

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF WYOMING



## PRO SE LITIGATION GUIDE

Office of the Clerk of Court

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## INTRODUCTION

This guide has helpful information about:

- the basic steps in a federal civil case,
- common legal terms,
- what the Court staff can help you with, and
- your responsibilities if you represent yourself in federal court.

This guide is designed for:

- Anyone bringing a civil lawsuit and not represented by a lawyer in the District of Wyoming,
- Anyone defending themselves and not represented by a lawyer in a civil lawsuit in the District of Wyoming.

This guide is NOT for:

- Criminal defendants, or
- People convicted of crimes and attempting to appeal or overturn/challenge their conviction. There is a small amount of information about filing petitions for habeas corpus in this guide. However, the purpose of this guide is to assist people without lawyers who are involved in ordinary civil cases.

## BASIC DEFINITIONS

A lawsuit is sometimes referred to as a “case” or “action.” Plaintiffs and defendants in court cases generally are referred to as the “parties” or “litigants.” A plaintiff is the person bringing the lawsuit, or “suing” the defendant. A plaintiff asserts a claim or right protected by law against the defendant. A defendant disputes the claim or right. The court determines whether the asserted claims or rights have merit. Most litigants who appear in this Court are represented by a lawyer who has been trained in the law and is familiar with court rules and procedures. Parties or litigants who are not represented by licensed lawyers, i.e., who represent themselves, are generally referred to as “*pro se* parties” or “*pro se* litigants.” “Litigating” your lawsuit is the process of advancing your lawsuit from filing through completion.

## HOW THIS GUIDE SHOULD HELP YOU

This guide will not answer all your questions about how to effectively represent yourself as a *pro se* litigant. It will:

- outline the basic steps required to properly file a lawsuit in this Court, and
- provide general guidance on the steps in the process of litigating the action after you have filed it with the Clerk of Court.

While this guide is meant to help you with your *pro se* case, it is just a starting place. You are ultimately responsible for learning and following the procedures governing the court process. The staff of the Clerk’s office **CAN** provide *pro se* litigants with general information about court rules and procedures. They **CANNOT**, as a matter of law, provide legal advice, interpret/ apply rules, or otherwise participate (directly or indirectly) in any case.

## BEFORE YOU FILE YOUR CASE

**Bringing a lawsuit is not easy.** Federal cases can take a long time to move through the court system—sometimes years. The process is complicated, expensive, and can be stressful. If you file your case *pro se* (without a lawyer), you must learn and follow the same legal and procedural rules that lawyers follow—including the Federal Rules of Civil Procedure, Evidence, and the Local Rules. The court will not help you learn the rules. Be prepared to represent yourself against a person or entity who has a lawyer. The court will not give you special treatment or appoint a lawyer to represent you just because the other side has counsel. Below are some other things to consider before you file your case.

## IS THIS COURT THE APPROPRIATE COURT TO HEAR YOUR DISPUTE?

Federal courts can only hear limited types of cases. The United States District Court for the District of Wyoming is one of 94 trial courts in the federal court system. As is the case in all federal trial courts, this Court is basically authorized to hear only disputes which fall into the following four categories:

1. Those which deal with a question involving the United States Constitution.
2. Those which involve questions of federal law as opposed to state law.
3. Those which involve the United States of America as a party, whether as plaintiff or defendant.
4. Those which involve a dispute among residents of different states with an amount in controversy over \$75,000.

**You cannot file a lawsuit in federal court if your complaint does not fall within any of these categories.**

### Types of cases:

There are two general types of cases, civil and criminal. You need to understand what type of case you have to correctly identify the rules that apply to your case.

- **Civil:** Civil cases are brought to enforce, redress, or protect a private civil right. In civil cases, the Plaintiff is usually asking for money (monetary damages), or for the Court to either force the defendant to do something or make them stop doing something.
- **Criminal:** Criminal cases are brought by the government against the defendant whom they believe has broken the law. If the defendant is found guilty, the punishment is usually prison time, a fine, or both. You should be aware that if you are charged with a crime and cannot afford a lawyer, you might be entitled to a lawyer appointed by the court.

### *PRO SE* CONSIDERATIONS:

Self-representation carries certain responsibilities and risks of which *pro se* litigants should be aware before they proceed. The Court encourages all individuals considering self-representation (*pro se*) to carefully review the risks associated with such representation, and to inform themselves of the potential consequences.

Rule 11 of the Federal Rules of Civil Procedure prohibits the filing of lawsuits which are clearly frivolous or filed merely to harass someone. After reviewing your complaint, if the Court determines you have filed a lawsuit for an improper or clearly unnecessary purpose it may impose sanctions against you, including an order for you to pay a

fine to the Court, pay the legal fees of the person or persons against whom you filed the lawsuit, or by striking claims contained in your complaint.

### If you are in prison and filing a lawsuit *pro se*:

The Prison Litigation Reform Act created different rules for people who file civil lawsuits while in prison. One rule, commonly called the “three-strikes rule,” applies to prisoners who ask the court to allow them to proceed *in forma pauperis* (without paying the filing fee at the time they file the case). The three-strikes rule states that a prisoner who has had three cases dismissed by any federal court because they were frivolous, malicious, or failed to state a claim for which relief may be granted, cannot file a new civil case or appeal unless he or she is “under imminent danger of serious physical injury.” Prisoners should be aware of the three-strikes rule because it can prevent them from litigating a case that otherwise would be successful if they already have three strikes. A prisoner with three strikes can still file a new case if they pay the entire filing fee when they file it.

### Is there an affordable alternative to appearing *pro se*?

Most people who bring cases in federal court hire a licensed lawyer to represent them. If you would prefer to have a lawyer represent you, but are unable to afford one, you can contact the Wyoming State Bar Lawyer Referral Service. The State Bar staff can explain the different options for hiring a lawyer and paying for their services. The phone number for the Wyoming State Bar Lawyer Referral Service is (307) 632-9061, or you can access it online at <https://www.wyomingbar.org/for-the-public/hire-a-lawyer/>.

Legal aid societies and legal services might be available to assist you. These services generally focus on particular areas of law and represent people who qualify *pro bono* (for free) or at a reduced rate. You can access a list of some of these services through the Wyoming State Bar website or by calling the Wyoming State Bar at the number listed above.

### Where can *pro se* litigants find this Court’s rules of procedure and applicable federal laws?

There are several different sets of rules *pro se* litigants should be familiar with. The rules that apply to your case depend on whether your case is civil or criminal.

#### Civil Cases:

- **Federal Rules of Civil Procedure** (abbreviated as Fed.R.Civ.P.): These rules describe the steps litigants must follow to file, serve, and litigate their lawsuit.
- **Federal Rules of Evidence** (abbreviated as F.R.E.): These rules explain the types of evidence that are admissible (useable) to prove your case.
- **Civil Local Rules**: The Local Rules are the procedural rules applicable to this Court. These rules are available online at <https://www.wyd.uscourts.gov/court-info/local-rules-and-orders/local-rules>. You can also pay for a printed version through the Clerk’s Office.
- **Case law**: The law evolves as courts make decisions on cases. The courts’ decisions create a body of law called “case law.” You can look up cases that are similar to yours and use them to support your argument. You should be aware, however, that case law is always evolving. Courts sometimes decide their previous decisions were wrong and do not apply the rules from those cases in future cases.

## Criminal Cases:

- **Federal Rules of Criminal Procedure** (abbreviated as Fed.R.Crim.P.): These rules describe the steps litigants must follow during their criminal case.
- **Federal Rules of Evidence** (abbreviated as F.R.E.): These rules explain the types of evidence that are admissible (useable) to prove your case.
- **Criminal Local Rules**: The Local Rules are the procedural rules applicable to this Court. These rules are available online at <https://www.wyd.uscourts.gov/court-info/local-rules-and-orders/local-rules>. You can also pay for a printed version through the Clerk's Office.
- **Case law**: The law evolves as courts make decisions on cases. The courts' decisions create a body of law called "case law." You can look up cases that are similar to yours and use them to support your argument. You should be aware, however, that case law is always evolving. Courts sometimes decide their previous decisions were wrong and do not apply the rules from those cases in future cases.

## Where can you find these rules?

- **Law libraries**: There are two law libraries that *pro se* litigants, and the public, can use to look up these rules. One is in Cheyenne, Wyoming in the Supreme Court building. The second is in Laramie, Wyoming at the University of Wyoming College of Law.
- **County libraries**: County libraries may have access to online databases or physical copies of law books. Check with your local county librarian to see what resources are available in your area.
- **Online**: There are several reputable sources online that provide copies of the federal rules. One is the US Courts website at <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.

## HOW DO YOU START A NEW CASE?

### Step 1: File the Initiating Pleading

The first step in starting a lawsuit is filing the initiating pleading. The initial pleading for a regular civil lawsuit is called a **complaint**. A "complaint" is the document in which the plaintiff asserts the claim(s) or right(s) being violated and outlines the reason for the lawsuit. It explains the "who," "what," "where," "when," and "why" of the lawsuit. The plaintiff files the complaint with the court.

Sometimes plaintiffs believe more than one person or entity is responsible for their harm. When this happens, the plaintiff must name each person or entity from whom they want relief as a defendant in the lawsuit. There is not a limit to the number of defendants a plaintiff can name— if only one person is responsible for the harm, the plaintiff should only name one defendant. If there are multiple defendants, the plaintiff must list each in the lawsuit, explain how each defendant is responsible for the plaintiff's harm, and follow the steps listed below to notify each defendant about the lawsuit. Each defendant must be named/identified as fully and accurately as possible, whether they are being sued in their individual capacity, official capacity, or both. The plaintiff cannot recover damages or get injunctive relief (ask the court to make the defendant do something or stop doing something) against a person or entity who is not listed as a defendant in the lawsuit.

The initiating pleading for prisoners challenging their convictions is either a **Petition for Writ of Habeas Corpus** under 28 U.S.C. § 2254 or a **Motion to Vacate, Set Aside or Correct the Sentence** under 28 U.S.C. § 2255. Which statute the prisoner files under depends on whether the prisoner is challenging a state or federal conviction.

The initiating pleading for a prisoner challenging the execution of their sentence is a **Petition for Writ of Habeas Corpus** under 28 U.S.C. § 2241. A Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 argues that a state conviction is unconstitutional or violates federal law. A Motion to Vacate, Set Aside or Correct the Sentence under 28 U.S.C. § 2255 argues that a federal conviction is unconstitutional or violates federal law. A Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 challenges how a sentence is carried out, but not the underlying conviction.

The plaintiff can file the initiating pleading by either hand-delivering or mailing it to the court at:

U.S. District Court Clerk's Office  
2120 Capitol Ave., Room 2131  
Cheyenne, WY 82001

or U.S. District Court Clerk's Office  
111 S. Wolcott St., Room 121  
Casper, WY 82601

or U.S. District Court Clerk's Office  
105 Albright Ave., 2nd Floor  
Mammoth, WY 82190

When the plaintiff delivers or mails their complaint, **it must include:**

- The original signed complaint; and
- The filing fee (\$402), or if they cannot afford the filing fee, a motion to proceed *in forma pauperis*.

When a prisoner mails their Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 or § 2241, **it must include:**

- The original signed petition; and
- The filing fee (\$5), or if they cannot afford the filing fee, a motion to proceed *in forma pauperis*.

There is no filing fee for a Motion to Vacate, Set Aside or Correct the Sentence under 28 U.S.C. § 2255.

All litigants should be aware that they may be required to pay for other associated costs of their litigation, even if the Court granted their motion to proceed *in forma pauperis*. For example, if a litigant needs a copy of an original document from the case file, the Clerk's Office must charge that person \$.50 per page for paper copies and \$.10 per page for electronic copies.

### If you are in prison:

Inmates can file civil lawsuits by mailing their complaint to any of the addresses listed above. If an inmate is unable to pay the filing fee, they can ask the court for *in forma pauperis* status. To do so, they must submit a motion to proceed *in forma pauperis* with their complaint. Prisoners may use a form motion to proceed *in forma pauperis* from the US Courts website at <https://www.uscourts.gov/forms/civil-forms>.

The *in forma pauperis* rules are different for inmates. If the court allows an inmate to proceed *in forma pauperis*, although they do not need to pay the filing fee up front, they must pay \$350.00 by making monthly payments over time.

Sample form petitions for a writ of habeas corpus under 28 U.S.C. § 2254, or under 28 U.S.C. § 2241, can be found at: <https://www.uscourts.gov/forms/civil-forms>.

## Step 2: Serve the Complaint

For civil cases, the law requires the plaintiff to notify each defendant about the lawsuit through a process outlined in Rule 4 of the Federal Rules of Civil Procedure. The requirements in Rule 4 are called "service of process." **IT IS**



**THE PLAINTIFF'S RESPONSIBILITY TO PROPERLY NOTIFY (SERVE) EACH DEFENDANT.** If the plaintiff does not follow the steps outlined in Rule 4 correctly, the court may dismiss their case.

## What is included in “service of process”?

The plaintiff must notify the defendant(s) of the lawsuit by providing each of them with a copy of the complaint and a “summons,” or “waiver of service.”

A “summons” is a document that tells the defendant(s) that a plaintiff has filed a lawsuit against them and that they must respond. The form must be completed and presented to the Clerk’s Office for issuance. **Only if the summons form is complete** will an authorized Clerk’s Office employee sign the form and endorse it with the official seal of the Court.

A “waiver of service” permits the defendant to waive personal service of the complaint. This means the defendant agrees to respond to your complaint without being personally served. The plaintiff mails the waiver form and complaint to the defendant and if the defendant completes and returns the waiver form, the plaintiff does not have to personally serve the defendant.

Both the “summons” and “waiver of service” forms are available online at <https://www.uscourts.gov/forms/civil-forms>.

## How much time does the plaintiff have to serve the complaint?

The plaintiff has ninety (90) days after the complaint is filed with the Clerk’s Office to serve the complaint on the defendant(s). If the plaintiff does not serve the complaint within 90 days, the court may dismiss the case.

## How does the plaintiff serve the complaint?

**Rule 4 of the Federal Rules of Civil Procedure** explains in detail how to serve the defendant(s). You should review Rule 4 before you serve the defendant(s) to make sure you do it correctly. Generally, “service of process” can occur in one of three ways:

- **Personal Service:** For personal service, the plaintiff directs someone else to deliver (serve) a copy of the complaint and summons to the defendant(s). Anyone over the age of eighteen who is not a party in the case can “serve” the defendants.

County Sheriff’s departments and private process servers provide personal service for a fee.

The person who serves the summons must record in the space provided on the form, their name, the name of the person who was served, and the date and time of service. This section of the summons is called the “return of service.” **IF THE RETURN OF SERVICE IS NOT COMPLETED, SERVICE OF PROCESS IS NOT COMPLETE.**

The plaintiff must return a completed “return of service” for each defendant to the court for filing in the case.

A copy of the summons, along with a copy of the complaint, must be left with the defendant.

- **Service by the U.S. Marshal:** If a judge approves your motion to proceed *in forma pauperis*, you may file a motion asking the court to direct the U.S. Marshal to serve your complaint and summons at the government’s expense. The court may or may not grant the motion.
- **Waiver of Service:** You may send the defendant(s) a copy of the complaint and a waiver of service as described above. If the defendant(s) return the waiver of service, you do not have to personally serve them.

Even if the court waives the filing fee, the plaintiff is responsible for the fees associated with service unless the court has specifically approved service by the U.S. Marshal.

### If you are in prison:

If you are in prison and are suing a governmental entity or an employee of a governmental entity, the court will screen your complaint under 28 U.S.C. § 1915A. This statute requires the court to dismiss your complaint if it is “frivolous, malicious, or fails to state a claim for which relief may be granted.”

If your complaint passes the screening process, it must be served. How your complaint is served depends on whether you are proceeding *in forma pauperis* or paying the filing fee:

- If the court grants your motion to proceed *in forma pauperis*, the Clerk’s Office will serve the complaint and summons on the defendant(s).
- If you pay the filing fee up front, **you are responsible for properly serving the defendant(s) based on Rule 4 as outlined above.**

### Cases under 28 U.S.C. §2254, §2255, and §2241

Service of process is different for Petitions for Writ of Habeas Corpus under 28 U.S.C. § 2254 and § 2241 and Motions to Vacate, Correct, or Set Aside the Sentence under 28 U.S.C. § 2255.

The Rules require the court to review habeas petitions and motions to vacate, correct, or set aside the sentence when they are filed. This is called “preliminary review.” If the court determines the petitioner (person filing the case) is plainly not entitled to relief, it must dismiss the case.

**If the case passes the preliminary review, the court orders the Clerk’s Office to serve the respondent (person the case is against).**

For more information visit <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.

## WHAT HAPPENS AFTER THE CASE IS SERVED?

### TYPES OF RESPONSES:

A defendant has the option to respond in three ways. The course the case follows depends on how the defendant responds.

- **Responsive pleading:** Defendant files an “Answer” to the complaint. In the Answer, the defendant responds to each of the plaintiff’s allegations by “admitting” the allegation is correct, “denying” the allegation, or stating they “lack sufficient information to either admit or deny” the allegation.

- Sometimes, the Answer will also include “**affirmative defenses.**” Affirmative defenses are legal concepts that the defendant must prove. If the defendant proves the affirmative defense, it means they are not liable for the otherwise unlawful conduct.
- The Answer might also include a “**counterclaim.**” A counterclaim is a lawsuit against the plaintiff by the defendant. The plaintiff must respond to the counterclaim.
- **Motion to dismiss:** A defendant has the option to immediately ask the court to dismiss the case. Federal Rule of Civil Procedure 12(b) lists the reasons a defendant can ask for dismissal. The plaintiff must respond to this motion and explain why the defendant’s argument is wrong and why the court should allow the case to proceed. A defendant does not need to file a responsive pleading until after the court rules on the defendant’s motion to dismiss. If the court grants the motion to dismiss, the case is over.
- **Motion for partial dismissal!** Sometimes, a complaint contains multiple claims. When that happens, a defendant may ask the court to dismiss some claims but not others. The defendant will then file a motion to dismiss for the claims they believe should be dismissed, and a responsive pleading to the remaining claims.

### How much time does a defendant have to file a responsive pleading or motion to dismiss?

Defendants have 21 days after being served to file a responsive pleading or motion to dismiss. If a defendant waives service and is within the United States, they have 60 days to file a responsive pleading or motion to dismiss. If a defendant waives service and is outside the United States, they have 90 days to file a responsive pleading or motion to dismiss. If the defendant is the United States, a United States Agency, or an employee of the United States sued in their official capacity, they have 60 days to file a responsive pleading or motion to dismiss.

### Cases under 28 U.S.C. §2254, §2255, and §2241:

- For cases under 28 U.S.C. § 2254, § 2255, and § 2241, if the habeas petition or motion survives the preliminary screening discussed above, the court will order the respondent(s) to respond. The respondent(s) must address each of the allegations in the petition or motion and explain why the respondent believes the petitioner is not entitled to relief.

### AFTER THE DEFENDANTS HAVE RESPONDED TO THE LAWSUIT:

The court will schedule an “initial pretrial conference (IPT)” or “scheduling conference” where the parties and court will decide the deadlines for the case. The deadlines include the date for the disclosure of expert witnesses, the discovery cutoff, “dispositive” and “non-dispositive” motions, the “final pretrial conference,” and the trial date. Local Rule 16.1 explains the requirements for the IPT or scheduling conference.

- **Dispositive Motion:** A dispositive motion is a motion that will dispose of the case if it is granted. Motions to dismiss and motions for summary judgment are two types of dispositive motions. In a motion to dismiss, the defendant argues the case must be dismissed because it is legally deficient. Parties cannot support a motion to dismiss or a response to a motion to dismiss with any documents or evidence outside of the pleadings. If a party wants to use additional evidence, it must ask the court to convert the motion to dismiss into a motion for summary judgment. A motion for summary judgment can be filed by either party and it argues that the available evidence proves the moving party is entitled to judgment as a matter of law— which means that no reasonable person would look at the evidence and decide the case against them.

- **Non-dispositive motions:** Non-dispositive motions are motions that do not dispose of the case. They range in subject from discovery disputes and motions to exclude expert witness testimony to motions for extension of time.

When applicable, *pro se* plaintiffs must understand and participate in a Rule 26(f) conference with opposing counsel. This conference must be completed before the IPT/Scheduling Conference.

The Local and Federal Rules excuse *pro se* prisoners from participating in Rule 26(f) and Scheduling Conferences. In those cases, the Court may enter a scheduling order without meeting with the parties.

## MAGISTRATE JUDGE:

A magistrate judge is different than an Article III “district judge.” Magistrate judges have a variety of roles in the court:

- Sometimes, a magistrate judge will assist the trial court with the IPT or scheduling conference.
- Magistrate judges hold informal discovery conferences when there is a discovery dispute.
- Magistrate judges rule on non-dispositive motions and can hold hearings on non-dispositive motions when they think a hearing would be beneficial.
- Sometimes the district judge will ask a magistrate judge to look at a dispositive motion. When this happens, the magistrate judge will write a “report and recommendation” where they analyze the motion, response, and reply, and recommend that the trial court either grant or deny the motion.
  - Parties can file objections to the magistrate judge’s report and recommendation.
  - The district judge will consider the report and recommendation and any objection and then adopt, adopt in part, or reject the magistrate judge’s report and recommendation.
- The parties can consent to the magistrate judge acting as the trial judge in their case. If the parties consent, the magistrate judge will rule on all dispositive and non-dispositive motions and preside over the trial. The district judge will have no role in these cases.

## SUBMITTING DOCUMENTS TO THE COURT:

### Types of documents filed in court:

There are several types of documents parties submit to the court. The most common are:

- **Pleadings:** The complaint and Answer are called “pleadings.” Pleadings also include counterclaims and answers to counterclaims. There are rare actions where a defendant sues another party, claiming they are responsible for the plaintiff’s harm. These are called “third-party” complaints. Third-party complaints and answers to third-party complaints are also pleadings.
- **Motions:** Motions are documents the parties file when they ask the court to take some action. A motion should be accompanied by a document called a “memorandum.” In the memorandum, the party should summarize the law and argue why the law says they are entitled to the action their motion is asking the court to take.
- **Notices:** Parties file notices to inform the court about a piece of information, but do not request the court to take any action. For example, if a party’s address changes they must file a notice informing the court of their new address.

## Filing documents in your case:

A signed original of all pleadings and motions must be filed with the court. When the litigant files an original pleading or motion, they must also send a copy to the lawyer(s) for all other parties in the case or directly to any *pro se* parties. The original signed motion or pleading must include a “certificate of service” stating the date on which the party sent it to the opposing parties. *Pro se* parties can file their motions and pleadings by mail or by hand delivery. The Clerk’s Office has three addresses which are open weekdays from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. (excluding federal holidays):

U.S. District Court Clerk’s Office  
2120 Capitol Ave., Room 2131  
Cheyenne, WY 82001

or

U.S. District Court Clerk’s Office  
111 S. Wolcott St., Room 121  
Casper, WY 82601

or

U.S. District Court Clerk’s Office  
105 Albright Ave., 2nd Floor  
Mammoth, WY 82190

Litigants should keep a copy of every document they file with the court. When you file documents in person, bring a personal copy so the Clerk’s Office staff can file stamp it. This way your record will reflect the filing date of the original. If you mail your document, you can include an additional copy and a pre-addressed, stamped envelope and the Clerk’s Office will return a file-stamped copy for your records.

## If you are in prison:

Some prisons within the Wyoming Department of Corrections have access to electronic filing. Inmates at those facilities can file their documents electronically with the court after they have mailed in their complaint or other initiating pleading. Prisoners must follow the rules for electronic filing and should check with their facility to see if it’s available in their facility and, if so, learn the procedures. If a prisoner is housed in a facility using the electronic filing system, they should not send any documents by mail to the Clerk’s Office except for their complaint/initiating pleading and any motion for *in forma pauperis* status (see Step 1 above).

If a prisoner is at a facility with electronic filing and does not want to electronically file, they must file a motion to withdraw from the program. If the court grants that request, the prisoner will receive all future documents through the U.S. Postal Service and must also send their filings through the U.S. Postal Service.

## GETTING INFORMATION ABOUT YOUR CASE:

The Clerk’s Office keeps a record for every case. This record is called a “**docket.**” The docket is a chronological listing of all the documents filed in the case. Litigants can review the docket on the public access terminal at the front counter of the Clerk’s Office in Casper or Cheyenne. Or, if the litigant has a personal computer with internet access, they can register with the Court and access the Court’s PACER system to review the docket from their personal computer. There is a charge for using the PACER system. People interested in registering for PACER should go to [pacer.gov](http://pacer.gov).

If a litigant wants a paper copy of the docket sheet, the Clerk’s Office will provide one at no charge.

Clerk’s Office employees can also provide information about the docket sheet over the phone but cannot give advice or tell litigants what documents they should file next.

## YOU CANNOT TALK DIRECTLY TO THE JUDGE OR THEIR STAFF:

**PARTIES CANNOT TALK TO THE JUDGE OR THE JUDGE'S STAFF ABOUT THE MERITS OF THE CASE WITHOUT ALL OTHER PARTIES' PRESENCE OR CONSENT.** When a party talks to the judge about the merits of the case without the other parties being present, or the other parties' consent, it is called "*ex parte*" communication. All parties, including *pro se* litigants, are prohibited from *ex parte* communications with the judge or judge's staff.

Any communication between the parties and the judge about the case must be done in writing and filed in the case as discussed above.

Parties may contact the Clerk's Office for routine scheduling or administrative purposes that do not address the merits of the case.

## IF A DEFENDANT DOES NOT RESPOND TO A COMPLAINT:

If a defendant does not answer or otherwise respond to the complaint within the required time period, the plaintiff can file a written request asking the clerk to enter the defendant's default in the record. This is called an **entry of default**.

Once the "entry of default" is on the record, the court may enter a **default judgment** in the plaintiff's favor. A "default judgment" is when the court awards the plaintiff the relief sought in the complaint because the defendant failed to appear in court or respond to the lawsuit.

For example, if the plaintiff filed a lawsuit saying the defendant did not pay \$100,000 due under a contract and the defendant did not respond to the lawsuit, the court could enter a default judgment saying the defendant must pay the plaintiff the \$100,000 without having a trial or seeing any evidence.

## DISCOVERY:

Discovery occurs after the defendants have responded to the complaint. **Discovery** is when the parties to the lawsuit exchange information. The Federal Rules of Civil Procedure and the Local Rules contain information about how to conduct discovery and the rules each party must follow. There are different types of discovery including:

- **Depositions**: A deposition is like an interview where you, the defendants, or another person (like a witness), answer questions under oath. The deposition will be recorded either by a video/audio recording device or a court reporter. If you use a court reporter, they charge a fee to take down the testimony and prepare the transcript. There are rules about how long a deposition may last and how many depositions each party can take in a case.
- **Interrogatories**: Interrogatories are written questions that must be answered, under oath, in writing.
- **Document requests**: Document requests are written requests asking for documents and tangible items (such as a defective product). The term "document" can include all forms of recorded information including drawings, graphs, charts, and photographs.
- **Requests for admission**: Requests for admission are written requests asking the party to admit that certain facts are true or documents are genuine.

## TRIAL:

If a case is not decided on dispositive motions, or settled, it will go to trial. Any party can request a **jury trial**. A “jury trial” is when the parties present their case to a jury of ordinary people who then decide the result. If the parties elect to have a jury trial, they must go through **voir dire**. “Voir dire” is the jury selection process where each side asks the potential jury members questions to determine whether there is a conflict that would make that potential jury member a bad fit for the case. Once the process is complete, the jurors are sworn to try the case and will hear the evidence.

If the parties do not ask for a “jury trial,” they will try their case to the judge and the judge will decide the outcome. This is called a **bench trial**. During a “bench trial,” the parties present the evidence to the judge. Afterwards the judge will either issue a ruling or take the case **under advisement**. When a judge takes a case “under advisement,” they issue a written order explaining the result later.

During both jury and bench trials, all parties are required to follow the Federal Rules of Evidence. The Federal Rules of Evidence govern which types of evidence are admissible and their purpose is to ensure the fact finder (either jury or judge) only considers reliable evidence. Evidence can either be testimonial—meaning a person answers questions, or documentary—meaning the parties present documents such as photos as proof of their claim or defense. The rules of evidence are complex and parties should study them closely to understand the types of evidence allowed and how to introduce the evidence to the court.

## JUDGMENT

Once the case is over, the court enters a **judgment**. The “judgment” is a document that explains who won the case and what, if anything, is owed. The judgment is entered at the end of the case—whether it ends after a motion to dismiss, motion for summary judgment, or trial.

If any party disagrees with the result, they may file an appeal to the Tenth Circuit Court of Appeals. Litigants can learn more about the appellate process at the Tenth Circuit’s website: <https://www.ca10.uscourts.gov/>

## RESOURCES:

In addition to the resources listed throughout this guide, *pro se* litigants can find resources to help them on the US Courts website. Particularly useful are the following links:

### Forms

The US Courts website has several helpful forms *pro se* litigants can use in their cases. These forms are available at: <https://www.uscourts.gov/forms/civil-forms>

Tip: the form “application to proceed in district court without prepaying fees or costs” is an application to proceed *in forma pauperis*.

### Glossary of Legal Terms

The law is complicated and lawyers and judges often speak in “legalese.” The US Courts website has a helpful glossary that defines different legal terms. The glossary is available at: <https://www.uscourts.gov/glossary>