

U.S. District Court for the District of Columbia

Pro Se PRISONER Handbook

Instructions for filing a civil action on your own behalf.

U.S. District Court for the District of Columbia Clerk's Office

02/14/2014

This handbook is designed to help *pro se* prisoners understand basic court procedures in civil actions. This handbook does not cover all circumstances or all types of cases and is not intended as a substitute for legal representation. You should use these instructions in conjunction with the Federal Rules of Civil and Appellate Procedure, the Local Rules of this court and any statutes and rules which may apply to your particular case. Please note that court staff cannot give legal advice.

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I. INTRODUCTION

A. Purpose of this Handbook

- a. The purpose of this handbook is to provide general information about the federal court system and to assist individuals wishing to file a complaint in the **United States District Court for the District of Columbia** *pro se*, that is, without the assistance of counsel. Please note: If you are not a prisoner, the Clerk's Office also has a ***Pro Se Non-Prisoner Handbook*** that is available upon request from the Clerk's Office and is also available on the Court's website at <http://www.dcd.uscourts.gov/dcd/>.
- b. This handbook is not legal advice and should not be used as a substitute for legal advice by an attorney. In addition, it should not be cited as legal authority.

B. What does *Pro Se* Mean?

- a. If you are representing yourself without the benefit of an attorney, you are known as a "*pro se* litigant." *Pro se* is a Latin term meaning "for oneself." As a *pro se* litigant, you enjoy every right entitled to you under the law and you will not be penalized because you are not represented by an attorney. At the same time, *pro se* litigants are expected to follow the rules that govern the practice of law in the federal courts. *Pro se* litigants should be familiar with the Federal Rules of Civil Procedure (FRCP) and the Local Civil Rules of this court.
 - i. <http://www.uscourts.gov/RulesAndPolicies/rules/current-rules.aspx>
 - ii. <http://www.dcd.uscourts.gov/dcd/local-rules>
- b. As a *pro se* litigant you may **not** authorize another person who is not an attorney to appear for you, and you may not appear on behalf of another person. While you may receive help from other non-attorneys in drafting your pleadings and other papers, you must personally sign your complaint and all additional papers filed with the court. If several individuals commence an action together, each person must personally sign the complaint.

C. Cases Filed in Federal Court

- a. The United States District Court for the District of Columbia is a federal court. Federal courts only have jurisdiction, or legal authority, to hear certain types of cases. This Court is generally authorized to hear disputes that fall into the following four categories:
 - i. Those that deal with a question involving the United States Constitution;
 - ii. Those that involve questions of federal law (e.g., interstate commerce, damages at sea, labor laws, environmental matters, agriculture, federal tax matters, etc.);

- iii. Those that involve the United States of America as a party, whether as a plaintiff or defendant; and
 - iv. Those that involve a dispute among residents of different states with an amount in controversy exceeding \$75,000 (this is referred to as “diversity of citizenship”).
- b. If your complaint does not fall into one of these four categories, the federal court may not be the appropriate venue to pursue your claims. It will be your burden to demonstrate that your case belongs in federal court.

D. Clerk’s Office Information

- a. The U.S. District Court for the District of Columbia address and phone number are:

**Clerk, U.S. District Court
333 Constitution Avenue, NW
Washington, DC 20001
(202) 354-3000**

- b. Our hours of operation are:

**9:00 AM – 4:00 PM
Monday through Friday (except federal holidays)**

- c. All case-related inquiries should be directed to the Clerk’s Office. **It is not permissible to write or telephone directly the judge assigned to your case or any court employee.**

E. Responsibilities of the *Pro Se* Litigant

- a. As a *pro se* litigant, you must make sure all documents filed with the court comply with the Federal Rules of Civil Procedures and the Local Civil Rules of this court. The fact that you do not have an attorney does NOT relieve you of this obligation.
- b. The following list of responsibilities is not intended to be exhaustive, and only provides a few examples of the manner in which *pro se* litigants are expected to conduct themselves when pursuing an action in this court.
- i. You are required to diligently prosecute your lawsuit and prepare for trial. This includes, but is not limited to, responding to discovery requests and motions. If the case goes to trial, it will also be your responsibility to present your case in court.
 - ii. Do not expect correspondence or orders from the court instructing you how to pursue your case. If you fail to follow established procedures and orders issued by the court, your case may be subject to dismissal.

- iii. The original signed version of all pleadings must be filed with the court; each *pro se* litigant's name must be typed or printed and signed on the last page of every pleading.
 - iv. Pursuant to FRCvP 5, you are required to serve each litigants' attorney (or the defendant, if that defendant is also appearing *pro se*) with copies of all pleadings and motions filed with the court. Likewise, each litigant or the opposing attorney is required to serve you with copies of all pleadings and motions filed on behalf of the party s/he is representing. A *Certificate of Service* must be included with every document you file. A sample of a *Certificate of Service* is included in Appendix II of this handbook.
 - v. The title of each pleading must be included in the caption, and the docket number and judge's initials must be written on each document.
 - vi. You should not include sensitive information in any document filed with the Court unless such inclusion is necessary and relevant to the case, as all personal information will be available over the internet via PACER (Public Access to Court Electronic Records). This means before you file a document, you must partially redact the following personal identifiers:
 1. Social Security Numbers: use only the last four digits.
 2. Names of minor children: use only the first and last initials.
 3. Dates of birth: use only the year of birth.
 4. Taxpayer-identification numbers: use only the last four digits.
 5. Financial account numbers: use only the last four digits.
 - vii. **You must keep the Court and other parties advised of any change of your address.** This is done by filing a *Notice of Change of Address*. Failing to do so may result in the dismissal of your case.
 - viii. You should retain a copy of all documents submitted to the court for your records. The court or Clerk's Office cannot provide copies to you free of charge. There are fees associated with providing photocopies.
- c. FRCvP 11 prohibits filing lawsuits that are clearly frivolous or filed with the intent to harass another individual. If, after reviewing your complaint, the court determines that you have filed a lawsuit for an improper or clearly unnecessary purpose, it may impose sanctions against you. Those sanctions may include ordering you to pay a fine or the legal fees of the person or persons against whom you filed the lawsuit.
 - d. Court staff cannot provide you with legal advice or tell you what you "should" or "could" do in any given situation. The Clerk's Office is not allowed to fill out any forms for you or to give you free copies of documents. This means the Clerk's Office staff cannot do any of the following:

- i. Recommend a legal course of action or suggest ways to help you win your case;
- ii. Predict how or when a district or magistrate judge may decide any issue;
- iii. Interpret the meaning of any judicial order;
- iv. Interpret the law or federal or local rules;
- v. Calculate response times or deadlines; or
- vi. Conduct legal research.

II. Filing a Civil Action

A. What to File:

- a. To file a complaint in the U.S. District Court for the District of Columbia when proceeding with a paid case, you must provide the following:
 - i. Complaint
 - ii. Filing Fee (\$350.00)
- b. To file a complaint in the U.S. District Court for the District of Columbia while proceeding *in forma pauperis*, you must provide the following:
 - i. Complaint
 - ii. Application to Proceed in District Court Without Prepaying Fees or Costs
 - iii. Consent to Collection of Fees from Trust Account
 - iv. Six-month Certified Copy of Prison Trust Account Statement
- c. To file a habeas corpus petition in the U.S. District Court for the District of Columbia, you must provide the following:
 - i. Petition
 - ii. Filing Fee (\$5.00) **OR** Application to Proceed in District Court Without Prepaying Fees or Costs (no further documentation is required)

B. The Complaint:

- a. The first step in filing a lawsuit is to prepare a complaint. A sample format of a complaint is included in Appendix II of this handbook.
- b. The name of this court must be written at the top of the first page of your complaint.
- c. Pursuant to Local Civil Rule 5.1(e), your **name, address and prisoner identification number** must appear in the caption of your complaint.
- d. All defendants **must** be named in the caption. The use of *et al.* is **not** permitted as the rules require you to name each defendant individually and provide the mailing address of each.
- e. The word **COMPLAINT** must appear under the caption.
- f. Clearly set out your grievance in the body of the complaint, name those against whom you have a grievance, and what you would like the court to do to correct the situation.

- g. Your complaint must be **legibly** handwritten or typed on white, letter size (8 ½ x 11 inch) paper. Write only on the front page. Your complaint **must** also be double-spaced.
- h. If you are requesting a jury trial, the **jury demand** must be stated in your complaint.
- i. You **must** originally sign your complaint in ink.
- j. You **must** submit the original complaint and one copy to the Clerk's Office for processing.

C. Habeas Actions

- a. Federal *habeas corpus* relief under 28 U.S.C. § 2241 is available to anyone held "in custody in violation of the Constitution, laws or treaties of the United States" in situations that are not covered by either 28 U.S.C. § 2254 or § 2255. A § 2241 petition (form AO 242) is included in Appendix II of this handbook
- b. See Appendix II for other available *habeas corpus* forms.

D. Filing Fees:

- a. The required filing fee for a new complaint is **\$350.00**.
- b. The required filing fee for a habeas corpus petition is **\$5.00**.
- c. There is **no fee** for filing a motion under 28 U.S.C. § 2255 in your criminal case.
- d. The Clerk's Office accepts cash, check or money order. Your check or money order should be made payable to: **Clerk, U.S. District Court**

E. Application to Proceed in District Court Without Prepaying Fees or Costs (*In Forma Pauperis*):

- a. If you are unable to pay the filing fee, you may request permission from the court to proceed *in forma pauperis* by completing an **Application to Proceed in District Court Without Prepaying Fees or Costs (AO 240)**. An application is included in Appendix II of this handbook.
- b. In addition to the application, you must also submit a **Consent to Collection of Fees from Trust Account** form, and a **six-month certified copy of your prison account statement**. See Appendix II of this handbook for samples.
- c. Please allow 4-6 weeks for approval of the application. Written notice will be mailed.

F. The Summons:

- a. If you are planning to file an application to proceed *in forma pauperis*, you do not need to provide summonses. Preparation of summonses will be the responsibility of the Clerk's Office and service will be effected by the U.S. Marshal, upon direction of the judge.
- b. If you are paying the new case filing fee, you must provide a summons for each named defendant in your complaint. The summons must comply with Federal Rule 4(a) and (b) before it will be signed by a Deputy Clerk. A sample of a summons is included in Appendix II of this handbook. You are responsible for service of the summons and complaint upon the defendant(s).
 - i. If a U.S. Government agent or agency is a named defendant, you must prepare two additional summonses; one (1) for the U.S. Attorney General and one (1) for the U.S. Attorney for the District of Columbia.
 1. The **U.S. Attorney General** is located at:
950 Pennsylvania Avenue, NW
Washington, DC 20530
 2. The **U.S. Attorney for the District of Columbia** is located at:
501 Third Street, NW
Washington, DC 20001
(for hand delivery)
OR
555 Fourth Street, NW
Washington, DC 20530
(for mail delivery)

III. After Your Case is Filed

A. Reviewing Your Case:

- a. When an Application to Proceed in District Court Without Prepaying of Fees or Costs is submitted with a complaint, an initial review of the case will be conducted by a judge, pursuant to 28 U.S.C. § 1915A.
- b. After the judge's initial review, s/he may require you to file additional information in support of your case.
- c. If your application to proceed *in forma pauperis* is denied, your papers will be returned to you without further action.

B. Opening Your Case:

- a. If your application to proceed *in forma pauperis* is granted, your case will be assigned a civil case number and entered into the ECF docketing system.
- b. After the case is opened, the Clerk's Office will notify you of the case number and any other information deemed necessary.

C. Consent to Proceed Before a Magistrate Judge:

- a. Pursuant to Local Civil Rule 73.1(a), parties may consent to have a magistrate judge conduct any and all proceedings in a civil case, including trials.
- b. If both parties consent to such an assignment, a notice of consent signed by the parties or their attorneys should be filed with the Clerk. A consent form is included in Appendix II of this handbook.

D. Service of Process:

- a. If your request to proceed *in forma pauperis* is granted, the summons will be served by the U.S. Marshal when the judge so directs.
- b. If your request is denied, you will be responsible for providing the summons and serving the complaint. (*See page 8 for details on providing the summons*).
 - i. The most common ways of effecting service are through personal delivery (handing the summons, complaint, and any other required document to the defendant) or by certified mail, with a return receipt requested. Review FRCvP 4 for more information.
 - ii. The following can personally deliver or mail the summons and complaint to a defendant:
 1. Any person of at least 18 years of age who is not a party to and does not have a personal interest in the case.
 2. A private process server (requires a fee).

3. The U.S. Marshal (only if proceeding *in forma pauperis*).
- iii. An executed *Return of Service* must be filed by the *pro se* litigant for each summons issued. A sample of a *Return of Service* is included in Appendix II of this handbook.
- iv. FRCvP 4 allows a defendant to waive personal service of process if the defendant is not the United States, a federal government agency, or a foreign, federal, state or local government official sued in an official capacity. To complete this process instead of serving a summons, review FRCvP 4(d).

E. After Service of Process:

- a. Once a defendant is properly served, several things may happen: the defendant may file an answer to your complaint/petition, the defendant may file a motion, or the defendant may do nothing. In the case of more than one defendant, a combination of these things may happen.
 - i. Defendant files an answer:
 1. If the defendant files an answer, the assigned judge may issue a scheduling order, which sets deadlines for how the case will proceed. The scheduling order may include deadlines for completing discovery, filing motions, and filing status reports.
 - ii. Defendant files a motion:
 1. If a motion is filed, you will be allowed 14 days to file a response, or as otherwise directed by the judge. You may also file a motion for extension of time to file your response, if more time is needed.
 - iii. Defendant files nothing:
 1. If the defendant files nothing within the time for filing a response, you may request entry of default and default judgment under FRCvP 55.

F. Discovery and Trial:

- a. The discovery period is the time frame allowed by the court for both plaintiff and defendant to discover facts and gather evidence to be presented at trial to prove the litigant's case. Discovery does not occur in every case and will not begin until the judge enters a scheduling order.

IV. When Your Case is Decided

A. If You Win:

- a. If the court enters judgment in your favor, you may collect any monetary amount awarded as part of the judgment.
- b. You may also be able to be reimbursed for certain costs you spent litigating your case.

B. If You Lose:

- a. Appeal
 - i. You may appeal a final decision of this court to the United States Court of Appeals (USCA) for the **DC Circuit**. An appeal is due within **30 days** if the opposing party is a private person, company or state or local branch of government. All appeals involving the U.S. Government are due within **60 days**. See Federal Rule of Appellate Procedure 4 for additional details.
 - ii. The filing fee for an appeal is **\$505.00**. If you cannot afford to pay the fee, you may file a *Motion for Leave to Proceed In Forma Pauperis on Appeal*.
 - iii. You must file the *Notice of Appeal* with the Clerk of **this** court. You must also submit to this court either the filing fee or a *Motion for Leave to Proceed IFP on Appeal*. A sample of a *Notice of Appeal* is included in Appendix II of this handbook.
 - iv. The Clerk of this court will process your appeal and forward it to the USCA for the DC Circuit. You will receive notice from the DC Circuit Clerk's Office of the case number assigned to your appeal, and all further filings related to your appeal should be submitted to **that** court.
- b. Paying Costs
 - i. Under some circumstances, the winning party may ask the court to order you to pay his/her/its attorneys' fees. The winning party is also entitled to seek certain costs that it incurs during the lawsuit.

APPENDIX I: COMMON LEGAL TERMS

Affidavit: A written or printed statement made under oath.

Answer: The formal written statement by a defendant in a civil case that responds to a complaint, articulating the grounds for defense.

Appeal: A request made after a trial by a party that has lost on one or more issues that a higher court review the decision to determine if it was correct. To make such a request is “to appeal” or “to take an appeal.” One who appeals is called the “appellant,” the other party is the “appellee.”

Article III Judge: A federal judge who is appointed for life, during “good behavior,” under Article III of the Constitution; Article III judges are nominated by the President and confirmed by the Senate; also referred to as a District Judge.

Brief: A written statement submitted in a trial or appellate proceeding that explains one side’s legal and factual arguments.

Burden of Proof: The duty to prove disputed facts. In civil cases, a plaintiff has the burden of proving his or her case. In criminal cases, the government has the burden of proving the defendant’s guilt.

Clerk of Court: The court officer who oversees administrative functions, especially managing the flow of cases through the court.

Complaint: A written statement that begins a civil lawsuit, in which the plaintiff details the claims against the defendant(s).

Damages: Money that a defendant pays a plaintiff in a civil case if the plaintiff has won. Damages may be compensatory (for loss or injury) or punitive (to punish and deter future misconduct).

Default Judgment: A judgment awarding a plaintiff the relief sought in the complaint because the defendant has failed to appear in court or to otherwise respond to the complaint.

Defendant: An individual or entity against whom a lawsuit is filed.

Deposition: An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used in trial.

Deputy Clerk: A deputy clerk works under the supervision of the Clerk of Court. A deputy clerk performs a variety of procedures relating to the preparation and processing of court cases. A deputy clerk executed such tasks as record keeping, docketing, filing and maintaining exhibits for the Court.

Discovery: Procedures used to obtain disclosure of evidence before trial.

Dismissal With Prejudice: Court action that prevents an identical lawsuit from being filed later.

Dismissal Without Prejudice: Court action that allows a later filing.

Docket: A log containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings.

Ex Parte: A proceeding or matter brought before a court by one party only, without notice to or challenge by the other side.

Federal Question Jurisdiction: Jurisdiction given to federal courts in cases involving the interpretation and application of the U.S. Constitution, acts of Congress, and treaties.

File: To place a paper in the official custody of the Clerk of Court to enter into the files or records of the case.

Habeas Corpus: Latin, meaning “you have the body.” A writ of habeas corpus generally is a judicial order forcing law enforcement authorities to produce a prisoner they are holding, and to justify the prisoner’s continued confinement.

In Forma Pauperis: Latin, “in the manner of a pauper.” Permission given by the Court to a person to file a case without prepayment of the required court fees because the person cannot pay them.

Interrogatories: A form of discovery consisting of written questions to be answered in writing and under oath.

Judgment: The official decision of a court finally resolving the dispute between the parties in the lawsuit.

Jurisdiction: The legal authority of a court to hear and decide a certain type of case. It also is used as a synonym for venue, meaning the geographic area over which the court has territorial jurisdiction to decide cases.

Lawsuit: A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty which resulted in harm to the plaintiff.

Litigation: A case, controversy, or lawsuit. Participants (plaintiffs and defendants) in lawsuits are called litigants.

Magistrate Judge: A judicial officer of a district court who conducts initial proceedings in criminal cases, decides criminal misdemeanor cases, conducts many pretrial civil and criminal matters on behalf of district judges, and decides civil cases with the consent of the parties.

Moot: Not subject to a court ruling because the controversy has not actually arisen, or has ended.

Motion: A request by a litigant to a judge for a decision on an issue relating to the case.

Plaintiff: A person or business that files a formal complaint with the court.

Pleadings: Written statements filed with the court that describes a party's legal or factual assertions about the case.

Sanction: A penalty or other type of enforcement used to bring about compliance with the law or with rules and regulations.

Service of Process: The delivery of writs or summonses to the appropriate party.

Settlement: Parties to lawsuit resolve their dispute without having a trial. Settlements often involve the payment of compensation by one party in at least partial satisfaction of the other party's claims, but usually do not include the admission of fault.

Statute: A law passed by a legislature.

Statute of Limitations: The time period within which a lawsuit must be filed or a criminal prosecution begun. The deadline can vary, depending on the type of civil case or the crime charged.

Sua Sponte: Latin, meaning "of its own will." Often refers to a court taking action in a case without being asked to do so by either side.

Summary Judgment: A decision made on the basis of statements and evidence presented for the record without a trial. It is used when it is not necessary to resolve any factual disputes in the case. Summary judgment is granted when – on the undisputed facts in the record – one party is entitled to judgment as a matter of law.

Venue: The geographic area in which a court has jurisdiction. A change of venue is a change or transfer of a case from one judicial district to another.