

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

Guide to Managing Your Lawsuit After Filing
(for lawsuits not related to imprisonment)

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1. Introduction

Welcome to the United States District Court for the Southern District of Indiana.

The Court has prepared this guide for you as someone who wants (or needs) to be a party in a civil lawsuit without a lawyer. We call that type of person a "pro se" litigant. (That is Latin phrase meaning "for himself" or "for herself.")

This guide will help you understand the basics of the legal process. But it will not teach you about the law. For that, you must do your own research. This guide is no substitute for having your own lawyer. If you need to participate in a lawsuit, you are urged to obtain a lawyer, if possible.

This guide will help you understand what to do *after* you have filed your lawsuit or after you have been named a defendant in someone else's lawsuit against you. For guidance on how to file your lawsuit, please see the Guide to Filing Complaints Without a Lawyer in Federal District Court. At the end of this guide is a list of definitions for court-related terms that may be helpful to you.

The rules that apply to civil cases in this court are the Federal Rules of Civil Procedure and the Local Rules for the U.S. District Court, Southern District of Indiana. These rules are available on the court's website. Although some key rules are discussed below, all of the rules apply wither or not they are mentioned in this guide.

This guide should not be considered as either the last word or your only resource. It is only a summary of the procedures that may apply when you file and litigate your lawsuit. If, **after reading this guide**, you still have questions about your case, you may wish to contact the Clerk's Office or visit the court's law library. Please know, however, that **employees of the Court cannot give legal advice.**

The Clerk's Office has offices in the following locations:

Evansville Division

304 Federal Building
Evansville, IN 47708
Phone (812) 434-6410

Indianapolis Division

105 U.S. Courthouse
46 E. Ohio Street
Indianapolis, IN 46204
Phone (317) 229-3700

New Albany Division

210 Federal Building
New Albany, IN 47150
Phone (812) 542-4510

Terre Haute Division

207 Federal Building
Terre Haute, IN 47808
Phone (812) 234-9484

Each office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except for federal holidays. Envelopes containing documents to be filed should be directed to the Clerk of the Court.

2. Someone Filed A Lawsuit Against Me in Federal Court. What Should I Do?

If you have been sued in federal court, the best course is to try to obtain the advice of a lawyer (see section 3 below). Whether you are represented by a lawyer or not, the first thing a defendant normally must do is respond to the plaintiff's complaint. One way to do this is by filing what is called an "answer." An answer form is available on the court's website. In your answer, you will give a response to the claims the plaintiff brings against you.

3. If I Can't Find a Lawyer, But I Want One, What Should I Do?

Even with this handbook, representing yourself in court may be very difficult. That is why the court encourages everyone to find a lawyer if possible.

There may be alternatives to representing yourself if you are without sufficient funds to hire a lawyer to assist you. There are attorneys and organizations, such as legal aid societies, that may be willing to represent you "pro bono," that is, free of charge or based on some other arrangement. The Lawyer Referral Service of the Indianapolis Bar Association at 317-269-2222 is one resource for investigating that possibility. In addition, the Indiana state court website provides information on how a person may be able to obtain a pro bono attorney and provides links to pro bono providers. You may wish to visit this website at <https://www.in.gov/judiciary/selfservice/2353.htm>.

In a **civil** case, a party is **not entitled** by law to an attorney. A pro se litigant who has been found to be indigent (typically by the granting of an *in forma pauperis* application) and is unable to otherwise obtain counsel may ask by filing a written motion that the court request a lawyer to represent him or her. You should be aware, however, that there are many more litigants making that request than there are attorneys available to volunteer their services. Whether a lawyer is ultimately requested to represent a litigant depends on a number of factors.

Sometimes the judges may appoint an attorney for any number of different reasons or purposes. The attorney may be recruited to represent you at trial, to prepare a motion or

brief for you, or to represent you at a settlement conference. What role such an attorney performs in any particular case is entirely within the discretion of the court.

4. Motions — How Do I Ask the Court to Do Things?

A motion is an application or request made by a party to the court. Litigants should be aware of the Local Rules regarding motions practice (Local Rule 56.1 for summary judgment motions, Local Rule 65.2 for preliminary injunctions and temporary restraining orders, and Local Rule 7.1 for other motions). All motions must comply with the Local Rules or the court may "strike" or disregard them. Motions are used to seek various types of relief while a lawsuit is pending, such as a motion to amend pleadings or a motion to compel discovery. A note of caution: motions should only be filed when necessary; multiple or frivolous motions can result in penalties by the court.

According to Local Rule 7-1, responses to motions must be filed with the Clerk's Office and served on the opposing party within at least fourteen (14) days after the motion was filed. A moving party has seven (7) days following service of such response to serve and file a reply. If a party wishes to file briefs beyond the motion, the response and the reply, the party must obtain the permission of the court to file such papers, which will be granted only upon a showing of clear necessity. Failure to file a response or reply within the time prescribed may subject the motion to summary ruling. Motions for summary judgment have different time frames for briefing. See Local Rule 56-1.

Local Rule 7-1 limits a brief or response to 35 pages in length (exclusive of any pages containing a table of contents, table of authorities, and appendices), and a reply to 20 pages. Permission to file a brief in excess of these page limitations will be granted only upon motion supported by extraordinary and compelling reasons.

The court may modify any of the above schedules and limitations.

5. Serving Documents — Do I Have to Give the Defendant(s) Copies of Everything I File?

Pro se litigants proceeding *in forma pauperis*, like everyone else, must serve on the parties named in the lawsuit identical copies of all documents submitted to the court for filing. It is a good idea for you to keep a copy of all documents that you send to the court for your own records. Service and filing of pleadings, motions and other papers is provided for in Rule 5 of the *Federal Rules of Civil Procedure*.

It should be noted that under the Local Rules filing by fax is not permitted without prior court authorization.

6. Discovery — How Do I Get Evidence to Help Me Prove My Case?

“Discovery” is the process by which parties exchange or acquire information about the issues in their case before trial. There are five main types of discovery. Each main type is discussed below:

- A. “**Depositions**” are question-and-answer sessions held before trial. In them, one party to a lawsuit asks another person questions about the issues raised in the lawsuit. Rules 30 and 31 of the *Federal Rules of Civil Procedure* explain the procedures for taking a deposition. The person taking the deposition must pay the costs associated with it. If the person who will answer the questions is not a party to the lawsuit, Rule 45 explains how they can be made to appear for questioning.
- B. “**Interrogatories**” are written questions served on another party to the lawsuit. These questions, unless subject to objections, must be answered under oath. Rule 33 of the *Federal Rules of Civil Procedure* states the rules for serving interrogatories.
- C. In a “**request for production of documents**,” one person asks the other person to turn over documents about the issues in the lawsuit. The person asking for the documents must describe them in enough detail that the other person knows which documents are being requested. Rules 34(a) and (b) of the *Federal Rules of Civil Procedure* explain how to request documents from the other side in the lawsuit. If the person that you want documents from is not a party to the lawsuit, Rules 34(c) and 45 of the *Federal Rules of Civil Procedure* explain how to request their documents.
- D. In a “**request for admission**,” one side writes out statements that it wants the other side to admit are true. Rule 36 of the *Federal Rules of Civil Procedure* establishes the requirements for requests for admission.
- E. When the mental or physical condition of a party is at issue in a lawsuit, Rule 35 of the *Federal Rules of Civil Procedure* allows the Court to order that person to submit to a physical or mental examination. The examination must be done by someone qualified, like a physician or psychiatrist. The party who requested the examination must pay for it.

In accordance with Local Rule 26-2, requests for discovery and discovery responses **should generally not be filed with the court**, however, discovery related documents may be filed if necessary for the court to resolve a discovery dispute or a pretrial motion.

7. Sanctions — What Are They?

Sanctions is a legal term for penalty or punishment. Pro se litigants (including individuals who are incarcerated) are subject to sanctions for some of the same reasons as licensed attorneys. When a party to a lawsuit presents a document to the court, Rule 11(b) of the *Federal Rules of Civil Procedure* requires that party to verify the accuracy and reasonableness of that document. If a submission to the court is false, improper, or frivolous, the party filing such a document may be liable for monetary or other sanctions. Sanctions imposed by a court could consist of a monetary penalty or an order to pay the opponent's attorney fees, which could be a substantial amount. The court may also restrict a person from filing any future lawsuit until and unless specified conditions have been met.

8. Appeals

A. General

Most appeals from a decision of the District Court proceed to the U.S. Court of Appeals for the Seventh Circuit in Chicago and in most situations are proper only after the case has been concluded through the Entry of Final Judgment. To initiate an appeal, a Notice of Appeal is filed with the Clerk of the District Court. Pursuant to Federal Rules of Appellate Procedure ("Appellate Rule") Rule 10(a), the Clerk notifies all parties that a notice of appeal has been filed.

A notice of appeal should be accompanied by the following:

1. Docketing Statement (filed with the District Court Clerk); and
2. Filing fee. (Check the Court's website - <http://www.insd.uscourts.gov/> - to obtain current fee information. Follow the link to "Court Information" and then select "Fee Schedule.")

A notice of appeal must conform to the requirements of Appellate Rule 3(c). It should be signed and dated and must include the names of all parties seeking to appeal. The use of "et al.," "plaintiffs" or similar abbreviations will not be effective

or sufficient for anyone not actually named. It must also include a designation of the judgment, order or part thereof from which the appeal is taken.

Upon the filing of a notice of appeal, a “short record” on appeal is immediately forwarded to the Court of Appeals. The short record consists of a copy of the docket, the notice of appeal, the appellant's docketing statement and the judgment or order from which an appeal is being taken, including any explanatory Entry. If you intend to file an appeal, you should familiarize yourself with Seventh Circuit Rules 3, 10, 11 and 45. Appellate Rule 4(a) governs the time within which a notice of appeal must be filed.

B. Questions About the Status of Your Appeal

This court’s staff does not have access to the Court of Appeals’ computer system. Questions about the status of your appeal should be directed to the Court of Appeals’ staff at 312-435-5850. The Court of Appeals maintains its own website (www.ca7.uscourts.gov), from which certain docket information may be accessed.

9. Helpful Definitions

Answer – A written statement by a defendant in a civil case that responds to a complaint, explaining the grounds for defense against the plaintiff’s claim(s).

Brief - A written statement submitted by a party in a case that explains why the court should decide the case, or particular issues in a case, in that party’s favor

Chief Judge - The judge who has primary responsibility for the administration of a court; chief judges in the lower federal courts are determined by seniority, among other rules.

Clerk of the Court - An officer appointed by the judges of the court to provide administrative support to the court.

Complaint - A written statement filed by the plaintiff that initiates a civil case, stating the wrongs allegedly committed by the defendant and requesting relief from the court.

Counsel - Legal advice; a term also used to refer to the lawyers in a case.

Damages - money paid by defendants to successful plaintiffs in civil cases to compensate the plaintiffs for their injuries.

Default judgment - A judgment rendered in favor of a party asserting a claim because the defendant's failure to answer or appear to contest the claim.

Defendants - The defendants are the people and/or entities that the plaintiffs contend caused them a legal injury.

Docket - A log maintained by the clerk containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings, filings or other actions.

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 a case.

In Forma Pauperis - "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.

Injunction - A court order prohibiting a defendant from performing a specific act, or compelling a defendant to perform a specific act.

Judgment - The official decision of a court finally resolving the claims brought in a lawsuit.

Jurisdiction - 1. The legal authority of a court to hear and decide a case; 2. The geographic area over which the court has authority to decide cases.

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 many pretrial civil and criminal matters to move a case forward, and decides civil cases with the consent of the parties.

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

Opinion - A judge's written explanation of the decision of the court.

Party - One of the litigants, typically referred to as the plaintiff and defendant.

Plaintiffs - The plaintiffs are the people who file the complaint and who assert claims identifying legal injury to them.

Procedure - The rules for conducting a lawsuit; there are local rules, rules of civil procedure, criminal procedure, evidence, bankruptcy, and appellate procedure.

Pro Se - A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers.

Record - A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

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

Settlement - Parties to a lawsuit resolve their dispute without having a trial.

Statute of Limitations - A law that sets the deadline by which parties must file suit to enforce their rights.

Subpoena - A command, issued under authority of a court or other authorized government entity, to a witness to appear and give testimony or produce documents.

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 as to all or some of the claims.

Venue - The geographical location in which a case is tried.