

Pro Se Frequently Asked Questions

Western District of Wisconsin United States District Court

Source: <https://www.wiwd.uscourts.gov/pro-se-frequently-asked-questions>

Alternatives to Filing in Federal Court

Are you sure you've been wronged?

Things are not always what they seem at first. Acts that appear to have been done on purpose may have been done unintentionally. Better information may help you decide whether a lawsuit is advisable.

Can you work things out with the persons you think are responsible for your injury?

Consider talking to the people you think might be responsible for causing the problem. People may respond in a positive way if they are approached respectfully and given a real opportunity to talk. They are certain to be less likely to respond positively after being served with a formal complaint.

General Guidelines & Rules

If you decide to represent yourself, what are some basic things to remember?

It is important that you fully understand your obligation to prosecute your case once it is filed or after you have been served:

- You are required to diligently prosecute your lawsuit. Unless and until you hire an attorney to represent you, it is your responsibility to do everything necessary to prepare your case for trial. This includes, but is not limited to, responding to discovery requests and motions. It is also your responsibility to try your case in court.
- You are required to provide copies of everything that you file with the court to the attorney representing the opposing party or, if the opposing party has no attorney, to the opposing party directly. Likewise, counsel for the opposing party is required to serve you with copies of everything filed on behalf of the opposing party.
- Sometimes, pro se parties will attach a certificate of service indicating that the Clerk of Court has been served with copies of pleadings or motions. Absent an agreement to the contrary, this is not appropriate, and the certificate will be disregarded because it does not satisfy service requirements. It is your responsibility to serve the opposing parties, or their attorney, not responsibility of the Clerk's Office.
- You must keep the court and opposing parties, or their attorney, advised of any change in your address or telephone number. The failure to do so may immediately result in the imposition of sanctions, which may include the dismissal of your case.

How long do I have to answer once I have been served with a lawsuit?

You should read the summons that was served on you when you received the complaint. The summons will let you know how many days you have to answer. If you are confused about the number of days you have to respond to a complaint, you can contact a pro se deputy clerk at (608) 264-5156. Remember, the Clerk's Office cannot interpret the language in the complaint for you or give legal advice; however, Clerk's Office staff can tell you how many days you have to respond to a complaint and possibly help with the computation of an answer date. You must also send a copy of your answer to the complaint to all other parties named in the lawsuit (or their attorneys, if applicable), including the plaintiff or his or her attorney.

If you plan to represent yourself, where can you go to review applicable federal laws and procedures and this court's local rules of procedure?

As a pro se litigant, you must be familiar with the Federal Rules of Civil Procedure and the Federal Rules of Evidence. These rules set forth the general procedural requirements for litigating cases in all federal courts. Federal laws can be found in the United States Code, abbreviated as U.S.C.

As a pro se litigant, you must also be familiar with this court's Local Rules, which apply specifically to proceedings in our court. You can obtain a copy of the Local Rules at the Clerk's Office free of charge or on the court's website through the link above.

Is there a time limit for filing my complaint (statute of limitations)?

There is a time limit, called a statute of limitations, which is a deadline to bring a claim in a civil lawsuit. Each alleged violation of a law has its own statute of limitations. In other words, if you allege more than one violation of law, each claim has its own statute of limitations, which may be different from each other. The Clerk's Office cannot tell you the deadline for filing claims in your lawsuit because this information is legal advice. You must do legal research to find the statute of limitations for each claim stated in the complaint. For information on where you may go to do legal research, see the [Tips & Helpful Information](#) page.

Is this the appropriate court to hear your dispute? What is Federal Jurisdiction?

Federal courts can only hear certain types of cases. Like all other federal trial courts, this court is only authorized to hear disputes that fall into the following categories:

- Those that deal with a question involving the United States Constitution;
- Those that involve questions of federal law, as opposed to state law;
- Those that involve the United States of America as a party, whether plaintiff or defendant; or,
- Those that involve a dispute among citizens of different states with an amount in controversy more than \$75,000.

You must do your own legal research to determine whether to bring your case in federal court. The pro se deputy clerks cannot tell you whether federal court is the proper jurisdiction to bring our case. Once the case is filed in federal court, only a judge can make the final determination of whether the court has jurisdiction over the case.

How long will it take to go to trial?

The Magistrate Judge will issue a pretrial scheduling order outlining the trial date and various other deadlines. The length of time it takes for each case to prepare for trial varies and will depend on a number of factors.

Filing a Complaint in Federal Court

How do you establish your case in our court?

The plaintiff, or person bringing the lawsuit to court, files a complaint. The complaint outlines a problem or reason for the lawsuit, also known as a cause of action. Your complaint should be prepared in English and should be either typewritten or legibly handwritten in black ink using white 8½" x 11" (letter size) paper.

- A short and plain statement of the grounds upon which the court's jurisdiction depends.
- A short and plain statement of the claim showing that you are entitled to relief, and a demand for judgment for the relief to which you deem yourself entitled.
- The complaint (and any other type of pleadings that are filed such as motions, etc.) must contain a caption setting forth the name of the court, the title of the action, the case number (if already assigned), and the title of the document such as "Complaint," etc.
- You must clearly identify all defendants by name and address. It is your responsibility to determine the identity of any and all defendants you wish to sue. Check to see that you have included all relevant names, addresses and dates in your complaint. You may attach as an exhibit any written instrument you have referred to in your complaint which you would like to make a part of the complaint. You must sign the complaint and state your address and phone number. If there is more than one plaintiff, each must sign the complaint as well as all future pleadings. Remember, if you are proceeding pro se, you can only represent yourself; you may not represent a corporation or another person or party.
- The words "JURY DEMAND" if you would like the case to be decided by a jury.

For assistance in completing a complaint, you may use one of the court's complaint forms. The Western District of Wisconsin requires a plaintiff to submit only the original signed complaint, however, you are responsible for making copies of the complaint and exhibits for

your records. That original complaint must be signed by an individual plaintiff. If there is more than one plaintiff, each individual plaintiff must sign the original complaint. A corporation cannot proceed pro se, therefore, the complaint must be signed by an individual.

Along with the complaint, you must submit either the filing fee or an application to proceed in forma pauperis. In forma pauperis is a Latin phrase that means "as an indigent person," that is, a person who cannot afford to prepay the filing fee. An application to proceed in forma pauperis is a form completed by the person starting the lawsuit asking the court to establish a payment plan for the filing fee. However, if the court grants permission to proceed in forma pauperis, the filing fee is NOT waived. Instead, the entire amount of the filing fee is broken into payments (prisoners may have a percentage of their income deducted) based on a number of factors explained more fully in the application to proceed in forma pauperis. The court may also direct a plaintiff to pay an initial partial filing fee (based on income) before being allowed to proceed with a case. Prisoners must also include a trust fund account statement if they request to proceed in forma pauperis. If a prisoner pays the full filing fee with the filing of the complaint, he or she does not need to supply trust fund account information.

All complaints must be filed with the Clerk's Office either by mail or in person at 120 North Henry Street, Room 320, Madison, WI 53703. Once the Clerk's Office has received the original complaint and the filing fee, or application to proceed in forma pauperis, a case number will be assigned and the case will be assigned to a judge. Do NOT serve your papers on any of the named defendants until you have been given further instruction from the court.

What do I do after filing the complaint?

After filing the complaint, you should wait to receive instructions from the court about next steps. You should not serve your complaint on the defendants unless the court tells you to do so.

When must a new case be served on the defendant(s) and who can serve my complaint?

Plaintiffs may not serve the complaint and related documents until the court has issued an order directing the pro se plaintiff to do so.

You must consult Federal Rule of Civil Procedure, Rule 4 to determine how to serve each defendant. Rule 4 outlines different rules for serving certain types of defendants, such as business entities, government officials and minors. Generally, anyone over the age of 18 years, who is not a party to the lawsuit, can serve the complaint.

If your application to proceed in forma pauperis was granted and you have in forma pauperis status, the United States Marshals Service will serve your complaint on each defendant free of charge.

What happens once the defendant(s) has been served?

Once the defendant has been served with a copy of the complaint, the defendant must file with the court an answer or some response within a specified number of days. Under the rules governing service of process, each defendant is required to provide a copy of the response to the plaintiff.

Payment of Fees

Are there costs involved in filing a new case or for other services?

Yes. There is a filing fee for new cases, a fee to get copies, etc. To see the current fees and other court costs, see the court's fee schedule.

Rule 11 of the Federal Rules of Civil Procedure prohibits filing lawsuits that are clearly frivolous or filed merely to harass an 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, including ordering you to pay a fine to the court or pay the legal fees of the person or persons against whom you filed the lawsuit. In certain types of cases, such as employment discrimination cases, if you lose, you may be required to pay the legal fees of the winning party. In all cases, if you lose, you may be required to pay some of the costs the winning party incurred in the course of the lawsuit.

Does the court accept personal checks?

The court does accept personal checks. Checks should be made payable to Clerk, United States District Court. The Clerk's Office also accepts money orders, cashiers' checks, cash and credit cards. Please note that the Clerk's Office does NOT make or keep change for case payments. Please do not send cash through the mail.

If you cannot afford the costs for filing a new case, how do you proceed?

If you cannot afford to pay the filing fee you may be allowed to pay the filing fee on a payment plan if you fill out an application to proceed in forma pauperis and send it to the court with the complaint. The Financial Affidavit is required so that the assigned Judge can make a determination of your inability to pay the entire filing fee at one time.

Bear in mind that you can apply for in forma pauperis status only after your action is filed. The Clerk's Office will accept your case without payment if, at the time you file it, you also file an application to proceed in forma pauperis. The assigned Judge will review your request and you will be notified of the Judge's decision. If the Judge grants your request, you can proceed in forma pauperis. Permission to proceed in forma pauperis only entitles a plaintiff to file an action without paying the entire filing fee up front. It does not, however,

waive the filing fee. Also, parties who are granted in forma pauperis are entitled to receive copies of documents at \$.10 per page and are not assessed a cost for service of the complaint upon the defendant(s). Proceeding in forma pauperis does not waive or reduce all costs you may incur. If the Judge denies your application, you will be required to pay the entire fee at one time; if you do not pay the fee within a specified time period, your case will be dismissed.

What fees or costs are covered under the application to proceed in forma pauperis?

The application to proceed in forma pauperis only applies to the filing fee and reduced per page copy costs. Generally, all other costs, for example, attorney fees, transcript fees, etc., will still be your responsibility.

Form of Documents Filed in Federal Court

Can a complaint or any other pleading to the Judge be in the form of a letter?

While you may not file a complaint in letter form, a motion or other pleading may be filed in letter format. However, it is preferred that when asking the court for something specific, a proper motion including a certificate of service be filed. Similarly, the court prefers briefs or any supporting documentation to be in proper pleading format, including a certificate of service.

Does the court require a specific format for documents that are filed?

The first page of any document you file with the court should always contain a case caption. Rule 10(a) of the Federal Rules of Civil Procedure explains how the caption should look. Basically, you name the plaintiff(s) (you and any other persons bringing the suit or another party who has brought a suit against you) and the defendant(s) (if you are the person being sued, this is you, or if you are initiating the lawsuit, the persons you believe have injured you). The following is a list of other formatting requirements when filing documents in this court:

- 8-1/2" x 11" white paper using a black pen in English.
- The title of the document being filed in the case caption. For example, if you are filing a Motion for Appointment of Counsel, "MOTION FOR APPOINTMENT OF COUNSEL" should be included in the caption or just under.
- A statement of what you are asking of the court.
- A signature including your address, telephone number and date signed.
- A certificate of service must be included with all filings.

All documents related to your case must be filed with the Clerk's Office. Additional copies of filings and attachment(s) are not required, however, you are responsible for making copies of anything you submit to the court for your records.

Can I get back any documents I file with the Clerk's Office?

All documents that are filed with the Clerk's Office become part of the court record and usually are not returned. If you attach any exhibits to your filings or other court documents, you should file a copy of the exhibit and keep the original for your records. You should also keep a copy of anything you file with the court for your records.

Are forms and sample formats available for filing Pro Se?

The court has several forms and sample formats that pro se litigants may use.

What are motions?

Either party, the plaintiff or the defendant, may request that the court take specific action related to the case. To do so, the party prepares a formal request or what is referred to as a motion. The party then signs the motion, submits it, with a certificate of service, and files it with the Clerk of Court and sends a copy to the opposing party, or the opposing party's attorney. The opposing party, or his or her attorney, may then file with the Clerk of Court an objection or responsive pleading to the motion. This objection sets forth the reasons why the court should deny rather than grant the motion.

The District or Magistrate Judge normally rules on motions by issuing a written order related to the relief sought in the motion. That order may grant the motion, deny the motion or partially grant or deny. The court generally does not schedule hearings in order for the parties to argue the motion or objections.

Where a case has been referred to a Magistrate Judge and one of the parties files a dispositive (bringing about a final determination) motion, the Magistrate Judge is authorized to prepare a written Report and Recommendation, namely, a recommendation that the motion either be granted or denied and stating the reason(s) why. This Report and Recommendation is forwarded to the District Judge assigned to the case and copies are sent to the parties. As a party, you have a certain number of days within which to file objections to the Report and Recommendation. All objections that are received within the specified time are forwarded to the District Judge. The District Judge reviews the Report and Recommendation and any objections that have been filed and will subsequently issue an order that adopts, rejects, or adopts in part and rejects in part the Magistrate Judge's Report and Recommendation. A judgment will also be entered by the District Judge in the case. Such judgment is final and can be appealed to the United States Court of Appeals for the Seventh Circuit located in Chicago, Illinois.

What must a certificate of service show?

The certificate of service must show the name and address of each attorney and/or party on whom the pleading, motion or other paper was served.

Should one mail or bring filings to the Clerk's Office?

It is not necessary to file your documents in person. If you wish to mail your documents via U.S. Mail or have them delivered by messenger, or by express service (UPS, FedEx), please use this address:

Clerk of Court
United States District Court
Western District of Wisconsin
120 North Henry Street, Room 320
Madison, WI 53703

What is the procedure for submitting documents to the court?

You should submit for filing with the Clerk of Court an original of motions or pleadings. It is your responsibility to maintain copies of whatever you have filed with the court for your own records. If you should need copies of a document you have filed, the cost is \$.50 a page. However, if you are proceeding in forma pauperis, copies are \$.10 per page. Any costs must be paid in advance. You may file pleadings with the court in person or by mail.

The Clerk's Office is open to the public from 8:00 a.m. until 4:30 p.m., Monday through Friday, except on federal holidays.

Important Note: When you submit a document to the court, you must also mail or deliver a copy of the document to the opposing party's attorney, or, if the opposing party has no attorney, to the opposing party directly. As an attachment to your document, you must include a certificate of service that states the date that you mailed or delivered a copy of the document to the opposing party or their attorney and the address to which you mailed or delivered the document.

Can I use the court's electronic filing system?

Yes, pro se litigants may register to file documents electronically. Please be advised that before you register for electronic filing, you must:

1. Have a pending case in this court;
2. Have regular access to a computer;
3. Have an e-mail address where you agree to receive service of all documents filed in your case and all notices issued by the court; and
4. Have the ability to scan or convert documents into PDF files.

If permission to file electronically is granted, the clerk will provide you with a login and password to access the electronic filing system. Your documents are stored securely in an electronic format. Access to the electronic filing system is available 24 hours a day, meaning you have the ability to file documents outside of the court's normal business hours. Permission to use the electronic filing system may be withdrawn for cause.

How can one view a case's docket activity?

The Clerk's Office maintains an automated record, or docket, for every case. This docket is a chronological summary of all significant events in the history of the case. For example, each time you file a document or appear for a hearing, an entry summarizing the event is added to the case docket. You may view the docket (and specific documents) on the public access terminal located in the Clerk's Office at the public computer desk. The Clerk's Office is prepared to assist you. If you would like to print documents when you come to the Clerk's Office, there is a per page expense of \$.50 or, if you are proceeding in forma pauperis, copy costs are \$.10 per page.

As an alternative, you may access the court's automated PACER system which allows you to review your case docket directly from your PC or Mac. However, in order to use this system you must call the PACER Service Center at 1-800-676-6856 and obtain a login and password. You may also visit their website at www.pacer.gov. Using PACER on line costs only \$.10 per page and registering for a PACER account is free of charge.

The Clerk's Office staff can also provide basic docket information to you over the telephone. We can only let you know what is on the docket and cannot either interpret it for you or advise you in any way.

If you wish to appeal the court's decision on any order entered in your case, what steps should you take?

There may be times during the pendency of your case in which the Judge issues an order with which you disagree and which you may think an appellate court should review immediately. You should be aware, however, that most orders issued while a case is still ongoing cannot be appealed immediately. You will have to wait until a final judgment has been entered in your case before the order(s) can be considered by an appellate court. The Federal Rules of Appellate Procedure explain when an order is appealable. You must familiarize yourself with these rules before filing a notice of appeal. Filing a notice of appeal prematurely will delay final resolution of your case and may add unnecessary expense to your case.

If you file a notice of appeal, you will be required to pay a filing fee with the District Court unless you are permitted to proceed in forma pauperis. If you wish to proceed in forma pauperis for purposes of the appeal, then at the time of filing your notice of appeal, you must also file an application to proceed in forma pauperis on appeal.

Once the appellate court is determined to have jurisdiction over the appeal, it will direct the District Court Clerk's Office to transmit the record from the District Court. If you are permitted to proceed in forma pauperis on appeal, you may still be required to pay for certain costs, such as the cost for transcribing any hearings or other proceedings that may have taken place before the Judge.

Why do I have to include my name, address and telephone number and sign everything I submit to the court?

Rule 11(a) of the Federal Rules of Civil Procedure requires that every document filed with the court be signed by the person filing the document. Rule 11(a) also requires that every document filed with the court must state the name, address and telephone number of the person who signed the document.

Clerk's Office Guidelines

Why can't the Clerk's Office give legal advice?

Court employees cannot give legal advice because they must remain neutral to protect the integrity and independence of our federal courts. Court employees can answer general questions about court procedures, and you may contact the Clerk's Office for such assistance.

If you call, may you speak with the Clerk of Court?

Yes, but typically, questions can be answered by a deputy clerk. When you call with a question, it is best to be prepared with your case number so that you can be directed to the appropriate deputy clerk most familiar with your case.

How is the Clerk's Office able to assist you?

Because the Clerk's Office cannot offer legal advice, we have constructed a worksheet that will remind you what our office can and cannot do to assist you.

Judge Information

Is it possible for you to speak directly to a judge or judge's staff about your case?

You are prohibited from all private, or "ex parte," communication with the Judge to whom your case is assigned. Ex parte communication occurs when one of the parties to a lawsuit, or when that party's attorney, exchanges information with the assigned Judge without the opposing party, or his or her attorney, being present or without the knowledge and consent of the opposing party or his or her attorney. Because of this prohibition, a judge will refuse, with very few exceptions, to speak or otherwise communicate ex parte with any party, or that party's attorney, to a case that is assigned to that Judge.

Any communication between the assigned Judge and a litigant must be in writing, and a copy of the communication must be sent either to the opposing party or that party's attorney. For example, a party appearing pro se must send to the opposing party, or that party's attorney, a copy of any document sent to the court. Moreover, the document must include a certificate of service indicating that a copy has been sent to the opposing party, or the opposing party's attorney.

What is a Magistrate Judge and why has my case been referred to a Magistrate Judge?

In this district, Magistrate Judges hold scheduling conferences, issue pretrial scheduling orders, and hear and determine most pretrial matters. The District Judge may refer motions to dismiss or summary judgment motions to the Magistrate Judge who will issue a Report and Recommendation. The District Judge will issue a decision after reviewing the Report and Recommendation and any objections filed. A Magistrate Judge may determine dispositive motions without the need for a Report and Recommendation if the parties consent to have the Magistrate Judge handle the case. See Local Rule 72.1 for more information.

Information Regarding Specific Types of Cases

Is there special information about employment discrimination cases?

Yes. A very common action filed by pro se litigants in federal court is alleged employment discrimination. Prior to filing an employment discrimination complaint, the plaintiff is required to follow specific administrative procedures. NOTE: This is not a complete statement of the law or the administrative procedures to follow in an employment discrimination case. The procedures are complicated, and it is the pro se litigant's responsibility to make sure that all procedures are followed correctly and within the applicable time limit. If the requirements are not followed, your case may be dismissed.

If you wish to file an employment discrimination case in this court, you must first file your charges with the Equal Employment Opportunity Commission (EEOC) where your case will be reviewed. Barring complications, the EEOC will issue you a Notice of Right to Sue indicating that (i) the administrative process has been completed, and (ii) no further action will be taken on behalf of the EEOC. Once this notice has been issued, you have a limited time period within which to file your lawsuit; failure to file a complaint within that time period will result in your case being dismissed by the court. A Notice of Right to Sue is not issued where the charges allege employment discrimination based on age; however, not having such a notice will not prevent you from filing an employment discrimination complaint based on this premise.

When drafting your complaint, you must ensure the information you include is legible and accurate to the best of your knowledge. When filing your complaint with the Clerk's Office, you must present the Right to Sue Notice which will be included as part of your case.

How do I bring criminal charges against someone?

Only the United States Attorney's Office may file criminal charges in this court. If you believe you have been the victim of a crime or if you have knowledge that a crime has been committed, you should contact your local police or the appropriate federal law enforcement agency. Examples of federal law enforcement agencies are: Federal Bureau of Investigation (bank robbery, kidnapping); Drug Enforcement Administration (drug crimes); Secret Service (credit card fraud); and Postal Inspector (postal fraud).

Attorney Representation

Will the court appoint a lawyer to represent me?

Unlike criminal cases where there is a right to counsel, a person involved in a civil case has no legal right to have the court appoint a lawyer to assist him or her. You may file a motion with the court for appointment of counsel but such requests are rarely granted. To file this motion, you may use an 8-1/2" x 11" piece of white paper either typewritten or legibly handwritten using black ink. The same caption requirements apply to motions as with complaints.

Is there a referral service for local attorneys?

If you are unable to find an attorney on your own, you are encouraged to contact the State Bar of Wisconsin Lawyer Referral and Information Service. You may also reach this service by telephone at 800-362-9082 or 608-257-4666.

Other

A lot of the terminology used by the court and attorneys is hard to understand. Is there a glossary?

SOME BASIC DEFINITIONS: Plaintiffs and defendants in court cases generally are referred to as the "parties" or "litigants." The plaintiff asserts a claim or right protected by law against the defendant, the defendant generally denies the claim or right, and the court determines whether the asserted claims or rights have merit. The great majority of litigants who appear in this court are represented by an attorney who has been trained in the law and is familiar with the applicable court rules and procedures. Parties or litigants who are not represented by licensed attorneys and who elect to represent themselves generally are referred to as "pro se parties" or "pro se litigants." Likewise, plaintiffs or defendants who represent themselves generally are referred to as "pro se plaintiffs" or "pro se defendants."