

United States District Court Middle District of Florida



GUIDE FOR PROCEEDING WITHOUT A LAWYER

This guide is the work product of librarians, lawyers, and judges from around the district, with special thanks to the Tampa Chapter of the Federal Bar Association and the court's Pro Se Assistance Subcommittee of the Bench Bar Fund Committee. This guide should help people proceeding in court without lawyers. As a mere guide, it should not be cited as authority. This guide was last updated on March 1, 2019.

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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.

Remember that this guide will not answer all of 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. Also remember that 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 the links, but know that any italicized text indicates there is a website with more information on the topic.

2. Definitions

2.1 Answer

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

2.2 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 bases for the court's jurisdiction (authority to decide the case).

2.3 Defendant

A defendant is the party being sued.

2.4 Discovery

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

2.5 Docket

The docket is a chronological list of all court events and documents in the case.

2.6 Judge

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

2.7 Judgment

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

2.8 Lawsuit

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

2.9 Litigant

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

2.10 Motion

A motion is a request to the court for some action. An example is a motion for an extension of time to file something.

2.11 Order

An order is an action by the judge directing someone to do something.

2.12 Mediation

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

2.13 Plaintiff

A plaintiff is the party bringing the lawsuit.

2.14 Pro Se Litigant

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

3. Things to Know Before Representing Yourself

Representing yourself carries a lot of responsibilities and some risks. You should carefully consider them. Here are some:

- If you miss a filing deadline, submit a document that is false, disregard a court order, refuse to follow court rules, 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 court documents is perjury and 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, it may impose sanctions against you, including ordering you to pay the other side's attorney's fees.
- If you are not a licensed lawyer, you may represent no one but yourself. It is illegal to do otherwise.
- If you lose your case, you likely will be required to pay some of the costs that the winning party incurred during the lawsuit. Costs can be expensive.

4. Rules that Everyone Has to Follow

The old 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 decide to 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

Federal Rules of Evidence

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

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

www.flmd.uscourts.gov/local-rules

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. Federal courts can decide only certain types of cases. This is known as “subject matter jurisdiction.” Generally, this court can hear only disputes that fall into one or more of the following 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 any of those four categories, you should not file your lawsuit in this court. 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 four 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 case 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
- **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. Some lawyers will accept your case for an agreed-upon percentage of recovery as the fee if you win your case, and no fee if you do not (besides, sometimes, costs and expenses). That is a contingency-fee arrangement. Most such lawyers screen cases to make sure potential clients have a reasonable chance of winning. Some laws may require the other side to pay for your lawyer if you win your case. 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 (850) 385-7900. 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/>. Referral services do not guarantee a lawyer for you; they will merely 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 of the 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 and enter your county, and it will provide a list of services or organizations in your area.)

Note this court is not affiliated with any of these services or organizations and merely provides them as a possible source of help for you. Also note 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

Florida Rural Legal Service Inc.
(239) 334-4554
www.frls.org

Jacksonville

Jacksonville Area Legal Aid, Inc.
(904) 356-8371 or (866) 356-8371
www.jaxlegalaid.org

Jacksonville Bar Association Lawyer Referral Service
(904) 399-5780
www.jaxbar.org/page/LawyerReferralServ

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

Ocala

Community Legal Services of Mid-Florida
(352) 629-6257
<https://clsmf.org>

Orlando

Community Legal Services of Mid-Florida
(407) 841-7777
<https://clsmf.org>

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

Orange County Bar Association Lawyer Referral Service
(407) 422-4537
www.lrisoc.org

Tampa

Bay Area Legal Services, Inc.
(813) 232-1343 or (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) 221-7777
<https://hillsbarlrs.com>

You may also ask the court to appoint a lawyer for you. But remember that, unlike in a criminal case, you do not have a right to court-appointed counsel in a civil case, appointment is reserved for extraordinary circumstances, and a lawyer is not required to accept an appointment. To make your request, you must file a motion for appointment of counsel.

5.3 Free Face-to-Face Legal Information Program

The Jacksonville, Orlando, and Tampa Chapters of the Federal Bar Association offer litigants proceeding in federal court without lawyers an opportunity to meet face to face with lawyers to ask general questions about procedures governing cases in federal court. The lawyers may not provide legal advice or represent the litigants. Litigants can meet with lawyers during program hours with or without an appointment.

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/sites/flmd/files/documents/mdfl-legal-information-program-jacksonville.pdf

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/sites/flmd/files/documents/mdfl-legal-information-program-orlando.pdf

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/sites/flmd/files/documents/mdfl-legal-information-program-tampa.pdf

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 (though business and corporate entities must be represented). When you appear without a lawyer, you must follow the same rules and procedures that lawyers and represented litigants must follow.

If you file a lawsuit, you must diligently prosecute it or it will be dismissed. That means you are responsible for doing everything necessary for the case to move forward. Whether you are representing yourself as a plaintiff (the person suing) or a defendant (the person being sued), you have to:

- Prepare, file, and serve pleadings and legal memoranda;
- Gather evidence, bring it to trial, and have a witness who can testify about it;
- Locate, serve, and reimburse witnesses for the expenses they incur in having to appear;
- Provide required discovery (for example, the names and contact information of witnesses you plan to call at trial and the documents you plan to introduce at trial);
- Answer other parties' discovery requests (in other words, upon request, give them the evidence in your possession that is not subject to protection);
- Prepare and serve your discovery requests;
- File disclosures required by court rules;

- Know and meet all deadlines and filing requirements;
- Attend all court hearings and meetings;
- Attend 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.

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 court rules, or otherwise participating, directly or indirectly, in any case. They cannot explain the meaning of a specific 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.

The judges cannot give legal advice because they will rule on motions by the parties and may ultimately decide the case. They must remain neutral. Law clerks and other judicial staff members likewise cannot give legal advice. When pursuing your case, you generally cannot speak to the judge or law clerks without the other party (or the other party's lawyer) present. Except for proceedings in open court, all of your communications with the judge should be in writing and filed with the clerk's office, with copies sent to all parties (or their lawyers if they are represented). Sending correspondence directly to any judge or to a judge's chambers is improper.

Court library staff members also are prohibited from giving legal advice or helping complete a form. They can show you where books are in the library and how to make copies of library materials.

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 may view the docket at public-access terminals in our clerk's offices. Copies of any document in the docket cost \$.50 a page if made by a clerk's office employee and \$.10 a page if made by the litigant using the terminals. 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 may also register for PACER (Public Access to Court Electronic Records) and view and print the documents for your case. To register, go to the PACER registration page on the PACER website (www.pacer.gov) or call (800) 676-6856. Using PACER may cost \$.10 per printed page. PACER will give you details when you register. Problems with PACER should be addressed to PACER, not to the court.

6. Getting the Case Started



6.1 Drafting the Complaint (First Step)

Every civil case 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) needs to be on 8 ½" x 11" paper, double-spaced, and either typed in a 12-point black font or written legibly in black ink. Here are the things that must be in a complaint and with a complaint.

- **Caption.** A complaint (and any other document filed with the court) must have a caption that includes 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" (other examples are "Plaintiff's Motion for Summary Judgment" or "Defendant's Unopposed Motion for Extension of Time to Respond to Complaint"). Here is an example of a caption you would see at the top of a complaint:

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>	
Complaint and Demand for Jury Trial	

- **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 claims. As explained in the above section, "Is This the Right Court to Decide My Dispute," your case 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 case's facts and how it matches those facts so the court knows that 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.”

- **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 Local Rule 4.05 and Federal Rule of Civil Procedure 65. If you are seeking a preliminary injunction (an order at the beginning of the case prohibiting a party from doing something or requiring a party to do something pending case resolution), you must follow Local Rule 4.06 and Federal Rule of Civil Procedure 65. If the relief you are seeking is an injunction (an order at the end of the case prohibiting a party from doing something or requiring a party to do something), Local Rule 1.06 requires the title to include, “Injunctive Relief Sought.” Requests for a temporary restraining order, a preliminary injunction, or an injunction must be in the complaint (as opposed to in a motion).

- **Signature Block.** A complaint (and any other document filed with the court) must include a signature block for each person filing it. A signature block must include a signature, typed or printed name, address, and phone number.
- **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 be accompanied by 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

- **Summons.** A complaint must be accompanied by 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

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/sites/default/files/ao440.pdf:

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 have to 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 it. That is called proceeding "in forma pauperis." To do so, you have to complete and file an affidavit-of-indigency form so the court can consider your finances and whether you truly 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

Filing the form does not guarantee you can proceed without paying the filing fee. The court makes that decision. Even if the court waives the filing fee, you will still be held responsible for other costs of litigation, including costs for photocopies, deposition transcripts, witnesses, and mediation. If your request to proceed in forma pauperis is denied, you have to pay the filing fee or the court will dismiss your case.

You may file your complaint and other court documents by mail or in person at a clerk's office. If you mail your court documents, addresses (and phone numbers) for the Middle District of Florida courts are provided below. File your case in the division that covers the county or counties that have the closest connection to your case. Those are listed above under the heading, "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 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 claims, service is required by law, is exacting, and must be done in one of several specific ways. If service is not done according to the law, the court may dismiss your complaint. Rule 4 of the Federal Rules of Civil Procedure states the requirements for service. (Note that Rule 4 includes special requirements for service when suing the United States, one of its agencies, or one of its employees.)

If you are the one suing, you must fill out summons forms (one for each defendant) and present them to the clerk's office, where a clerk will sign them and stamp them with the court's seal. From there, you will need a copy of each official summons (the one with the clerk's signature and seal) and a copy of the complaint and any of its attachments (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 case.

There are three ways to serve a defendant with a complaint:

- **Personal Service.** You can tell someone else to personally deliver or serve the copies. The server must be older than 18 and may not be a party in the case. The server must then 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 case.

- **Waiver of Service.** A defendant may waive service, which means the defendant agrees to respond to the complaint even though you did not personally serve the defendant with the complaint and summons. You can get waiver-of-service forms from the clerk's office or from the court's website:

Form 1:

www.uscourts.gov/sites/default/files/ao398.pdf

Form 2:

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 any 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. Note, however, that you still must provide completed summonses and copies of the summonses and complaints to the clerk's office for forwarding to the U.S. Marshal.

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 documents you write (such as motions and memoranda of law) and exhibits. You must sign documents you have written.
- You may file documents 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 a state of emergency. If you want a file-stamped copy of any document for your records, provide the clerk with a copy of that document (you need to provide a self-addressed, stamped envelope for a file-stamped copy if you are not filing the document in person).
- When you file a document, you must also mail or deliver a copy of that document to all of the other parties' lawyers. If the other parties do not have lawyers, you must instead mail or deliver a copy directly to the other parties. (There is a rare exception for ex parte proceedings.)
- 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 the other parties or their lawyers. 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 claims (he or she admits or denies each allegation), affirmative defenses (for example, a claim is barred by the statute of limitations), and any counterclaim against the plaintiff.

7.3 Case Management

When a case is filed, one of the first things the court enters is a "track notice" informing the parties of their obligations. Please read the track notice very carefully upon receipt; it is an important document that governs how the case will proceed.

One obligation is to meet with the other side, 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 begin discussing how to resolve differences and settle the case without further court action. The conference is not meant to be adversarial.

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 case, including deadlines for completing discovery, deadlines for filing certain motions, and designation of the month and year in which the case will be tried (if not disposed of earlier).

7.4 Motions

A motion is a party's oral or written request to have the court do a particular thing or rule a particular way. You must file written motions with the court and send copies to the other parties' lawyers (or, if unrepresented, the parties themselves). Before filing a motion with the court, consult the rules regarding filing and serving motions. Violating the rules may result in the court striking or denying your motion.

There are two types of motions: dispositive and non-dispositive. The Magistrate Judge assigned to a case can rule on a non-dispositive motion, which, if granted, affects the case but does not dispose of it or bring it to a conclusion. 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. Dispositive motions (motions that may dispose of the case or bring it to a conclusion) are handled differently. Magistrate Judges do not have the authority to rule on dispositive motions unless the parties agree to allow their case 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.

Parties may mutually consent to having the Magistrate Judge assigned to the case, as opposed to the District Judge assigned to the case, 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 case proceeds to trial.

Usually, the court does not schedule hearings on motions. Instead, the court sends a written decision to all parties. If a dispositive motion is submitted and the judge dismisses a complaint, the written decision is a judgment. Those judgments are final and conclude 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 appeals is below under the heading, "Appeals."

Motions have 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. Some motions are granted in part and denied in part.

To write a motion, it may be helpful 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 party filing the motion] asks the court to [statement of the relief requested]. Below is a memorandum of law in support of this request.

The second part of a motion is a memorandum of law, which is required. 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 be accompanied by a statement from the movant that the movant has made a good-faith effort to confer with the other party to resolve the motion and a statement that the other party either opposes it or does not oppose it. Because parties often overlook this rule to their detriment, it warrants stating in full here:

***Local Rule 3.01(g).** Before filing any motion in a civil case, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, or to involuntarily dismiss an action, the moving party shall confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion, and shall file with the motion a statement (1) certifying that the moving counsel has conferred with opposing counsel and (2) stating whether counsel agree on resolving the motion. A certification to the effect that opposing counsel was unavailable for a conference before filing a motion is insufficient to satisfy the party's obligation to confer. The moving party retains the duty to contact opposing counsel expeditiously after filing and*

to supplement the motion promptly with a statement certifying whether or to what extent the parties have resolved the issue(s) presented in the motion. If the interested parties agree to all or part of the relief sought in any motion, the caption of the motion shall include the word “unopposed,” “agreed,” or “stipulated” or otherwise succinctly inform the reader that, as to all or part of the requested relief, no opposition exists.

Occasionally, as a fourth part of a motion, a sworn statement of fact, also known as an affidavit, may be included so the court has the facts to rule on the motion. It is not required for all motions.

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

Copies of any motion papers must be sent to every party in the lawsuit to give them 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 deadlines for responses. Days must be counted in a specific manner. Time periods vary, although responses to motions are 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 provides guidance on 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 will likely 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 has a legal duty to 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 case. 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 case. A party seeking the deposition of another party may serve an 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 serving the summons on the non-party. The party setting the deposition is responsible for hiring and paying for a court reporter. 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.

The parties do not file discovery documents with the court unless they are used during a hearing or at trial, they are necessary for a motion (such as a motion to compel discovery or for summary judgment), or the court orders them 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 case are all considered in determining whether the discovery is appropriate. If the court grants a motion to compel discovery, it 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-civil-procedure-handbook.pdf

A party who fails to comply with disclosure and discovery obligations may be sanctioned. The sanctions vary depending on the circumstances, but can include dismissal and an award of attorney's fees to the other side.

7.6 Mediation

A mediation is nothing more than a settlement conference presided over by a certified, qualified 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 a case—for everyone. The court must prepare just as the parties and their lawyers prepare. From courtroom scheduling to managing discovery to ruling on motions, everyone at the court is very busy completing tasks leading up to and during the trial.

People who represent themselves, like lawyers representing clients, must prepare opening statements, closing arguments, witness lists, exhibit lists and exhibits, and questions for witnesses. If a witness is needed, the party who needs the witness must have the witness subpoenaed to appear and usually pay the witness's costs. Any original documents to be offered as evidence must be brought to the courthouse. Copies of those documents must be made too. There must be an original for the witness to testify about plus a copy of the original for every party. If there is physical evidence other than a document that a party intends to introduce at trial, it should also be brought to court so a witness can testify about it and other parties can use it during questioning.

Not all witnesses may testify at trial. 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 may offer witness testimony, documents, or other objects as evidence, consult the Federal Rules of Evidence well before trial.

9. Post-Trial

9.1 Final Judgment

A final judgment is the end of the case. In it, the court will enter judgment in favor of one party on each claim. Its entry starts the time for filing a notice of appeal. Orders before the final judgment are usually 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 courts in Florida, Georgia, and Alabama. It is headquartered in Atlanta. Like this court, the Eleventh Circuit Court of Appeals also offers litigants without lawyers a handbook. You can view it on the Eleventh Circuit's website:

Preparing an Appeal—Pro Se Appellants (Rev. 1/19)

www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/Pro_Se_Handbook_Final_JAN19.pdf

If you disagree with an appealable order or a final judgment of the district court, you may appeal under the Federal Rules of Appellate Procedure. It is important to first read the rules and determine if you have a right to an appeal. If you do not have a right to an appeal and file one anyway, it will delay proceedings in your case.

If you have a right to an appeal, you must quickly file a notice of appeal in the district court. The number of days you have 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] hereby 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 have to 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 has been allowed to proceed in forma pauperis in the district court will also be allowed to 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 to waive the filing fee. If the court waives the filing fee, you will 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)

10. Resources

10.1 Law Libraries

If you would like to research the law, the 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. It is best to call ahead to make sure the library will be open. Here is information about them:

Jacksonville	Orlando	Tampa
300 N. Hogan St.	401 W. Central Blvd.	801 N. Florida Ave.
Suite 13-350	Suite 3400	Suite 627
(904) 301-6650	(407) 835-5812	(813) 301-5320

10.2 Websites

The court's website has a section dedicated to the needs of litigants without lawyers. To access it, click the tab, "Proceeding Without a Lawyer" in the right column on the homepage. It includes a warning about proceeding without a lawyer and information under the following topic headings:

Change of Address	Handbook
Complaints & Answers	Lawyer Referral Service
Definitions	Legal Information Program
FAQs	Prisoner Resources
Flowchart	Privacy
Forms	Tips

The United States Court of Appeals for the Eleventh Circuit's website also has a section dedicated to the needs of appellants without lawyers:
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

Civil Cover Sheet

www.uscourts.gov/sites/default/files/ao239_1.pdf

Civil Cover Sheet, Automated Version

apps.flmd.uscourts.gov/JS-44/cvcover.html

Eleventh Circuit Court of Appeals Civil Appeals Statement www.ca11.uscourts.gov/sites/default/files/courtdocs/clk/FormCivilAppealStatement.pdf

Federal Bar Association

www.fedbar.org

Federal Rules of Civil Procedure

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

Federal Rules of Appellate Procedure

https://www.uscourts.gov/sites/default/files/ap_rules_eff._dec._1_2018_0.pdf

Florida Legal Services

www.floridalegal.org

Forms and Fees on the U.S. Courts Website

www.uscourts.gov/services-forms

Local Rules for the Middle District of Florida

www.flmd.uscourts.gov/local-rules

Order - In Re: Amendments to Time Calculations in the Local Rules

www.flmd.uscourts.gov/sites/flmd/files/documents/mdfl-amendments-to-time-calculations-in-the-local-rules.pdf

PACER Registration

www.pacer.gov/register.html

United States Code (unofficial edition)

<http://uscode.house.gov/>

United States Courts

www.uscourts.gov

United States Court of Appeals for the Eleventh Circuit

www.ca11.uscourts.gov

United States District Court for the Middle District of Florida

www.flmd.uscourts.gov

11. Visiting the Courthouse

Know that everyone entering a federal courthouse must present a valid photo identification, go through a metal detector, and may be scanned by a handheld wand. All bags, packages, purses, and other items are examined through an x-ray machine. No weapons of any kind are allowed in any courthouse. Electronic devices such as cell phones, laptop computers, tablets, audio-file players and recorders, cameras, broadcasting equipment, and other devices are not allowed in a courthouse without a court order or bar identification card. Proper attire (church attire is a good comparison) is expected.

12. Frequently Asked Questions

When will my motion be ruled on 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 case?

That depends. A litigant may speak to the assigned judge if the judge schedules a courtroom proceeding on a matter. It is never okay to telephone or email a judge directly.

How much is it to file a case?

\$400. 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 fill it out for you.

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

There are many ways, but litigants usually hire a private process server who knows the rules regarding service. They can be found in the Yellow Pages or online.

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

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

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

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

How do I file my case? 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 may not be filed by facsimile or email.

How do I get court-appointed counsel?

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

How do I file criminal charges?

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.

THE END