

**REPRESENTING YOURSELF
IN
UNITED STATES DISTRICT COURT**
A Guide for Pro Se Litigants



**Federal Bar Association
Cincinnati, Columbus and Dayton Chapters**

**FOREWORD BY
THE HONORABLE WALTER H. RICE
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FOR THE SOUTHERN DISTRICT OF OHIO**

This manual has been prepared to assist *Pro Se* litigants in pursuing their claims in the United States District Court for the Southern District of Ohio, which has courthouses in Cincinnati, Columbus and Dayton. The manual summarizes proceedings before the District Court. It provides litigants with a brief, but helpful guide in presenting their claims.

Litigants must be careful to fully comply with the Federal Rules of Civil Procedure, the District Court's Local Rules, and the pretrial and trial procedures of each individual judge. You can find these in a law library or the Clerk's Office. You must read and understand these rules and procedures in order to participate in the important work of the Court.

This manual has been prepared by the Cincinnati, Columbus and Dayton Chapters of the Federal Bar Association, and the Court wishes to express its appreciation to the members of these chapters of the Association for their initiative and dedication in this endeavor.

JOHN W. PECK CINCINNATI CHAPTER FEDERAL BAR ASSOCIATION

The following Civil *Pro Se* Manual was a joint effort prepared by the Cincinnati, Columbus and Dayton Chapters of the Federal Bar Association for *Pro Se* litigants in the United States District Court for Southern District of Ohio.

The Federal Bar Association is a national professional organization of judicial officers and attorneys who practice law within the federal court system. The Chapters are an integral part of the Federal Bar Association here in Ohio. Many members of these Chapters, particularly its Board of Directors, put much volunteer time into the production of this Civil *Pro Se* Manual.

We would like to thank the Federal Bar Association, the United States District Court Clerk's Office, and the District Judges and Magistrate Judges who have given their time and assistance to this project. We also would like to acknowledge and express our gratitude to the Hawaii Chapter of the Federal Bar Association which granted us permission to reprint and use their civil *Pro Se* Manual. We hope this manual is of service to you.

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**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
FEDERAL BAR ASSOCIATION
CIVIL *Pro Se* MANUAL**

I. INTRODUCTION

This manual is intended to assist you in filing a civil action on your own behalf in the United States District Court for the Southern District of Ohio. This is called “*Pro Se*.” This manual is only intended as a general guide. It does not take the place of the Federal Rules of Civil Procedure or the Local Rules of the District Court for the Southern District of Ohio. In addition, each Judge has pretrial and trial procedures which you need to be familiar with and follow. These procedures for each individual Judge are available from the Clerk’s office and are typically provided to litigants at the time a case is filed.

This manual does not relieve you of your responsibility to comply with the Federal Rules of Civil Procedure, the Local Rules, and all other applicable rules. It is your responsibility to find and to know these rules if you choose to represent yourself in federal court.

II. BASIC PROCEDURES

This narrative describes the basic procedures you need to follow when you decide to bring a civil lawsuit in the United States District Court for the Southern District of Ohio on your own behalf (“*Pro Se*”).

There are three bodies of rules and procedures controlling how your civil case must be filed and processed in the United States District Court for the Southern District of Ohio. One is called the Federal Rules of Civil Procedure (hereinafter the FRCP). These are available in law libraries. Another is the Rules of the United States District Court for the Southern District of Ohio (hereinafter the Local Rules). Copies of the local rules can be obtained from the District Court’s Clerk’s Office. The last are the pretrial and trial procedures of each individual Judge assigned to your case. These individual pretrial and trial procedures for each judge can be obtained from the District Court’s Clerk’s office. The District Court in Cincinnati is located in the Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati; the District Court in Columbus is located in the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus; the District Court in Dayton is located at 200 West Second Street, Dayton.

Before you formally proceed with filing a lawsuit, you must consider and remember two important things: first, you should seek legal counsel. Experienced legal counsel can greatly increase your chances of successfully proceeding with your lawsuit. You can call a city Bar Association which may be able to refer you to an attorney who would be willing to represent you without charge (this is known as “*pro bono*”): The Cincinnati Bar Association’s Lawyer Referral Service ((513) 381-8359); the Columbus Bar Association’s Lawyer Referral Service ((614) 221-0754); or the Dayton Bar Association’s Lawyer Referral Service (937) 222-6102).

Second, the Court can sanction you (fines, attorney’s fees and costs, or disallow your pleadings), pursuant to Rule 11 FRCP, if you file a “frivolous” lawsuit or motion or if you fail to comply with court orders and rules. A complaint or motion is “frivolous” if it lacks any arguable basis in fact or law. You cannot file or proceed with a case that has any improper purpose, such as to harass or to cause unnecessary delay or needlessly increase the cost of litigation.

The formal proceedings of a lawsuit start with the filing of a “complaint” with the Clerk’s Office. Therefore, a “complaint” is the first document you file with the Court. When you file a complaint, you become the Plaintiff and the

person you sue is the Defendant. A complaint may be brought against more than one defendant. Generally speaking, a complaint should include (1) a statement of the Court's jurisdiction over the Plaintiff and the Defendant or Defendants (the Court's authority to hear and determine the case), and the subject matter (the facts of your case which support your claim); (2) a statement of claims or causes of action against the Defendant or Defendants (i.e. what the Defendant or Defendants did wrong to you); and (3) your request(s) for relief, such as money damages, injunction, or other action you want the Court to take. If you have multiple defendants in your complaint, the title of your complaint must list all named defendants. Please secure a model "Complaint" form from the Clerk's Office. Examples of complaints can be reviewed in the Clerk's Office.

The District Court for the Southern District of Ohio is divided into two divisions. The Eastern Division includes counties in the eastern half of the state and the courthouse is located in Columbus. The Western Division includes counties in the western half of the state and courthouses are located in Cincinnati and Dayton. Actions brought against Defendants residing in certain counties must be filed in certain Courthouses. The Local Rules for the Southern District of Ohio specify the counties which correspond to the locations of the Courthouses, and the Local Rules should be consulted before filing any lawsuit.

Please be aware that you must pay a filing fee when you file your complaint. The current filing fee for a complaint filed with the District Court is \$150.00. However, if you cannot afford to pay the fee, you must complete and file with the Clerk an "Application to Proceed in Forma Pauperis ("IFP"); this is different if you are a prisoner (see below). If your IFP application is denied, the filing fee must be paid in its full amount. The granting of your IFP application only means that you do not need to pay filing and service fees, but you still have to pay for any photocopying fees.

If you are a prisoner, you must know that 28 U.S.C. § 1915 has been amended by the Prison Litigation Reform Act to require a prisoner to pay the full filing fee when bringing certain civil actions or filing an appeal in forma pauperis. If there are insufficient funds in the prisoner's account, the court must assess and, when funds do exist, collect an initial filing fee and monthly installments thereafter. The initial filing fee and monthly installments are calculated according to a formula set out in the statute.

A prisoner seeking to proceed in forma pauperis must complete an application and must provide the Court with a copy of the prisoner's trust fund account activity record, certified by the agency having custody of the prisoner.

Regardless of whether some or all of the filing fee has been paid, the Court is required to screen any civil complaint and to dismiss the complaint if (1) the allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) the complaint does not state a claim upon which relief can be granted; or (4) a defendant is sued for money damages and that defendant is immune from liability for money damages.

Once you have determined whether you are going to pay the filing fee or proceed with your application to proceed "IFP," you will want to assemble your paperwork for submission to the Clerk's Office. When you appear at the Clerk's Office you will need to present the following: The filing fee of \$150.00 or the Application to Proceed "IFP"; the Civil Cover sheet JS44, the Original Complaint with sufficient copies for the Court and for service; and your service of process paperwork. While it is not required that you submit your service of process paperwork at the time you file your complaint, it does enable your case to be processed faster.

The next step you take after filing your complaint is service of process of your complaint. The goal of service of process is to let the Defendant know that you are suing it.

As to how to carry out service, if you have filed an "Application to Proceed in Forma Pauperis", and your application is approved, you are responsible for securing the service forms from the clerk's office and

providing sufficient copies of your complaint for service. Service forms are the AO 440 Summons, USM 285 Process Receipt and Return and AO 85 Notice of Availability of a Magistrate.

If you are proceeding in Forma Pauperis, each defendant that is named in your complaint must have the following service papers:

1. Exact copy of the complaint
2. Three summons on each defendant. The summon must include the address at which each such defendant is to served.
3. One USM 285 Process Receipt and Return
4. One AO 85 Notice of Availability of a Magistrate Judge

If your suit involves the federal government or any of its agencies, you must serve all named Defendants, and also serve the local United States Attorney's Office and the Attorney General of the United States in Washington, D.C.. These addresses will be supplied by the Clerk's Office. Service of a government agency requires an additional summons form and complaint for the service upon the Agency and the Attorney General.

The U.S. Marshal Service will execute the service forms and make a return to you and the Clerk's Office when such service has been accomplished.

If your Application to Proceed in Forma Pauperis has been denied and you have paid the filing fee, you should proceed according to the rules of the Southern District of Ohio - Local Civil Rule 4.2. The preferred method of the Southern District of Ohio is use of the AO398 Notice of Lawsuit and AO 399 Waiver. These forms are available at the Clerk's office.

If you are not proceeding in Forma Pauperis, each defendant that is named in your complaint must have the following service papers:

1. Exact copy of the complaint
2. One AO398 Notice of Lawsuit
3. Two AO399 Waiver
4. One AO85 Notice of Availability of a Magistrate Judge
5. One Self-Addressed Stamped envelope (for return of AO399 for filing as proof of service)

The waiver of service rule does not apply to the United States as a Defendant. Formal service upon the federal government or any of its agencies can be accomplished by certified mail (return receipt required) with the properly executed summons form and the AO85.

You may at any time prefer to serve your complaint by "personal service." Federal rules do not require a motion and order to appoint a process server. An individual may serve a complaint if they are over 18 years old and not a plaintiff or defendant to the lawsuit.

If the above service methods are not available, please consult the Southern District of Ohio Local Rules for further methods of service.

After receiving the service of your complaint, the Defendant must file either an answer to your complaint or a responsive motion. In its answer, the Defendant tells what the Defendant believes has happened. Under the FRCP, an answer must be filed within a given time. Usually, the deadline for filing an answer is twenty (20) days after the Defendant

was served with your complaint. But if the federal government is the Defendant, the deadline is sixty (60) days after the service.

If the Defendant files a motion to dismiss your complaint, you will have a short period of time in which to file a written memorandum of law. Such memoranda are usually captioned as “Plaintiff’s Memorandum in Opposition to Defendant’s Motion to Dismiss.” The Local Rules require that such memoranda must be filed within 21 days of service of the motion. Although the Clerk’s Office will accept for filing a memorandum which is handwritten, judges usually find it easier to read memoranda which are typed. The Local Rules also set forth other memoranda requirements, such as: the size of the paper your memorandum is printed on (8 ½ x 11); and the length of your memoranda (20 pages or less).

This memorandum and anything you file with the Court must have at the end a certificate that you have served the document on the other parties’ lawyers or on the other parties if unrepresented. Remember to give the individual’s name, address where mailed or personally served, mailing date, and your signature within the Certificate of Service.

After you file your opposition memorandum, the Defendant will file a Reply Memorandum. When the reply is filed, the briefing is finished, and you are prohibited by the Local Rules from submitting additional briefs unless you first obtain permission from the Court (what is known as “leave of Court”).

The Court will then proceed to rule on the merits of the motion to dismiss. If the motion is denied, your case proceeds, and Defendant must file its answer. If the motion is granted, some or all of your claims may be dismissed by the Court. If all of your claims are dismissed, your case will be completed in District Court; you then have the option of considering whether to file an appeal challenging the dismissal.

In some cases, the Court will ask to hear oral argument regarding a motion to dismiss. Usually, however, the Court will rule on a motion to dismiss without hearing oral arguments.

The next step is pretrial activities. The most important pretrial activity is probably “discovery”. Discovery allows both you and the Defendant to have as much information as allowed under the rules before the case is decided by the Court. The most common types of discovery tools are: Depositions, Interrogatories, Requests For Production of Documents, and Admissions (see Glossary of Terms section for their definitions). Discovery documents may not be filed with the clerk.

Within 120 days after service of your complaint on the Defendant, a scheduling conference usually will be held with a Magistrate Judge or the District Judge. Discovery issues will be discussed and resolved, formal discussion of possible settlement may occur, pretrial motions will be discussed, and a trial date will often be scheduled. The Judge will encourage the parties to seek settlement and normally is willing to meet again with them if it encourages settlement.

If a settlement cannot be worked out at the scheduling conference, a formal trial will be scheduled to take place unless a motion to dismiss or for summary judgment is granted. A motion to dismiss a complaint may be granted for failure to state a claim upon which relief can be granted, failure to effect proper service of process, lack of venue or personal jurisdiction, lack of federal subject matter jurisdiction, or for failure to comply with court rules or orders; and summary judgment happens when the judge considers it unnecessary to go through a trial because there is no dispute about the important facts of the case and the law provides that no relief is warranted.

There are two types of formal trials. One is a jury trial and the other is a bench trial or a trial before the judge alone. In a jury trial, a group of people known as the jury (no fewer than 6 and no more than 12 people) are selected and sworn to decide the merits of your lawsuit under the Judge’s supervision and direction. If a jury trial has not been requested or the case cannot be tried by jury, a bench trial will be ordered. A bench trial is conducted by the Judge without a jury. The purpose of a trial is to let the jury or the Judge decide if the evidence favors your position or favors the Defendant’s. If

it favors you, you win; if it favors the Defendant, the Defendant wins. After the jury or the Judge makes such a decision, a final judgment will be entered at the Court in the Clerk's Office. If the parties agree, the trial can be heard before a Magistrate Judge. This could be beneficial in expediting your case to trial since Magistrate Judges cannot preside over criminal trials and, therefore, their trial schedules can provide more of a guaranteed date for your trial to begin.

Throughout the trial and even after the trial, you may file various motions to ask from the Judge certain orders favorable to you. For example, you can make a motion for judgment as a matter of law, after you have presented all your evidence to the jury or the Judge, arguing you believe that there is only one possible verdict, namely a verdict in your favor. If after a jury returns a verdict against you, and you believe the verdict is legally wrong, you can make a motion for judgment as a matter of law, asking the Judge to enter a judgment different from the jury's verdict. Even if the Judge has entered a final judgment against you, you may still make a motion for a new trial within ten (10) days after the entry of an order if you feel there was error of law or fact, or new evidence is discovered.

If you lose your case in the District Court, you can ask the Sixth Circuit Court of Appeals in Cincinnati to review the District Court's decision. This process is called an appeal. You may appeal if you believe (1) that the Judge did not interpret the law correctly, or (2) that the Judge allowed the Defendant to present some evidence to the jury against the rules, or (3) that the trial judge improperly prevented you from presenting your evidence, or (4) that the trial judge erroneously did not give an instruction to the jury that you requested, or (5) that there was not enough evidence for the jury to find judgment as it did, or (6) in some instances for other grounds.

A different set of rules controls the procedures for appeal. When you appeal to the Sixth Circuit Court of Appeals, you must follow the Federal Rules of Appellate Procedure (FRAP). Under those rules, you must file with the District Court a Notice of Appeal within thirty (30) days after the final order is entered and within sixty (60) days if the Defendant is the federal government. If you do not file within these time periods, your appeal may be dismissed. The filing fee for an appeal is \$105.00. Please secure a Notice of Appeal from the Clerk's Office. The form asks for very specific information that is needed by the Court of Appeals.

The Sixth Circuit Court of Appeals, after reviewing the District Court's decision, will either affirm (agree with the District Court) or reverse (disagree with the District Court) the decision. If you are not satisfied with the opinion of the Sixth Circuit Court of Appeals, you may ask that court for a reconsideration or for consideration by the larger panel of Sixth Circuit Judges (this is called "en banc"). Finally, you may petition the Supreme Court of the United States in Washington, D.C., to accept the case for review. But, it is up to the Supreme Court to decide whether it wants to review your case or not. Very few cases are taken for review. Once the Supreme Court has ruled on your case or denied your request for review, this is usually the end of your case.

III. GLOSSARY OF TERMS

Admissible Evidence: the oral, written, or physical items of evidence that the Court allows to be introduced at trial to prove a case.

Admission: a discovery (information gathering) tool by which one party to the lawsuit asks another party to admit or deny the truth of certain important facts.

Affidavit: a written statement of facts signed under oath in the presence of a notary public.

Answer: a responsive pleading which is filed by the Defendant to your lawsuit in response to your complaint.

Appeal: a pleading request to a higher court to review the decision of a trial court after your trial.

Appellate Court: a court which has the authority to review the decisions of lower courts. For example, the Sixth Circuit Court of Appeals is an appellate court.

Arbitration: a way of dispute resolution, in which a neutral third party (arbitrator) hears from both sides to a dispute and makes a decision. Arbitration can avoid delay and high costs of settling a dispute in a court.

Bench Trial: trial conducted before a judge and without a jury.

Brief: a written statement of the case, including important facts of the case, a statement of the questions of law involved, and the arguments and legal authorities relied upon. A brief is usually submitted in connection with an application, motion, trial, or appeal.

Cause: facts/evidence supporting claim(s) for relief.

Cause(s) of Action: the fact(s) which give rise to a claim of relief against another party; they are stated in your complaint (lawsuit).

Claim: the assertion you make in your complaint (lawsuit) of a right to property or money from the other party to the lawsuit.

Complaint: the first pleading filed with the Court (your lawsuit). It contains: (1) a statement of the Court's jurisdiction over the parties, such as "diversity of citizenship" jurisdiction for federal courts (lawsuit between citizens of different states), and the subject matter (facts); (2) a statement of claims/causes of action against the Defendant(s); and (3) request(s) for relief, such as monetary damages. You can see examples of complaints at the Clerk's Office.

Consolidation of Actions: the act of combining several causes of action into one trial when the actions involve the same parties and substantially the same issues and defenses.

Contempt of Court: an act or failure to act which the Court believes obstructs its administration of justice. A court has the power to punish by fine or imprisonment such contempt of its authority.

Counterclaim: a claim/cause of action stated by the Defendant(s) against the Plaintiff(s), and is either contained in Defendant(s)' answer or is a separate pleading.

Court Clerk: an officer of the Court who files pleadings, motions, judgments, etc., and keeps records of Court proceedings.

Court Reporter: a person who records testimony at Court proceedings or depositions; transcript of record is available to the parties upon payment of the Court reporter's fee.

Cross-claim: any claim stated in a pleading by one party against a co-party.

Damages: monetary compensation sought or recovered in the Court by any person who has been injured by the action of another. Damages may be collected for personal injury, property damage, etc.

Default Judgment: a judgment entered against the Defendant(s) for failure to file an answer or otherwise respond to the Plaintiff's complaint.

Defendant: the party in your complaint (lawsuit) against whom the claim/cause of action is brought.

Defense: a denial or answer offered by the Defendant(s) to diminish or defeat Plaintiff's cause(s) of action.

Deposition: a method of discovery which allows a party to ask questions of a party opponent (such as the Defendant) or a witness under oath, and the questions and answers are recorded by a court reporter.

Discovery: a process of obtaining information from a party opponent (such as the Defendant) prior to trial. Discovery includes Interrogatories, Requests for Production of Documents, Admissions, and Depositions. The purposes of discovery are to: (1) obtain and preserve information concerning the claims/causes of action; (2) clarify the factual and legal issues that are in dispute; and (3) obtain information that will lead to evidence admissible in court.

Dismissal: an order disposing of a motion or lawsuit without going through trial.

Diversity of Citizenship: the basis of federal jurisdiction over cases between citizens of different states (such as when the Plaintiff is from Ohio and the Defendant is from Kentucky or Indiana), or between a citizen of a state and an alien (anyone who is not a citizen or national of the United States). Such jurisdiction exists only if the amount disputed by the parties is greater than \$75,000.

Docket: a formal record containing brief entries of all Court proceedings.

Evidence: testimony, writings, or physical objects presented at the trial to prove or disapprove a certain point or fact.

Expert Witness: a witness with special knowledge about a particular subject. Expert witnesses usually are used to help the jury understand difficult and technical subjects which the average person is not familiar with.

Fact Finder: a person or a group of persons who determine the facts of a case. In a jury trial, the jurors are the fact-finders; in a bench-trial, the judge is the fact-finder.

Federal Courts: the courts of the United States, as distinguished from the courts of individual states. There are three levels of federal courts: the District Courts (such as the District Court for the Southern District of Ohio), the Courts of Appeals (such as the Sixth Circuit Court of Appeals in Cincinnati), and the Supreme Court in Washington, DC.

Federal Question Jurisdiction: the basis of federal jurisdiction over cases in which what is in dispute is the meaning or application of something in the Constitution of the United States (such as civil rights violation of privacy, etc.), federal statutes (such as employment discrimination cases brought under Title VII of the Civil Rights Act of 1964), or treaties.

Federal Rules of Civil Procedure (FRCP): a set of procedural rules governing all civil actions in the U.S. District Courts. In addition to this body of rules, each District Court usually has its own local rules. For example, the District Court for the Southern District of Ohio has made its own rules: Rules of the United States District Court Southern District of Ohio. Copies of such rules can be obtained from the Clerk's Office.

Finding: the decision reached by a judge or jury on issues or facts.

Forum: the place (site of Court) where a case is heard and determined.

Harmless Error: any minor error committed during a trial that does not call for a reversal of the judgment of a trial Court by an appellate Court.

In Forma Pauperis (IFP): a Latin phrase for "in the manner of a pauper." IFP allows a poor person to sue without paying court fees. You must apply for IPF, or have paid your filing fees, or your case will be dismissed. For civil cases brought in the District Court, if your application for IFP is granted, you do not have to pay for filing and service fees, but you still have to pay for photocopying fees.

Injunction: a court order prohibiting a party from doing a particular act or requiring a party to perform a particular act. You must apply for the issuance of an injunction and show sufficient cause.

Interrogatories: a discovery tool of written questions used to obtain information relevant to the case. They are served on a party opponent (such as the Defendant) and must be answered under oath.

John/Jane Doe: a fictitious name used in legal proceedings to name a party before its real name is known; most complaints name as "Doe Defendants" corporations, partnerships, government entities, etc.

Joint and Several Liability: liability owed to a third party by two or more parties collectively or individually.

Joint Liability: liability shared by two or more parties.

Judge: a public officer who presides and administers the law in a Court.

Judgment: the determination of a Court or jury upon matters submitted to it.

Jurisdiction: the authority of a Court to hear and determine a case. The authority of a Federal Court is found in the U.S. Constitution, United States Code, and the Federal Rules of Civil Procedure. Federal District Courts have jurisdiction over civil cases when (1) a question of federal law is involved (federal question jurisdiction); (2) the United States is a party; or (3) the lawsuit is between people from different states and the disputed amount is greater than \$75,000 (diversity jurisdiction).

Jury: a group of people selected and sworn to decide the merits of a lawsuit; a jury for civil trials consists of no fewer than 6 and no more than 12 members. Unless the parties otherwise stipulate, the verdict shall be unanimous.

Magistrate Judge: a judicial officer of the federal district courts who usually hears motions and other pretrial matters and tries cases with the consent of the parties.

Mediation: an informal process to resolve a dispute in which a neutral third party (mediator) helps the disputing parties in reaching an agreement.

Motion: a pleading filed with the Court to obtain an order in favor of the moving party. A motion can be made before trial (such as a motion to dismiss).

Party: a person who is either a Plaintiff or a Defendant in a case.

Plaintiff: the person who brings the lawsuit and files the complaint.

Pleading: a document which contains formal allegation(s) by the parties involved in a case concerning their claims or defenses, such as a complaint, an answer to a complaint, a motion, etc.

Peremptory Challenge (at jury selection before a trial): the right to prevent someone from becoming a juror without giving a reason. Each party to a lawsuit is usually entitled to a certain number of such challenges (three in civil cases) before having to give a reason to the judge for any subsequent challenges. These challenges can not be made for discriminatory purposes.

Preponderance of the Evidence: a standard of proof which is met when the weight of the evidence favors the Plaintiff's position than the Defendant's.

Pretrial Conference: meeting between the parties to a lawsuit presided over by a Magistrate Judge or a District Court Judge prior to trial in order to narrow the issues to be tried, discuss trial logistics and possible settlement, and resolve any other matters.

Privileged Matter: confidential communications between persons in certain relationships, such as the attorney-client, doctor-patient, and priest-confessor. Such confidential communications are usually protected from discovery.

Production of Documents: a discovery tool which enables a party to a lawsuit to inspect documents another party or nonparty has in its possession or control.

Reasonable Person: a hypothetical person who exercises the same level of care or judgment as an ordinarily prudent and competent person would exercise under similar circumstances. This term is usually used to describe a standard of proof.

Remand: after an appeal, when an appellate court such as the Sixth Circuit Court sends back a case to the trial court for further proceedings.

Removal: the transfer of a case from one Court to another. Removal is usually done when the Plaintiff's complaint is filed in the state court, but presents a basis for Federal Court jurisdiction, and the Defendant wants the lawsuit to be resolved in the federal court.

Sanction: a penalty (fine or imprisonment) used to ensure compliance with the law, or with rules and court orders.

Scheduling Conference: meeting of the attorneys and unrepresented parties before a Magistrate Judge or District Judge to discuss the merits of the case and possible settlement. At the end of such a conference, the Magistrate Judge or District

Judge enters a Scheduling Conference Order which sets forth deadlines for many events, such as the discovery cut-off date, pre-trial motions cut-off date, trial date, etc.

Service of Process: the required notification by personal delivery, mail, or publication of pleadings (such as complaints and motions) to a person who is involved in some action or proceeding.

Settlement: a compromise or satisfaction between the opposing parties in a civil case before final judgment. A settlement ends the lawsuit.

Standing: the right of a party to bring a claim/cause of action to the Court. This right arises when a party has been wronged.

Statute of Frauds: the statute (law) requiring that certain contracts, such as a contract for the sale of goods for the price of \$500 or more, a contract for the sale of land, etc., be in writing to be enforceable.

Statute of Limitation: any law that states the time by which the Plaintiff must bring an action or lose the right to do so, such as 2 years for tort actions, 15 years for contract disputes over a written document, etc. If you file a complaint after the statute runs, your case will be dismissed.

Stipulation: an agreement between opposing parties in a case as to some relevant issues.

Subpoena: a court order compelling a witness, under the threat of contempt, to appear and testify in Court or at a deposition.

Subpoena Duces Tecum: a type of subpoena issued by a Court to require a witness to produce at a deposition or a trial certain specified documents, papers or items which are relevant to the case and in the witness' possession or control.

Summary Judgment: judgment rendered by the Court in response to a motion filed by a party who claims that there is no dispute about the important facts and the moving party is entitled to judgment in his or her favor as a matter of law, thus making it unnecessary to send the case to a jury or bench trial.

Summons: a written notice accompanying a complaint (lawsuit), served on the Defendant, notifying that he or she is a party to a lawsuit or other Court action.

Testimony: statements made by a witness or a party under oath at a trial or hearing in Court or at a deposition out of Court.

Trial: an examination and determination before a Court of the issues and facts between parties to a lawsuit.

U.S. District Courts: federal trial courts which have the power to hear and determine cases involving federal laws and/or actions between citizens of different states. Ohio is divided into two judicial districts: the Northern and Southern Districts of Ohio. The Southern District of Ohio is composed of two divisions: the Eastern Division, with a Courthouse located in Columbus; and the Western Division, with Courthouses located in Cincinnati and Dayton. The Local Rules tell you the division in which your case must be filed.

Venue: the geographical location where the trial takes place. In the federal courts, the term means the district in which the lawsuit is brought. To decide the proper venue for civil cases, the Court usually considers where the action happened, or where the parties to the lawsuit live or do their business.

Verdict: the decision or finding after trial made by a jury or a judge.

Voir Dire: an examination prior to a trial by the Court and/or the attorneys or parties of prospective jurors to determine their qualifications and suitability to serve as jurors.

With(out) Prejudice: when a lawsuit is dismissed with prejudice, that means the same lawsuit cannot be brought to a Court again; dismissal without prejudice, on the other hand, may allow the same lawsuit to be brought again.

Work-Product: work done by an attorney in the process of preparing for trial, which is usually not obtainable through discovery.

IV. SCHEDULE OF FEES

United States District Court for the Southern District of Ohio

Certification	\$ 7.00
Copying Fee (Document: per page)	\$.50
(Tape: per tape)	\$ 20.00
File Foreign Judgment under 28:1963	\$ 30.00
Filing Fee (Civil Cases)	\$150.00
A Certified Judgment	\$ 7.00 *
Notice of Appeal/Docketing Fee (6th CA)	\$105.00
Retrieval from Federal Record Center	\$ 35.00
Returned or Rejected Check	\$ 35.00
Search Fee Per Name	\$ 20.00

* Plus copy fees

**V. WHAT HAPPENS AFTER YOU FILE SUIT
IN FEDERAL DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO**

- (1) Serve complaint upon Defendant: within 120 days after filing.
- (2) Answer the complaint: within 20 days after being served with the complaint; within 60 days if service has been waived or Defendant is U.S.; within 90 days if Defendant lives outside U.S.
- (3) Amend pleading: anytime before a responsive pleading is served; or within 20 days after the initial complaint is served if no responsive pleading is permitted and the case has not been scheduled for trial.
- (4) Answer amended pleading: within 10 days after service of the amended pleading or within the time remaining for response to the original pleading, whichever is longer.
- (5) Answer counterclaim or cross-claim: within 20 days after service.
- (6) All papers, after the complaint is filed, which are required to be served upon a party must be filed with the Court, together with a certification of service, within a reasonable time after service.
- (7) File and serve opposition/reply papers for motions: opposition memorandum is due within 21 days after service of motion, and reply is due 11 days after service of opposition papers. Oral hearings on motions generally are not held but can be requested.
- (8) Scheduling Conference with Magistrate Judge or District Judge usually within 120 days after serving Defendant with your complaint. Discovery plan may be submitted, pretrial motions discussed, trial date scheduled, and formal settlement may be discussed.
- (9) Service of discovery papers (Requests for Interrogatories, Production of Documents, and Admissions).
- (10) Response to discovery papers: within 30 days after service.
- (11) Motions cut off, discovery cut off, pretrial statement, final naming of witnesses, selection of trial date: as set forth in Scheduling Order.
- (12) Moving to amend the Court's findings: within 10 days after entry of judgment.
- (13) Notice of Appeal: within 30 days after entry of final judgment or within 60 days if United States is a party.
- (14) Additional response time allowed for service by mail: 3 days are added to the proscribed period.
- (15) Requesting extension of time: prior to the period sought to be extended.

VI. DO'S & DON'TS

A. WHEN YOU GO TO THE CLERK'S OFFICE

- (1) No weapons allowed; no contraband or other illegal items.
- (2) Dress properly (be neat and clean).
- (3) Have your information/case organized.
- (4) Be polite and listen carefully to the Clerk.
- (5) Do not be afraid to ask questions; however, the Clerks cannot give you legal advice.
- (6) Follow the Clerk's instructions; do not argue with the Court personnel.
- (7) Have your fees ready for payment. (You can only pay by cash, check, or money order.)

B. WHEN YOU ARE IN COURT

- (1) No weapons allowed; no contraband or other illegal items.
- (2) Dress properly (be neat and clean).
- (3) No gum chewing; no eating; no drinking; no reading newspapers and magazines; no sleeping; no loud talking.
- (4) When the Judge enters or leaves the courtroom, you must stand up.
- (5) Call the Judge "Your Honor"; speak clearly.
- (6) When talking to the Judge, be courteous, polite, and stand.
- (7) Be prepared with your argument; be organized.
- (8) When making your argument to the Court, make your point once (don't keep repeating yourself); stick to the issue (don't talk about unimportant things).
- (9) When it is not your turn, be quiet in the courtroom.
- (10) No cameras; no tape recorders; and no radios.