

PRO SE SELF-HELP INSTRUCTIONS FOR CIVIL COMPLAINT (Federal Question or Diversity of Citizenship)

WHAT YOU WILL NEED:

- These instructions for filing a Complaint
 - Federal Question or Diversity of Citizenship Complaint form (**copy page 2 if you are suing more than one defendant**)
 - Filing fee or Application for in Forma Pauperis (IFP) Status
 - Civil Cover Sheet
 - Summons
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I. INTRODUCTION

The purpose of this self-help packet is to provide general procedural guidance regarding your civil case. The packet is not intended to be an exhaustive recitation of federal civil procedure, but it will provide a starting point.

Two sets of rules govern federal civil filings. The national set of rules is called the “Federal Rules of Civil Procedure.” The abbreviated name of the United States District Court for the District of Idaho’s set of rules is the “Local Rules.” These rules are available online at the court website or at any law library.

All of the forms mentioned in the instructions that can be obtained from the court website can also be obtained in paper form at the Clerk of Court’s office.

This packet should not be construed as a substitute for legal advice from an attorney. It is always best to consult an attorney to determine the best course of action under your particular facts.

All court staff are prohibited from giving legal advice. If you need help about how to pursue your case, contact the Idaho State Bar (208) 334-4500 or Idaho Legal Aid (208) 345-0106. These agencies may have published legal guides, lists of attorneys, and lists of organizations and agencies that may be able to help pro se litigants.

II. THE COURT ELECTRONIC FILING (ECF) SYSTEM

The United States District Court for the District of Idaho operates on an electronic case filing system (ECF), sometimes also called the Case Management/Electronic Case Files (CM/ECF) system, that is available for public viewing on the internet. See Local Rule 5.1. The address of the court's internet website is <http://www.id.uscourts.gov>.

A. Opening a New Case

If you submit the necessary items with your complaint, your case will be “opened.” Opening a case means that the Clerk of Court assigns a case number and a judge and enters the case into the ECF system. The “docket” is the court’s chronological listing of everything that is filed by the parties and every order or notice generated by the court in a case. The “docket” can be accessed by your case number, and each filing is assigned a “docket number” in chronological order.

B. Pro Se Litigant Access to ECF

1. **Filing Documents and Receiving Filed Documents.** Generally, pro se litigants are not authorized to file and receive documents electronically. Submit your documents in paper form by mail or in person to the Clerk of Court for filing. The Clerk of Court will then scan the documents into the ECF system, and they will appear on the docket and can be viewed electronically.
2. **Reviewing Dockets.** Computer terminals are located in the public area of the federal courthouses that allow the public to review the dockets for civil and criminal cases. These dockets may also be used to check the Court’s party index (a list of all parties in civil cases) and case index (a list of case numbers).
3. **Reviewing Case Files.** On rare occasions, sets of documents too numerous for scanning are received in paper form; these documents may be reviewed at the Clerk of Court office, but they may not be removed from the office. If you would like a copy of a document in the case file, copies can be made for you at the cost of 50¢ per page.
4. **The Court Internet Website.** Information about procedures, rules, fees, and other subjects may be found on the court’s internet website. The website lists the weekly hearings scheduled before each judge. The website also has links to several other judicial web sites.

III. GENERAL FORMAT OF DOCUMENTS

The general format for all documents filed with the court is explained in Local Rule 5.2.

- A. **General Format.** Use white, letter-sized (8.5 x 11”) paper, with double-spaced typing or legible handwriting in black ink, printed on one side with one-inch margins, in at least 12-point font, with page numbering, affixed by a paper clip.
- B. **Caption.** Fill in the case caption with your name as “plaintiff,” and the names of the persons or entities you are suing as “defendants.” (Plaintiffs and defendants are called “parties.”)The Clerk of Court will provide the case number.
- C. **Signature.** Sign and date each document. A pro se plaintiff cannot act, file documents for, or sign documents for another person.
- D. **Sending Copies of Documents to Other Parties.** After a defendant has been served with the original complaint, you must mail a copy of any document filed with the court to every defendant’s attorney (or to every defendant, if unrepresented), in accordance with Federal Rule of Civil Procedure 5. Each document must contain a mailing certificate that certifies that the document was mailed on a certain date to the defendant’s attorney at the correct address, and it must be signed by the person who mailed the copy.
- E. **Number of Copies.** If you would like the Clerk of Court to date-stamp a copy of your filing to show the date you filed it, then you will need to bring (or mail with a self-addressed stamped envelope included) an extra copy when you submit the original document for filing. No additional copies are necessary.
- F. **Privacy Rules.** Most documents filed with the court are open to public view. Therefore, under the E-Government Act and Judicial Conference policy, any document filed with the court should not contain a full social security number, full birth date, complete home address, the name of a minor child, or a complete financial account number. See Local Rule 5.5.
- G. **Original Documents, Exhibits, and Attachments.** Original pleadings, motions, and notices bearing the parties’ signatures should be submitted with the court. Any exhibits and attachments to be filed with the original pleading, motion, or notice should be copies, only, because original exhibits and attachments cannot be returned to you. If you need to use an original exhibit at trial, it should not be submitted for filing, but you will follow a different rule set forth in a trial-setting order.

IV. HOW TO BEGIN A NEW CASE

The first step in filing a civil case is to prepare a complaint. Select the Federal Question Complaint Form or the Diversity of Citizenship Complaint Form on the court website, or prepare one of your own choosing. If you use either form, copy page 2 for each defendant you wish to sue. In addition, you will need to prepare a summons and a civil cover sheet. When you submit these documents to the Clerk of Court, you must either pay the filing fee or submit an in forma pauperis application.

A. Complaint

1. **Content of Complaint.** A complaint must contain a short and plain statement of the grounds for the court's jurisdiction (federal question or diversity), a short and plain statement of the factual basis of the claim showing that you are entitled to relief, and a demand for any and all the relief you seek. See Federal Rule of Civil Procedure 8(a). The complaint form is designed to help you include the necessary parts of a complaint in a simplified way so the court and the defendants can understand your claims, but you are not required to use the form. Please note that it is not helpful to write a long narrative of what happened to you or to include lengthy recitations of the law; instead, you should focus on the simple, plain facts, and a simple, plain statement of the law that entitles you to relief. Use a separate copy of page 2 of the complaint form for each defendant and each different type of claim; for example, if you have two different claims against one defendant or the same claim against two different defendants, you will use two copies of page 2. Attach a continuation page if needed, but try to be brief.
2. **Request for Jury Trial.** Indicate on the front page of the complaint whether you are requesting a jury trial.
3. **Signature.** You and each plaintiff must sign and date the complaint under penalty of perjury.
4. **Number of Copies.** If you would like the Clerk of Court to date-stamp a copy of your complaint to show the date you filed it, then you will need to bring (or mail with a self-addressed stamped envelope included) an extra copy when you submit the original complaint for filing. No additional copies are necessary.
5. **Some Things to Consider.**
 - a. Am I suing the right defendant for the type of action I am bringing? For example, in some types of actions the state may not be sued, but in others, the state is the proper defendant.

- b. Does the court have personal jurisdiction over the defendant, meaning that the defendant resides in Idaho or has “minimum contacts” with Idaho, as defined by law?
- c. Am I filing my case within the proper statute of limitation period?
- d. Am I prepared to pay the defendant’s attorney fees and/or costs if I lose?

B. Summons

- 1. **Summons.** The summons is the court’s official notice to a defendant that a complaint has been filed and that there is a specific time period for answering the complaint. You must enter the defendant’s name and a physical service address on each summons. The summons must be signed and sealed by the Clerk of Court. It is then returned to you, and it must be properly served upon each defendant with a copy of the complaint. Unless the summons and complaint are properly served according to the law (or formal service process is waived by the defendant, as explained below), the defendant does not have to appear and answer your complaint.
- 2. **Format.** A summons form is available on the court website. You must prepare and submit a separate summons for every defendant. (Do not complete the proof of service portion of the summons; this is the place where the person who serves the summons and complaint verifies how, where, when, upon whom, and by whom the summons and complaint were served upon a defendant.)
- 3. **Number of Copies.** You must submit one original summons for every defendant to the Clerk of Court to be issued. The issued summons is to be used for formal service on the defendant. After you receive the issued summons, you must make a copy of it to be provided to the defendant at the time of service.

C. Civil Cover Sheet

- 1. **The Civil Cover Sheet.** The civil cover sheet is a form used by the Clerk of Court to open your case and compile statistical information.
- 2. **Format.** The civil cover sheet is available on the Court website. Complete the form as best you can, leaving blank anything you do not know.
- 3. **Number of Copies.** Only one civil cover sheet is required for each case.

D. Filing Fee or Application to Proceed In Forma Pauperis

- 1. **The Fee.** Payment is due at the time of filing of the complaint. The Clerk of Court accepts the following forms of payment: cash, cashier’s check,

money order, personal check, or credit card. Checks and money orders must be made payable to “Clerk, U.S. District Court.” The amount of the filing fee is listed on the current fee schedule.

2. **In Forma Pauperis Status.** If you are unable to afford the filing fee because of poverty, you may apply to proceed in forma pauperis (“in the form of a pauper”), which means that, if you qualify, the Court will permit you to proceed without pre-payment of the filing fee, and it may require you to pay some or all of the fee in small payments. The in forma pauperis form is available on the court website.

V. HOW DEFENDANTS RECEIVE NOTICE OF THE COMPLAINT

A. Fee-Paid Complaints

If you have paid the fee in your case, the Clerk of Court will issue the summons (which means sign and seal it under authority of the Court), and provide the summons to you for service of the complaint upon the defendant.

B. In Forma Pauperis Complaints

If you have requested in forma pauperis status, then your complaint is conditionally filed, and you cannot proceed on any part of your case unless the Court grants your application and authorizes your case to proceed. The screening provision of 28 U.S.C. § 1915 permits the judge to dismiss your case at this stage if it is frivolous, it is malicious, or it fails to state a claim upon which relief can be granted. The Court’s initial review order may (1) permit you to proceed on some or all of your claims; (2) require that you try to amend (correct) your complaint before proceeding; or (3) dismiss your entire complaint.

C. Service of Process

1. Fee-Paid Complaints

- a. **Time Period.** If you are not proceeding in forma pauperis, you are responsible for making arrangements for service of the complaint upon each named defendant within 120 days from the date the complaint is filed. If any defendant is not served within 120 days, the claims against that defendant may be dismissed. See Federal Rule of Civil Procedure 4.
- b. **How to Serve.** To be valid, “service of process” must be made in strict accordance with the law. Please review Federal Rule of Civil Procedure 4 and Idaho Rule of Civil Procedure 4 to determine how to accomplish service in the correct manner, depending upon the type of defendant you have named.

c. Who Can Serve

- (1) **General Rule.** The summons and complaint may be served by any person at least 18 years of age who is not a party (a plaintiff or defendant) to and does not have a personal interest in the case.
- (2) **Private Process Server.** For a fee, you can hire a private process server to serve the defendant.
- (3) **United States Marshals Service.** In most instances, the US Marshal will serve a summons and complaint only if you are proceeding in forma pauperis or are a seaman, or if the court has ordered it because of special circumstances.
- (4) **Waiver of Service of Summons.** You may ask the defendant to waive formal process. See Federal Rule of Civil Procedure 4(d). You may attempt to do this by using the “Notice of a Lawsuit and Request to Waive Service of Summons” available on the court website. As with formal service of process, you must follow the Rule strictly, including sending the Notice to the defendant himself, not to his attorney or agent.
 - i. If the waiver is returned by the defendant, it serves the same purpose as formal service of process—it obligates the defendant to answer the complaint or be subject to default judgment (the granting of the relief you requested in the complaint).
 - ii. If the defendant does not return the waiver, you will need to proceed with formal service of process as explained above, but you can later request that the defendant be ordered to reimburse you for the service fees if you followed the correct waiver request procedures.

2. In Forma Pauperis Complaints

If you are permitted to proceed in forma pauperis, then you are responsible for providing the Clerk of Court with the physical addresses where the defendants can be served. The Clerk of Court is responsible for taking reasonable measures for serving defendants, either by obtaining a written waiver of service from the defendants or by using the US Marshal for personal service. In an in forma pauperis case, service of process usually must be accomplished within 120 days after entry of the order allowing you to proceed.

3. **Difficulties with Service**

In either fee-paid or in forma pauperis cases, if you are having difficulty with service of the complaint within the 120-day time period, then you may file a motion to extend the time for service. The Court will determine whether you have shown good cause for an extension of time.

4. **Failure to Serve**

Failure to serve any defendant within the requisite time period may result in dismissal of the claims against that defendant.

VI. HOW A DEFENDANT RESPONDS TO THE COMPLAINT

Once a defendant is served, the defendant may (1) file an answer, (2) file a motion to extend the time to answer or other routine procedural motion; (3) file a pre-answer motion to dismiss the complaint, or (4) do nothing.

- A. **Defendant Files an Answer.** If the defendant files an answer, the parties will enter the disclosure, discovery, and scheduling phase of litigation (discussed below).
- B. **Defendant Files a Motion to Extend Time or Other Routine Motion.** These motions are typically granted unless you file a prompt response opposing the motion that shows there is a good reason the court should deny the request.
- C. **Defendant Files a Motion to Dismiss.** If the defendant files a motion to ask the court to dismiss your complaint, then you must file a response within 21 days. If you believe you can cure the problem identified in the motion to dismiss, you may also wish to file a motion to amend your complaint, together with a proposed amended complaint. See Federal Rule Civil of Procedure 12 for the types of motions permitted at this stage of the proceedings, and Local Rule 7.1 for additional rules about motion practice. For more information, read the court's "Notice to Pro Se Litigants of Your Rights and Obligations re: the Opposing Party's Motion for Judgment or Dismissal," available on the court website.
- D. **Defendant Files Nothing.** If the defendant files nothing within the time period for filing an answer, you may file a motion for entry of default and default judgment. See Federal Rule of Civil Procedure 55.

VII. FINDING AN ATTORNEY

- A. **Fee-Paid Cases.** If you are not proceeding in forma pauperis and need help finding a lawyer to represent you or to give you legal advice without representation, contact the Idaho State Bar at (208) 334-4500.
- B. **In Forma Pauperis Requests for Appointment of Counsel.** If you believe there are special circumstances warranting appointment of counsel in your case and you are proceeding in forma pauperis, you can file a motion for appointment of

counsel and explain your circumstances. Indigent persons in civil actions have no constitutional right to counsel unless their physical liberty is at stake. Whether a court appoints counsel for indigent litigants is within the court's discretion. The federal court has no authority to require attorneys to represent indigent litigants in civil cases under the in forma pauperis statute, 28 U.S.C. § 1915(d). Rather, when a court "appoints" an attorney, it can only do so if the attorney voluntarily agrees to work pro bono (without pay). There are no court funds to pay for attorney fees in civil matters.

VIII. DISCLOSURE, DISCOVERY, AND CASE MANAGEMENT PROCEDURES

A. Disclosure and Discovery Tools

The purpose of disclosure and discovery is to enable parties to obtain the evidence necessary to evaluate and resolve the case. Some pro se litigants mistakenly believe that they can withhold their evidence until trial. In reality, all relevant, non-privileged evidence is subject to disclosure and discovery early in the case. The rules prevent a party from hiding relevant information and surprising the other party at trial with information or items that were not previously disclosed.

1. **Discovery Conference.** Federal Rule of Civil Procedure 26(f) and Local Rule 26.2 require the parties to confer with each other by telephone or in person as soon as practicable to discuss the possibility of prompt resolution of the case, to make arrangements for disclosures of information and items, to discuss issues about preserving evidence, and to make a litigation plan that includes proposed deadlines for amendments to the complaint, expert witness disclosure, the close of discovery, and summary judgment motions. Follow the instructions from your particular judge on how and when to submit written proposals (joint, if the parties agree; separate, if they disagree) to the court.
2. **Required Disclosure.** Federal Rule of Civil Procedure 26(a)(1)(C) requires the parties to disclose to each other all witnesses, information, and documents that support the parties' claims and defenses at or within 14 days after the parties' Rule 26(f) discovery conference. Expert disclosure deadlines usually are set separately by court order after a case management or scheduling conference. See Local Rule 26.2.
3. **Continuing Duty to Supplement Disclosure.** If you find other information or items that are relevant to the claims and defenses after you submit your initial disclosure, you must prepare and submit a supplemental disclosure.
4. **Written Discovery.**
 - a. **Interrogatories.** Written interrogatories under Federal Rule of Civil Procedure 33 are sets of questions served by one party to another party. The responding party must answer the questions

under oath and in writing. You may submit only 25 interrogatories, including subparts. See Federal Rule of Civil Procedure 33(a) and Local Rule 33.1. Additional interrogatories can be served only if the parties stipulate to a greater number or the Court grants leave to serve more.

- b. **Requests for Production of Documents.** Written requests for production under Federal Rule of Civil Procedure 34 are used to obtain records or other evidence in another party's possession or under their control. Parties (plaintiffs and defendants) must produce documents pursuant to such a document request; parties do not need to use a subpoena when requesting items from other parties.
 - c. **Requests for Admissions.** Written requests for admissions under Federal Rule of Civil Procedure 36 require another party to admit or deny the truth of any relevant fact or the genuineness of any relevant document.
 - d. **Not Filed with Court.** The discovery requests and responses are not filed with the Court, but are exchanged between parties only. See Local Rule 5.4. The discovery responses can be attached as exhibits to motions or responses, or can be used as evidence at trial.
 - e. **Answer Format.** To answer, respond, or object to interrogatories, document requests, and requests for admission, you must first quote each interrogatory or request, and then you must provide your answer and/or objection. See Local Rule 26.1.
 - f. **Timing.** You cannot begin sending written discovery requests to the other party unless you have held the Rule 26(f) discovery planning conference, obtained a court order, or have stipulated (agreed) with the other party to begin discovery early. Written discovery responses are due within 30 days after the requests are served upon the party. If you need additional time to respond, first ask the other party to stipulate to an extension of time, and, if the party disagrees, seek a court order for an extension of time.
 - g. **Redactions.** Parties may produce documents produced in disclosure or in response to discovery in a **redacted** form if necessary for security, privacy, or privilege purposes (meaning parts of the records may be whited out).
5. **Subpoenas.** If items are held by a non-party, you may request the items from a non-party by informal request (letter) or by a formal subpoena

duces tecum (which serves as an order to produce documents). See Federal Rule of Civil Procedure 45. To obtain a subpoena, a pro se party must first submit to the court the names, addresses, and the type of information sought from each person or entity to be subpoenaed, and the pro se party must explain the relevance of the items requested to the claims. The court will then determine whether the subpoenas should issue and who must pay the costs.

6. **Depositions.** Attorneys often use depositions to obtain testimony under oath from parties or witnesses (a “deponent”) so that they know what the party or witness would say at trial. Depositions are very expensive because certain procedures must be followed to ensure that an accurate transcription of testimony is produced. If you are required to give testimony at a deposition, the following rules apply. The parties and counsel are required to be professional and courteous to one another during the depositions. The court reporter, who is neutral and not a representative of the defendants, will be present to record all of the words spoken by the deponent, counsel, and any other persons at the deposition. If the deponent wishes to ensure that the court reporter did not make mistakes in transcribing the deposition into a written form, then the deponent can request the opportunity to read and sign the deposition, noting any discrepancies between what is transcribed and what the deponent believes was said. See Federal Rule of Civil Procedure 30 and Local Rule 30.1.

B. Discovery Disputes Between Parties

1. **Trying to Resolve a Dispute.** A party will not be allowed to bring discovery disputes before the court until after (1) properly served discovery requests have been sent to the other party; (2) the time period for response has expired, and the response is not received or is inadequate; and (3) the requesting party has contacted the attorney of the answering party by telephone or letter to determine whether the dispute can be worked out. See Local Rule 37.1. If you have completed these steps and are not able to resolve a discovery dispute, then you can file a motion to compel the responses.
2. **Asking the Court to Resolve a Dispute.** A motion to compel must include a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion. See Local Rule 37.2. In addition, you must specify in the motion which issues are in dispute separately and with particularity, and, to the best of your ability, you should specify why the response is inadequate. The other party will then be given the opportunity to respond to the motion.

C. Other Information about Discovery

1. **Protective Orders.** The court has broad discretion to limit the amount and type of any discovery. The court may also grant a protective order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. See Federal Rules of Civil Procedure 16(b) and 26(b)(2).
2. **Responses Required.** You must respond to any discovery requests you receive, or you can be sanctioned by the court, which means you may have to pay the other party's attorney fees or your case could be dismissed. If you find a request objectionable, you may object with particularity, but you must answer any part of the request to which you do not object.
3. **Deadlines.** You must send out discovery requests far enough in advance of the discovery deadline set by the court so that the other party has enough time to respond before the deadline arrives.
4. **Copies.** Send the requesting party and every party's attorney a copy of your responses, and keep a copy for your records.

D. Case Management and Scheduling Conference

Federal Rule of Civil Procedure 16 and Local Rule 16.1 provide for one or more case management or scheduling conferences, where the parties and the judge meet by telephone or in person to discuss how the case will proceed in an efficient manner. The items the parties have discussed and submitted after their discovery conference, and any other necessary items particular to the case that the parties have been ordered to submit, will be reviewed at a case management or scheduling conference. After the conference, the Court will issue a case management or scheduling order, having considered the needs of the parties, the proposed deadlines, and any judicial efficiency concerns.

IX. FILING AND RESPONDING TO MOTIONS

- A. Filing a Motion.** You must file a motion if you want the court to take action in your case. Do not send a letter. You must state in your motion or in an accompanying memorandum, the facts supporting your request, as well as the law supporting your request (if you know it), in 20 pages or less. You may attach exhibits to support your position.
- B. Responding to a Motion.** Within 21 days of the date the motion was filed, the other party must file a response to a motion, if opposed. You must state in your response the law (if you know it) and facts supporting your opposition, in 20 pages or less. You may attach exhibits to support your position. If you do not oppose the motion, you should file a "non-opposition to motion" immediately.

- C. **Replying in Support of a Motion.** Within 14 days of when the response was filed, the moving party may file a reply of no more than 10 pages, but a party generally is not permitted to file a reply to a reply (called a sur-reply) without filing another motion requesting permission to do so from the court.
- D. **No Proposed Order.** A pro se litigant does not need to submit a proposed order.
- E. **Oral Argument.** The judge will determine whether oral argument is necessary. Most motions are decided on the written materials submitted by the parties.
- F. **Additional Information.** Please read Local Rule 7.1 for other requirements.

X. **FILING AND RESPONDING TO SUMMARY JUDGMENT MOTIONS**

At any time in your case, a party may file a motion for summary judgment under Federal Rule of Civil Procedure 56, which asks the court to enter judgment for that party without trial on some or all of the claims. See Federal Rule of Civil Procedure 56, Local Rule 7.1, and the “Notice to Pro Se Litigants of Your Rights and Obligations re: the Opposing Party’s Motion for Judgment or Dismissal,” available on the court website.

- A. **Required Filings.** The moving party is required to file with its motion both a statement of undisputed material facts and a memorandum showing why the party is entitled to judgment as a matter of law. If the party moving for summary judgment under Rule 56 submits affidavits, sworn testimony, or other evidence, you generally cannot oppose the motion by relying solely on what your complaint or answer says. Instead, you must provide evidence containing specific facts that show there is a genuine dispute of material fact that requires a factfinder to decide the truth or falsity of the disputed facts. Your response must consist of (1) a memorandum opposing the motion, not longer than 20 pages; (2) a statement of the material facts you dispute, if any, not longer than 10 pages; and (3) evidence supporting your claims, such as affidavits, declarations, admissions from the other party, deposition transcripts, documents, electronically stored information, answers to interrogatories, stipulations, or other materials that contradict or oppose the moving party’s motion and support your claims. If only the law is in dispute, but not the facts, then you should focus on addressing why you believe your position on the law is correct.

- B. Granting Summary Judgment.** The motion will be granted (1) if there is no genuine dispute between you and the moving party over any material facts, which means that it is not necessary to have a “factfinder” (usually a jury) decide the truth or falsity of any important fact; and (2) when, based on the law governing the case, you have not produced enough evidence upon which a factfinder (jury) reasonably could decide the claim in your favor, or, if only the law is at issue, that the law permits you to proceed. If all of your claims are dismissed, judgment will be entered against you, and the case will be closed without a trial or evidentiary hearing.

XI. TRIAL

If your case is not dismissed during pretrial proceedings, then your case will be set for a pretrial conference and a trial.

- A. Pretrial Matters.** At or before a pretrial conference, the court will set dates for you to submit witness and exhibit lists, exchange exhibits with the other parties, provide exhibits to the clerk of court for use at trial, file motions in limine (usually used to prevent irrelevant or prejudicial evidence from being introduced to the jury), submit jury instructions, make requests for subpoenas for witness trial appearances, and submit pretrial briefs. See Local Rules 16.2, 16.3.
- B. Trial.** At a jury trial, the judge will decide the legal issues that are applicable to your case, such as the jury instructions that will inform the jury of the elements of your claims and the burden of proof you must meet. The jury will decide the factual issues based on the evidence presented at trial and the law provided in the jury instructions. At a “bench” trial, the judge decides both the legal and the factual issues.

XII. APPEAL RIGHTS AND PROCEDURES

- A. Dismissals with and without Prejudice.** If a claim or case is denied or dismissed “with prejudice,” it means that the claim or case cannot be brought again. If a claim or case is dismissed “without prejudice,” it means that the claim or case can usually be brought again, usually in a different case. However, if a claim is dismissed “without prejudice,” but there is some procedural bar to bringing it again, such as expiration of the statute of limitations, the dismissal will be deemed “with prejudice,” because the claim cannot be brought again because of the procedural bar.
- B. Dismissal of Entire Action.** The dismissal of an entire case or action, with or without prejudice, is an appealable final order. The United States Court of Appeals for the Ninth Circuit has jurisdiction over all “final decisions” of the United States District Court for the District of Idaho, under 28 U.S.C. § 1291.
- C. Post-Judgment Motions and Proceedings.** Motions to alter or amend the judgment in your case must be filed within 28 days after entry of the judgment. See Federal Rule of Civil Procedure 59(e). To prevail, you must show that there is

newly discovered evidence, that the court committed clear error, or there is an intervening change in the controlling law. A motion seeking relief from a judgment or order under Federal Rule of Civil Procedure 60 may also be filed within a reasonable time or not more than one year from the entry of judgment, as specified in the Rule.

- D. Notice of Appeal.** An appeal of a final judgment or order must be filed with **the federal district court** within 30 days after the judgment or order appealed from is entered. See Federal Rule of Appellate Procedure 4. Certain types of post-judgment motions may extend the time for appeal. See Federal Rule of Appellate Procedure 4(a)(4). The district court will file, process, and transmit your appeal to the United States Court of Appeals for the Ninth Circuit. Once the court of appeals assigns a case number, all filings in the appeal case should be filed directly with the court of appeals, **not** with the district court.
- E. Filing Fee or In Forma Pauperis Requests on Appeal.** You must pay the filing fee **to the federal district court** at the time of filing the notice of appeal. The amount of the filing fee is listed on the current fee schedule. If you were granted in forma pauperis status in the district court, the status automatically permits you to file your notice of appeal; therefore, do not file an additional motion to proceed in forma pauperis in the district court. When the court of appeals reviews your filing, it will notify you whether or when and how to pay the filing fee for the appeal.
- F. Appointment of Counsel on Appeal.** For in forma pauperis litigants, requests for appointment of counsel on appeal should be filed with the court of appeals.
- G. Transcripts.** If you paid the filing fee in your case, you must request and pay for transcripts from the court reporter for purposes of appeal. A person proceeding in forma pauperis on appeal may request the production of transcripts without payment of a fee. The request first should be made in the district court. If the district court denies the request, the appellant may file a request with the court of appeals. **Please note that if your case was dismissed without a trial, there will be no relevant transcripts for the court of appeals to review.** Rather, that court will review the motions, responses, exhibits, and district court orders in your case.

XIII. IMPORTANT INFORMATION ABOUT ADDRESSES

- A. Court Addresses:** The Clerk of Court addresses for mailing or in-person filing are as follows:

Southern Division

Clerk's Office, U.S. District Court
550 West Fort Street, 4th Floor
Boise, ID 83724

Northern Division

Clerk's Office, U.S. District Court
6450 North Mineral Drive
Coeur d'Alene, ID 83815

Central Division

Clerk's Office, U.S. District Court
220 E. 5th St. Rm 304
Moscow, ID 83843

Eastern Division

Clerk's Office, U.S. District Court
801 Sherman Street
Pocatello, ID 83201

- B. Party Addressees.** Parties must keep the court and the other parties apprised of current addresses and telephone numbers at all times. You must notify the court and all other parties if you change your address by filing a notice of change of address. Failure to do so may result in missing deadlines or dismissal of your case.