[www.flmd.uscourts.gov/sites/flmd/files/documents/mdfl-guide-for-proceeding-without-a-lawyer.pdf](http://www.flmd.uscourts.gov/sites/flmd/files/documents/mdfl-guide-for-proceeding-without-a-lawyer.pdf)*



A party who violates disclosure and discovery obligations may be sanctioned. The sanctions vary but can include dismissal and an award of an attorney's fee to the other side.

## **7.6 Mediation**

A mediation is nothing more than a settlement conference presided over by a certified, qualified, neutral mediator. The goal of a mediation is to settle to avoid risk of loss and the additional time, cost, and burden of proceeding to trial. The Local Rules require most litigants to participate in mediation. Sometimes, a District Judge may ask a Magistrate Judge to conduct a settlement conference instead. A settlement conference is very similar to a mediation.

## **8. Trial**

Preparing for trial is one of the most time-consuming and difficult parts of an action—for everyone. The court must prepare just as the parties and the lawyers prepare. From courtroom scheduling to managing discovery to ruling on motions, everyone at the court is very busy completing tasks leading to and during the trial.

A pro se litigant, like a lawyer representing a client, must prepare an opening statement, a closing argument, a witness list, an exhibit list and exhibits, and questions for each witness. If a witness is needed, the party who needs the witness must have the witness subpoenaed to appear and must usually pay the witness's fee and travel costs. Each original document to be offered as evidence must be brought to the courthouse. A copy of the document must be made too. There must be an original for the witness to testify about and a copy of the original for every party. If there is physical evidence other than a document a party intends to introduce at trial, the evidence also should be brought to court so a witness can testify about it and the other party can use it during questioning. Of course, a prohibited item like a weapon may not be brought into the courthouse.

Not all witnesses may testify. Not all documents or other objects offered as evidence are accepted as evidence during a trial. Only a judge can decide if a witness may testify or an object or document will be accepted as evidence. If you are unsure whether you can offer witness testimony, a document, or another object as evidence, consult the Federal Rules of Evidence well before trial.

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## 9. Post-Trial

### 9.1 Final Judgment

A final judgment is the end. In it, the court will enter judgment for one party on each claim. Its entry starts the time for filing a notice of appeal. Orders before the final judgment usually are not immediately appealable.

### 9.2 Appeal

The appellate court over the Middle District of Florida is the United States Court of Appeals for the Eleventh Circuit. That court handles appeals from all federal district courts in Florida, Georgia, and Alabama. It is headquartered in Atlanta. Like this court, the Eleventh Circuit Court of Appeals also offers a handbook for a pro se litigant. You can view it on the Eleventh Circuit's website:

*Preparing an Appeal — Pro Se Appellants*

[www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/Pro\\_Se\\_Handbook\\_Final\\_DEC19.pdf](http://www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/Pro_Se_Handbook_Final_DEC19.pdf)

If you disagree with an appealable order or a final judgment of the district court, you can appeal under the Federal Rules of Appellate Procedure. First reading the rules and determining if you have a right to an appeal is important. If you do not have a right to an appeal and file one anyway, the proceedings in your action will be delayed.

If you have a right to an appeal, you must quickly file a notice of appeal in the district court. The number of days to file an appeal after a judgment varies, so you must consult the rules. The number of days can be as few as 20. Here are the contents of a typical notice of appeal:

[Name of party appealing] appeals to the United States Court of Appeals for the Eleventh Circuit from the [final judgment or order] entered in this case on [month] [day], [year].

When you appeal, you must pay a \$505 filing fee to the district court. If you cannot afford the filing fee, you may request to proceed in forma pauperis on appeal and have the fee waived. Any party who is not a prisoner and who has been allowed to proceed in forma pauperis in the district court also may proceed in forma pauperis on appeal to the Eleventh Circuit Court of Appeals.

If you did not proceed in forma pauperis in this court but would like to proceed in forma pauperis on appeal to the Eleventh Circuit Court of Appeals, you must file a special form with your notice of appeal so the court can decide whether you qualify to proceed in forma pauperis. If the court waives the filing fee, you are still be responsible for all other costs of the appeal. You can get the form from the clerk's office or from the Eleventh Circuit Court of Appeals' website:

Motion for Permission to Appeal In Forma Pauperis with Affidavit  
[www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormFormaPauperisJUN18.pdf](http://www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormFormaPauperisJUN18.pdf)

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## 10. Resources

### 10.1 Law Libraries

If you would like to research the law, court libraries are open to the public. The libraries are open during normal business hours from Monday through Friday if library staff members are available. They are closed on federal holidays and occasionally during an emergency. Calling ahead to make ensure the library will be open is suggested. Here is information about them:

<b>Jacksonville</b>	<b>Orlando</b>	<b>Tampa</b>
300 N. Hogan St. Suite 13-350 (904) 301-6650	401 W. Central Blvd. Suite 3400 (407) 835-5812	801 N. Florida Ave. Suite 62 (813) 301-5320

### 10.2 Websites

The court's website has a section dedicated to the needs of a pro se litigant. To access it, click the tab, "For Litigants" in the top bar on the homepage and from the dropdown menu select "Litigants without Lawyers." The page includes forms, this guide, information about lawyer referral services, and information about the Legal Information Program.

The United States Court of Appeals for the Eleventh Circuit's website also has a section dedicated to the needs of pro se appellant or appellee:

[www.ca11.uscourts.gov/pro-se-forms-and-information](http://www.ca11.uscourts.gov/pro-se-forms-and-information)

Many other online resources may be helpful. Here are just a few:

**Affidavit of Indigency**

[www.uscourts.gov/sites/default/files/ao239\\_1.pdf](http://www.uscourts.gov/sites/default/files/ao239_1.pdf)

**Civil Cover Sheet**

[www.uscourts.gov/sites/default/files/js044.pdf](http://www.uscourts.gov/sites/default/files/js044.pdf)

**Eleventh Circuit Court of Appeals Civil Appeals Statement**

[www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormCivilAppealStatement.pdf](http://www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormCivilAppealStatement.pdf)

**Federal Bar Association**

[www.fedbar.org](http://www.fedbar.org)

**Federal Rules of Civil Procedure**

[www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf](http://www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf)

**Federal Rules of Evidence**

[www.uscourts.gov/sites/default/files/rules-of-evidence.pdf](http://www.uscourts.gov/sites/default/files/rules-of-evidence.pdf)

**Federal Rules of Appellate Procedure**

[www.uscourts.gov/sites/default/files/rules-of-evidence.pdf](http://www.uscourts.gov/sites/default/files/rules-of-evidence.pdf)

**Florida Legal Services**

[www.floridalegal.org](http://www.floridalegal.org)

**Forms and Fees on the U.S. Courts Website**

[www.uscourts.gov/FormsAndFees.aspx](http://www.uscourts.gov/FormsAndFees.aspx)

**Local Rules for the Middle District of Florida**

[www.flmd.uscourts.gov/LocalRules.htm](http://www.flmd.uscourts.gov/LocalRules.htm)

**PACER Registration**

[www.pacer.gov/register.html](http://www.pacer.gov/register.html)

**United States Code (unofficial edition)**

[uscode.house.gov](http://uscode.house.gov)

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United States Courts

[www.uscourts.gov/Home.aspx](http://www.uscourts.gov/Home.aspx)

United States Court of Appeals for the Eleventh Circuit

[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

United States District Court for the Middle District of Florida

[www.flmd.uscourts.gov](http://www.flmd.uscourts.gov)

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## 11. Visiting the Courthouse

Each person who enters a federal courthouse must present a valid photo identification, must go through a metal detector, and may be scanned by a handheld wand. Each bag, package, purse, and other item are examined through an x-ray machine. No weapon of any kind is allowed in a courthouse. An electronic device such as a cell phone, a laptop computer, a tablet, and audio-file player and recorder, a camera, broadcasting equipment, a smart watch, smart glasses, and other device is not allowed in a courthouse without a court order or bar identification card. Proper attire (church attire is a good comparison) is expected.

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## 12. Frequently Asked Questions

*When will my motion be decided and why is it taking so long?*

There is no timeframe for deciding a motion. The Middle District of Florida is one of the busiest federal courts in the nation. A judge may decide a motion the same day it is filed or take more than a year to decide a motion, depending on numerous factors, including the number of pending motions before the judge.

*Can I speak to the judge assigned to my action?*

That depends. A litigant may speak to the assigned judge if the judge schedules a courtroom proceeding on a matter. Telephoning or emailing a judge directly is not fair and is not allowed.

***How much is it to file an action?***

\$400. Prepayment of the fee may be waived if the court finds the plaintiff is indigent.

***Is there a new-case packet to help me file?***

There is no “packet,” but there are forms you can use. Please see AO 440 (Summons in a Civil Action), JS 44 (Civil Cover Sheet), AO 239 (Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)), and Pro Se 1 (Complaint for a Civil Case).

***How do I fill out a summons? Can the clerk’s office do it for me?***

Please see AO 440 (Summons in a Civil Action). The clerk’s office cannot complete it for you.

***How do I serve the defendant if I’m not proceeding in forma pauperis?***

There are many ways, but a litigant usually hires a private process server who knows the rules regarding service. Process servers can be found online.

***How do I get a copy of everything filed in my action?***

You can print a copy of the docket and any filing using a terminal in any clerk’s office or ask the clerk’s office to print the copy. The clerk’s office charges \$.10 a page for a copy by a litigant and \$.50 a page for a copy by the clerk.

***How do I get a CM/ECF username and password?***

The CM/ECF filing system is unavailable to non-lawyers. A litigant may file a document by hand-delivery, United States Postal Service, or a private mail service (like UPS or Federal Express).

***How do I file my action? Can it be mailed or faxed?***

A complaint must be filed by hand-delivery, United States Postal Service, or a private mail service (like UPS or Federal Express). It cannot be filed by facsimile or email.

***How do I get court-appointed counsel?***

You can ask the court to ask a lawyer to represent you at no cost, but you have no right to counsel in a civil action, and that relief is reserved for exceptional circumstances.

***How do I file a criminal charge?***

To file a criminal charge, you must contact your local law enforcement agency. Filing a civil complaint in federal court to initiate a criminal charge is improper.