

# United States District Court District of Hawaii



## Pro Se Litigant Handbook: A Guide to Filing Your Lawsuit

*Disclaimer: This guide is provided for informational purposes only and does not constitute legal advice. The Federal Rules of Civil Procedure and the Local Rules of Practice for the United States District Court for the District of Hawaii control how civil cases must be filed and processed.*

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## I. INTRODUCTION

The purpose of this handbook is to provide general information about the federal court system and to assist individuals wishing to file a complaint in the United States District Court for the District of Hawaii pro se, that is, without the assistance of counsel. If you are a prisoner, please consult the **Pro Se PRISONER Handbook: A Guide to Filing an Action While Incarcerated**.

### A. The Meaning of Pro Se

If you are representing yourself without the benefit of an attorney, you are known as a “pro se litigant.” “Pro se” is a Latin term meaning “for oneself.” As a pro se litigant, you enjoy every right entitled to you under the law. You will not be penalized because you are not represented by an attorney. At the same time, pro se litigants are expected to follow the rules that govern the practice of law in the federal courts. Pro se litigants should be familiar with the Federal Rules of Civil Procedure and the Local Rules of this court. As a pro se litigant, you may not authorize another person who is not an attorney to appear for you.

### B. Before You File Your Case in Federal Court

When people, businesses, or government agencies have disagreements, they can file suit in a court of law. Before filing suit, you may consider other ways to solve the dispute, such as:

- **Talk to the other side.** Talking to the person, business, or government agency or sending a letter asking the person, business, or government agency to fix the problem. Many government agencies have requirements or special rules that you must follow before you can file suit in court.
- **Seek help from other sources.** There are many community agencies that may be able to help with your dispute. A non-exhaustive list of such agencies is provided in Part VI of this handbook.
- **Contact an attorney.** An attorney can provide legal advice regarding your problem and can also provide you with information about other resources that may help you. If you can afford an attorney, but do not know any, the Hawaii State Bar Association’s Lawyer Referral & Information Service, (808) 537-9140 or LRIS@hsba.org, can provide a referral. If you



cannot afford an attorney and would like an attorney's help, there is a list of resources in Part VI of this handbook that may be able to provide assistance.

You may choose to file your case in court without an attorney's help. This is called "proceeding pro se." If you choose to proceed pro se, you are still required to state your claims clearly, meet all deadlines, and follow the rules.

### C. Federal Court

Before you file your case, you must make sure that you are filing it in the right court. Federal courts are courts of "limited" jurisdiction. Generally, only three types of cases may be filed in federal court:

- **Cases where the United States government is a party.** Federal courts hear lawsuits regarding benefits from the Social Security Administration or Veterans Administration and lawsuits against a federal government agency, such as the United States Postal Service, the Internal Revenue Service, or the Federal Bureau of Prisons.
- **Cases brought under federal law.** Federal courts hear cases arising under the United States Constitution and federal laws enacted by Congress, and other issues not addressed by state law. These include federal tax disputes, labor laws, civil rights, environmental disputes, damages at sea or arising through interstate commerce, and many other areas. Some federal laws may duplicate state laws, such as in civil rights issues.
- **Cases where the parties reside in different states.** Federal courts hear cases between parties who reside in different states when the amount at issue is in excess of \$75,000. These are called "diversity cases." For example, if you live in Hawaii and you file a lawsuit against a defendant who lives in Arizona, and the amount at issue is more than \$75,000, then there would be "diversity" jurisdiction in the federal court.

If your case does not involve a government defendant, federal law, or a person residing in another state involving claims in excess of \$75,000, you may need to file your case in state court. For example, if your case is about divorce, child custody, adoption, wills or trusts, a name change, a landlord-tenant dispute, or any other issues arising under state laws, you may be in the wrong court. You can learn more about the Hawaii State Courts at: <http://www.courts.state.hi.us>. If you are in doubt about where to file your lawsuit, contact an attorney for legal



advice about your specific situation. The Clerk's Office cannot make this determination for you.

#### **D. Other Things That You Should Keep in Mind**

*1. You must pursue your case diligently*

It is very important to be diligent in pursuing your case. All parties must make their best efforts to comply with the court's deadlines and orders. If you cannot comply with a deadline, it is your responsibility to file a motion for additional time. You should not assume that the court will simply "know" you need more time. If you fail to prosecute your case diligently, it could be dismissed.

*2. The court must be able to contact you in writing at all times*

Always keep the court aware of your current address. Local Rule 83.1(e) states that a pro se litigant must file with the court a notice of change of address within fourteen days that specifies the effective date of the change.

*3. If you want the court to do anything in your action, you must file a motion*

Federal Rule of Civil Procedure 7 states that "a request for a court order must be made by motion. The motion must: (A) be in writing unless made during a hearing or trial; (B) state with particularity the grounds for seeking the order; and (C) state the relief sought." Unless you are physically in front of the judge at a hearing or trial, the only way the Court can take action on your case is for you to file a formal, written motion.

*4. You should not include sensitive information in any court filing*

You should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. Any personal information you include will be available over the internet on the court's electronic filing system. If sensitive information must be included, the following personal identifiers must be partially redacted (meaning, marked over or removed so it cannot be read) from the document whether it is filed on paper or electronically:



- Social security numbers. If an individual's social security number must be included in a document, only the last four digits of the number should be used.
- Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- Dates of birth. If an individual's date of birth must be included in a document, only the year should be used.
- Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

It is the responsibility of the parties to be sure that all pleadings and other papers comply with the rules requiring the removal or redaction of personal identifiers. If you include sensitive information about yourself in a filing, the Clerk's Office will not redact it for you.

#### *5. Sanctions, fees, and costs*

If the court determines that you have filed a lawsuit that is frivolous or intended to harass under Rule 11 of the Federal Rules of Civil Procedure, the court may impose sanctions against you, including payment of the opposing party's legal fees.

If you lose your case, it is common for a winning party to seek costs that were incurred to defend against a suit from the losing party. These costs may include attorneys' fees, deposition transcripts, witness fees, copy costs, etc., which can add up to thousands of dollars.



## II. FILING YOUR CASE

This section explains the steps that you must take to file a complaint in the United States District Court for the District of Hawaii.

### A. Rules You Must Follow

- **Federal Rules of Civil Procedure.** The Federal Rules govern the filing of civil lawsuits in federal court, and you should be familiar with them.
- **Local Rules of Practice for the United States District Court for the District of Hawaii.** The Local Rules govern the practice of law in the District of Hawaii and are additional to the Federal Rules. You must follow both the Federal Rules and the Local Rules. The Local Rules are available on the court's website: <http://www.hid.uscourts.gov>.

If you do not understand a rule, consult an attorney. The Clerk's Office cannot interpret the rules for you.

### B. Forms You Need to Complete

To file your case, you need to complete three forms:

- Complaint
- Civil Cover Sheet
- Summons in a Civil Action

Copies of these forms can be found at the Clerk's Office and are also available on the court's website: <http://www.hid.uscourts.gov>. Other forms are available at the Clerk's Office and on the court's website, but you are not required to complete these forms unless they specifically apply to you.

### C. Complaint

To start a lawsuit in federal court, you must first file a complaint. A complaint tells the judge and the defendants how and why you believe the defendants violated the law in a way that injured you and explains what you want the court to do for you.



You may use the form available at the Clerk's Office and on the court's website, or you may write or type your own complaint.

All documents, including your complaint, must comply with the Federal Rules and Local Rules regarding form of papers. *See* Federal Rule of Civil Procedure 10; Local Rule 10.2. These requirements include that all documents must include the court's name, a title, the case number (when available after the first filing), be typed or legibly printed on 8 ½" x 11" plain white paper, and must not be stapled. Before you file any document with the court, you must remove certain personal identifiers, including Social Security numbers, dates of birth, names of minor children, and financial account numbers. *See* Federal Rule of Civil Procedure 5.2.

Original documents submitted to the court will not be returned to you.

If you would like a copy of your file-stamped complaint, bring an extra copy to the Clerk's Office. The Clerk's Office will not make free copies of documents for your personal record.

You must notify the court if you change addresses. You must file and serve on all other parties any change of address, and the effective date of the change, within fourteen (14) days of the change. *See* Local Rule 83.1(e). Failure to comply with this rule may result in sanctions.

#### **D. Contents of the Complaint**

A complaint should contain the following information:

- **Name of the court**  
United States District Court for the District of Hawaii
- **Plaintiff's name, address, and telephone number**  
Place this information at the top left-hand corner of the first page of the complaint. It is mandatory that the Clerk's Office and opposing party be informed of your current address and telephone number during the entire lawsuit. This information should be included on the first page of **all documents** filed.



- **Full names of ALL defendants**  
On the complaint; “*et al.*” may not be used to describe defendants; each defendant must be listed by name.
- **Title of the pleading and all attached documents**  
For example: Complaint, Exhibits: A-E, Certificate of Service

SAMPLE

Plaintiff name		
Plaintiff address		
Plaintiff telephone number		
<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII</p>		
Plaintiffs’ Complete Names	)	
(List All)	)	
	)	
vs.	)	Civil No.
	)	Complaint; (List All Attached Documents)
	)	
Defendants’ Complete Names	)	
(List All)	)	
_____	)	

- **A short and plain statement of the claim**  
Describe the facts as if briefly telling someone what happened. Describe how each and every defendant, by name, erred or caused injury. The complaint should not contain legal arguments or citations. An attempt to use legalese (legal jargon) is not necessary.
- **A demand for the relief requested**  
State a relief that the judge can order.
- **Jury demand (optional)**  
If a jury trial is sought, the demand for a jury shall be placed conspicuously on the first page of the complaint.



- **The Plaintiff's original signature**  
This may not be a photocopy.

### **E. Civil Cover Sheet**

You can obtain a civil cover sheet form from the Clerk's Office or from the court's website: <http://www.hid.uscourts.gov>. The civil cover sheet asks information about your case and includes eight sections that must be completed in full.

### **F. Summons in a Civil Action**

The summons is a document that demands the defendant(s) to respond to the complaint. You can obtain a summons from the Clerk's Office or from the court's website. On the summons, you must provide the name and address of each defendant being sued because the Clerk's Office cannot issue the summons without this information. You must consult the Federal Rules of Civil Procedure for the appropriate timeframe within which each defendant must answer the complaint.

The proof of service of the summons must be filed with the Clerk's Office after the defendant has been served in the case.

### **G. Filing Fee**

At the time of filing your documents, you must pay the civil filing fee. The amount of the civil filing fee is set forth in the Schedule of Fees available on the court's website: <http://www.hid.uscourts.gov>.

If you are unable to pay the filing fee, you may ask to have the fee "waived," which means that you may file your case without paying the fee. To ask for the fee to be waived, you must file an Application to Proceed in District Court Without Prepaying Fees or Costs (AO240) when you file your complaint.

### **H. Application to Proceed in District Court Without Prepaying Fees or Costs**

You can obtain an Application to Proceed in District Court Without Prepaying Fees or Costs form from the Clerk's Office or from the court's website. It is very important to fill out all parts of this form because the judge will use this information to determine if you have the financial ability to pay the filing fee. If



you have assets, such as equity in your home, own several cars or rental property, or have other sources of income, the court may find that you do not qualify to have the fee waived.

The court will issue a written order once a decision has been made on your application. Your summons will not be issued until after your application is granted or the filing fee has been paid. If your application is granted, the court refers to this as allowing you to “proceed in forma pauperis” or “IFP.”



## I. Filing Your Documents

You may file your documents in person at the Clerk's Office in Honolulu. The Clerk's Office is open Monday through Friday, excluding federal holidays, from 8:30 a.m. to 4:00 p.m. You may also mail your document to the Clerk's Office for filing. The Clerk's Office is located at:

United States District Court  
Clerk's Office  
300 Ala Moana Blvd., Room C-338  
Honolulu, HI 96850  
Phone: (808) 541-1300

When the Clerk's Office is closed, a "drop box" located directly outside the Courthouse is available for receiving documents for filing. Perfected documents placed in the drop box and date stamped after hours, will be file stamped for the time they were placed into the drop box.

As a pro se litigant, you may not file your documents electronically without permission from the court.

### **Pro Se Filing Procedures During COVID-19 Response**

Pro se litigants may file documents by email ([hid\\_clerks@hid.uscourts.gov](mailto:hid_clerks@hid.uscourts.gov)) 24 hours a day 7 days a week. File-stamped copies will be returned by email or United States mail by request.

If you are paying the civil filing fee, the clerk will:

- assign a case number and judge
- file-stamp your documents
- issue your summons forms
- print you a receipt for the filing fee (cash, check, or credit card)
- return any file stamped copies to you
- issue a Rule 16 Scheduling Conference date

A summons will not be issued at this time if you are also filing an Application to Proceed in District Court Without Prepaying Fees or Costs. Later, if your application is granted, the Clerk's Office will issue the summons that you have provided to the court. If your application is denied, you will receive an order



in the mail to this effect, with instructions as to when the filing fee must be paid. If you are required to pay the filing fee, it will be your responsibility to serve the defendants with your complaint and the summons. For more information on serving the defendants, please refer to Part IV.

## **J. What the Clerk's Office Can and Cannot Do**

The Clerk's Office is available to help answer many of your questions. However, the Clerk's Office is legally prohibited from providing legal advice.

Printable forms and answers to frequently asked questions are available on the court's website at <http://www.hid.uscourts.gov>.

Below is a summary of what the Clerk's Office can, and cannot, provide for you.

### **CAN:**

- Provide information from your case file and help you access information from the public computer station.
- Provide available court forms and instructions.

### **CANNOT:**

- Give legal advice.
- Tell you whether or not you should file a case.
- Tell you what words you should use in your court pleadings/papers.
- Talk to the judge for you or let you talk to the judge outside of court.
- Compute deadlines in your case.
- Interpret the Federal Rules or Local Rules.
- Tell you what document you should file.
- Predict how or when the judge might rule on your case.



### **III. ACCESSING THE COURT'S DOCKET AFTER FILING YOUR CASE**

After you have filed your complaint, your case will be opened on the court's Case Management/Electronic Case Filing System (CM/ECF), which allows parties to see everything that is filed on the docket.

The docket is maintained by the court for each case. The docket includes: (1) the names and addresses of all the attorneys and unrepresented parties and, (2) in chronological order, every document filed and information about each document including the filing date, the filing party, and other information.

You should check the docket for your case regularly to make sure that:

- Every document that you filed has been entered on the docket. Please note that it may take several days for a paper filing to be scanned and entered on the electronic docket after it is received by the court.
- You have received copies of every document that other parties have filed.
- You are aware of every order that the court has issued.

You may call the Clerk's Office at (808) 541-1300 with questions about specific documents filed in the case. Do not call or email the judge's chambers.

You may access the electronic docket using the computer terminals available in the Clerk's Offices during the hours that the Clerk's Office is open.

You may also access docket information from any computer with internet access if you have a PACER account. PACER stands for "Public Access to Court Electronic Records." It is a service of the United States Courts. To view documents and obtain docket information on PACER, visit the PACER system at [www.pacer.gov](http://www.pacer.gov). If you do not have a computer, you can use the public computers in the Clerk's Office to obtain docket information.

You must register to become a PACER user before you can use any version of the PACER system. Register online at [pacer.gov/register.html](http://pacer.gov/register.html) or call (800) 676-6856 to obtain a PACER registration form by mail. There are no registration costs. However, there are fees to access information on PACER. The PACER fee information changes frequently. Refer to PACER's FAQ on fees for the most current information ([pacer.gov/psc/faq.html](http://pacer.gov/psc/faq.html)).



If you cannot afford to pay the PACER access fees, you may file a motion with the court asking to be excused from paying the fees. Your motion must show that it would be an unreasonable burden for you to pay the fees and that it would promote public access to electronic court docket information if you were permitted to use the PACER system without paying a fee.

If the court grants your motion, the Clerk's Office will notify the PACER Service Center; you should call the PACER Service Center at (800) 676-6856 to confirm your registration before you begin accessing dockets and documents.

If you have problems with your PACER account, please call the PACER Service Center at (800) 676-6856. The court can help you with CM/ECF questions, but cannot help with problems with your PACER account.



## **IV. SERVICE OF THE COMPLAINT AND SUMMONS**

You are required to let the defendant(s) know that you have filed a case against them in federal court. You do this by having the deputy clerk sign and stamp the court's seal on the summons form that you filled out. The summons is then returned to you and it is your responsibility to ensure each defendant receives a copy of the stamped summons form along with a copy of your complaint. This process is called "service" or "serving the defendants."

The rules for serving the original complaint are different from the rules for serving other papers, and must be followed exactly. Federal Rule of Civil Procedure 4 details the requirements for serving the complaint and summons. Federal Rule of Civil Procedure 5 details the requirements for serving all other filings.

If the summons and complaint are not properly served on the defendants, the case may not proceed.

### **A. When must it be done**

Under Federal Rule of Civil Procedure 4, you have 90 days from the date you filed the complaint to serve the defendants or obtain a waiver of service from each defendant.

### **B. Who must be served**

All of the defendants that you have named in your complaint must be served or must waive service. The defendants who are not served within the required time limit may be dismissed from your lawsuit.

### **C. Who serves the documents**

As the plaintiff in the case, you are responsible for ensuring that the summons and complaint are served on all defendants. If you are proceeding in forma pauperis, however, the court will order the U.S. Marshals Service to serve the summons and complaint. A court order is necessary to obtain service of process by the U.S. Marshals Service.



## **D. How to serve**

Federal Rule of Civil Procedure 4 details how a defendant must be served. For example, there are specific provisions for service of an individual, a corporate entity, or a government agency. Consult Federal Rule of Civil Procedure 4 for the specific requirements for service.

## **E. How to request waiver of service**

Federal Rule of Civil Procedure 4(d) provides that a plaintiff may request that a defendant waive personal service of the complaint and summons by notifying the defendant that an action has been commenced and requesting that the defendant waive personal service of the summons and accept service of the complaint by mail.

To request such a waiver, you may send a Notice of a Lawsuit and Request to Waive Service of a Summons form (AO 398), a Waiver of the Service of Summons form (AO 399), and a copy of the filed-stamped complaint to the defendant by first class or certified mail. These forms are available at the Clerk's Office and on the court's website. The plaintiff must also provide a prepaid means for the defendant to return the waiver form.

If the defendants do not agree to waive service, you are responsible for completing service in accordance with Federal Rule of Civil Procedure 4.



## **V. AFTER THE COMPLAINT AND SUMMONS HAVE BEEN SERVED**

Each case is unique and may or may not follow the steps outlined below. This is to be used as a general guideline and is not meant to be interpreted as the schedule for your particular case. The judge assigned to your case and his or her staff will be in communication regarding any hearing or deadlines.

### **A. Defendants File a Response to the Complaint**

Each named defendant responds to the complaint by filing an answer or a motion. If a defendant does not file a response to the complaint, you can request that the clerk enter default against that defendant. A party is in default when it fails to respond to a summons and complaint served on the party in the time required by law. *See* Federal Rule of Civil Procedure 55. After the clerk enters default against a defendant, you may file a motion for default judgment. Default judgment is a judgment awarding the plaintiff the relief sought in the complaint because the defendant has failed to respond to the complaint. *See* Federal Rule of Civil Procedure 55.

### **B. Rule 16 Scheduling Conference**

After the defendant has responded to the complaint, the court will hold a Rule 16 Scheduling Conference to meet with the parties to discuss the pretrial and trial schedule. No issues or claims are decided at the Rule 16 Scheduling Conference, but it is an important event in moving the case forward. Be prepared to discuss all aspects of your case with the judge.

The parties are required to file and serve Scheduling Conference Statements at least seven (7) days before the Rule 16 Scheduling Conference. *See* Local Rule 16.2(b).

Under Federal Rule of Civil Procedure 26(f), the parties are expected to confer at least twenty-one (21) days before the Rule 16 Scheduling Conference to discuss a number of issues, including initial disclosures, the possibility of settlement, and a discovery plan.

Federal Rules of Civil Procedure 16(b) and 26(f) and Local Rules 16.2 and 26.1 contain detailed information about Rule 16 Scheduling Conferences, including what must be included in each party's Scheduling Conference Statement.



After the Rule 16 Scheduling Conference, the judge will issue a Rule 16 Scheduling Order, which will set a schedule for the rest of the case. The Rule 16 Scheduling Order governs all deadlines in the case unless and until it is changed by the judge.

### C. Discovery

Discovery is the process through which a party finds out information about the issues in the case before the trial. Rule 26(b) covers the scope and limits of discovery in detail.

In general, there are four ways to ask for and receive discovery: depositions, interrogatories, document requests, and requests for admissions.

- **Depositions.** Depositions are question-and-answer sessions held before trial. In them, one party to a lawsuit asks another person questions about the issues raised in the lawsuit. The answers are given under oath subject to the penalty of perjury and are recorded in some way. Rules 27 through 31 of the Federal Rules of Civil Procedure explain the procedures for taking a deposition. If the person who will answer the questions is not a party to the lawsuit, Rule 45 explains how they can be made to appear for questioning.
- **Interrogatories.** Formal written questions, called interrogatories, may be used to discover information from parties in the action. You cannot send interrogatories to non-parties. The party answering the interrogatory answers in writing and must sign the answers under oath. If an interrogatory is objected to, the objecting party shall state the reasons for the objection and shall answer to the extent the interrogatory is not objectionable. The interrogatories shall be answered within thirty days after they are served. Parties are required to supplement their answers to interrogatories as additional information becomes available as provided by Federal Rule of Civil Procedure 26(e)(1). The rules and procedures governing interrogatories are contained in Federal Rule of Civil Procedure 33.
- **Requests for production of documents.** Pursuant to Federal Rule of Civil Procedure 34, a written request to produce records, letters, contracts, or other materials; inspect or copy a document; or permit entry upon designated land or other property in the possession or control of the party upon whom the request is served, may be served on any party. You cannot make requests for production of documents on non-parties. The request shall specify a



reasonable time, place, and manner of making the inspection or performing the related acts. The party upon whom the request is served shall serve a written response within thirty days. The response shall state whether the inspection or related activities will be permitted as requested. If the request is objected to, the reasons for the objection shall be stated.

- **Requests for admission.** Pursuant to Federal Rule of Civil Procedure 36, a party may serve upon any other party a written request to admit the truth of certain matters within the scope of Federal Rule of Civil Procedure 26(b)(1). You cannot serve requests for admission on non-parties. The matter is admitted unless, within thirty days after service of the request, the party to whom the request is directed serves upon the requesting party a written answer or objection signed by the party. Failure to answer constitutes an admission.

Discovery related documents are served on all parties, but are generally not filed with the Clerk's Office. You may file a Certificate of Service to document when discovery documents were served.

The parties may also obtain information from persons who are not party to the lawsuit through subpoenas.

- **Subpoenas.** Subpoenas are the means by which a party obtains documents from persons who are not party to the lawsuit (called a subpoena duces tecum) and the depositions of persons who are not party to the lawsuit (called a deposition subpoena). Rule 45 sets out the rules for issuing, serving, tendering fees, and responding to subpoenas. The same form is used both for a subpoena duces tecum and a deposition subpoena. You can get a blank subpoena form from the Clerk's Office for any production of documents or deposition that will occur in Hawaii. If the document or person is located outside of Hawaii, you will need to get the subpoena from the court in the corresponding district. *See* Federal Rule of Civil Procedure 45.

## D. Motions

Filing and serving a complaint is the first step in a lawsuit. After that, if you want the Court to do something, you must file a motion requesting the specific relief you seek. All motions must be filed with the Clerk's Office and served on all parties.



Federal Rule of Civil Procedure 7 and Local Rules 7.1–7.9 provide detailed information regarding motions.

After a motion is filed, the court will determine whether a hearing is required and may direct the other parties to file responses to the motion.

### **E. Dispositive Motions**

During the course of the case, a defendant or plaintiff may file a dispositive motion. Dispositive motions are motions that ask the court to decide claims or the case without a trial. They are used when there are no factual disputes between the parties and the court can decide a case or claim as a matter of law.

Two common types of dispositive motions are motions to dismiss, *see* Federal Rule of Civil Procedure 12 and Local Rule 12.1, and motions for summary judgment, *see* Federal Rule of Civil Procedure 56 and Local Rule 56.1.

### **F. Final Pretrial Conference**

The judge assigned to your case may schedule a final pretrial conference before the magistrate judge to take place after discovery is completed. *See* Federal Rule of Civil Procedure 16 and Local Rules 16.4, 16.7.

After the pretrial conference, the magistrate judge may no longer be involved in the case unless you consented to have the magistrate judge preside over the whole case. The district judge may hold a status conference before the trial.

### **G. Trial**

If your case goes to trial, it can be tried to the court (meaning that only the judge decides the case) or to a jury. The judge may have specific guidelines regarding trial, which are available on the court’s website: [www.hid.uscourts.gov](http://www.hid.uscourts.gov).

If your case is tried to the court, no jury is present and the judge will consider all evidence and make a ruling. Many times, the judge will take the case under advisement. This means that the judge will issue a written order at a later date following the last day of trial.

If your case is tried to a jury, you will go through the process of selecting a jury which is called “voir dire.” This process allows the judge, you, and counsel



for the defendant to ask questions of potential jurors to see if there is a conflict for a juror to sit and fairly and impartially consider the evidence. Once this process is complete, the jurors will be sworn to try the case.

In either a court or a jury trial, the plaintiff will present evidence first. The Federal Rules of Evidence will determine whether you can present certain factual information to the court or jury. Evidence consists of exhibits and testimony of witnesses who have agreed to come to court to testify on your behalf, or witnesses you have subpoenaed to testify. Please refer to the federal rules on the issuance of subpoenas for trial. *See* Federal Rule of Civil Procedure 45. You will ask questions of each witness you call to testify.

When the plaintiff is finished asking questions, the defense will get to ask questions of witnesses. When they have finished asking questions, you will have another chance to follow up on questions the defense asked, but you may not ask new questions on topics not already discussed. The judge controls this process. The judge, on his or her own or following an objection from a party, will make decisions about whether a question is proper or if an exhibit should be admitted into evidence.

After the plaintiff has presented all of his or her exhibits and witnesses, the defendants will present their exhibits and witnesses. You will be able to question defense witnesses. When the defense is finished, you have a chance to put on “rebuttal witnesses.” You may not ask rebuttal witnesses any new questions on topics that were not already discussed.

In a jury trial, the judge, in consultation with the parties, prepares the jury instructions. These are instructions on the law that the jury must apply to your case in making their decision. The parties and the judge will discuss these instructions before they are read to the jury.

Once the jury has heard all the evidence and testimony and listened to the court’s instructions, they will go to the jury room to talk about the case. Once the jury reaches a verdict, they will come back into court and the decision will be read. The judge will direct the Clerk to prepare a judgment and the case will be closed.



## **H. Judgment**

If you win, by default, motion, or at trial, the judge will have the Clerk prepare a judgment stating the amount of damages or other relief you obtained from the defendant. The judgment will list the exact amount, in dollars and cents, and say which defendant owes you how much money, or other relief awarded. A deputy clerk will prepare and sign the judgment.

If you lose at trial or by summary judgment, the judge will have the Clerk prepare a judgment stating that the defendant owes you nothing. The defendant may also request that the court order you to pay its costs and attorney's fees spent in defending the case. A deputy clerk will prepare and sign the judgment.

Either party may file appropriate post-judgment motions (*See* Federal Rules of Civil Procedure 59 and 60) and/or an appeal if you disagree with the court's decision.

## **I. Notice of Appeal**

You may appeal a final decision of this court. In most cases, the appeal should be to the United States Court of Appeals for the Ninth Circuit. You should consult Federal Rule of Appellate Procedure 4 for the applicable deadline.

To file an appeal, you must file a Notice of Appeal with the Clerk of this court. A Notice of Appeal form is available in the Federal Rules of Appellate Procedure Forms Index and also at the Ninth Circuit's website:  
<https://www.ca9.uscourts.gov>.

You must pay the filing fee for an appeal unless the court granted your Application to Proceed Without Prepayment of Fees when your complaint was filed, in which case you will not need to pay the filing fee for the appeal. The amount of the fee to file an appeal is set forth in the Schedule of Fees available on the court's website: <http://www.hid.uscourts.gov>. The current fee is \$505.00. If you paid the filing fee for your original case, but you cannot afford to pay the appeal fee, you may file a Motion and Affidavit for Permission to Proceed in Forma Pauperis with your Notice of Appeal in the district court. This form is available on the Ninth Circuit's website: <https://www.ca9.uscourts.gov>.



More information about the appeals process can be found on the Ninth Circuit's website: <https://www.ca9.uscourts.gov>.



## VI. ADDITIONAL RESOURCES

In a limited number of cases, the court may ask a lawyer to step in for all or part of a case and represent a pro se litigant without charge, which is called pro bono representation. The court may appoint pro bono counsel for a limited part of a case. For more information about court appointment of pro bono counsel, see this court's Order Adopting Rules for Civil Pro Bono Panel (available at <https://www.hid.uscourts.gov>).

The following agencies may be helpful for legal assistance and/or lawyer referrals:

American Civil Liberties Union  
P.O. Box 3410  
Honolulu, HI 96801  
(808) 522-5900  
<https://acluhi.org>

Hawaii Disability Rights Center  
1132 Bishop St., Ste. 2102  
Honolulu, HI 96813  
(808) 949-2922  
<http://www.hawaii Disability Rights Center.org>

Domestic Violence Action Center  
P.O. Box 3198  
Honolulu, HI 96801-3198  
(808) 531-3771  
<http://www.stoptheviolence.org>

Hawaii Innocence Project  
William S. Richardson School of Law  
2515 Dole Street  
Honolulu, HI 96822  
(808) 956-6547  
<http://www.hawaiiinnocenceproject.org>

Hawaii Appleseed Center for Law  
and Economic Justice  
P.O. Box 37952  
Honolulu, HI 96837-0952  
(808) 587-7605  
<http://www.hiappleseed.org>

Hawaii Justice Foundation  
P.O. Box 1230  
Honolulu, HI 96813  
(808) 537- 3886  
<http://www.hawaiijustice.org>

Hawaii Civil Rights Commission  
830 Punchbowl St., Rm. 411  
Honolulu, HI 96813  
(808) 586-8636  
<http://labor.hawaii.gov/hcrc/>

Hawaii State Judiciary  
<http://www.courts.state.hi.us/>

Legal Aid Society of Hawaii  
942 Bethel St.  
Honolulu, HI 96813  
(808) 536-4302  
<http://www.legalaidhawaii.org>



Native Hawaiian Legal Corporation  
1164 Bishop St., Ste. 1205  
Honolulu, HI 96813  
(808) 521-2302  
<http://nhlchi.org>

Na Loio  
810 N. Vineyard Blvd., Ste. 1  
Honolulu, HI 96817  
(808) 847-8829  
<http://naloio.org>

United States Equal Employment  
Opportunity Commission  
[www.eeoc.gov](http://www.eeoc.gov)  
(800) 669-4000

University of Hawaii Elder Law  
Program  
2515 Dole Street, Room 201  
Honolulu, HI 96822  
(808) 956-6544  
<https://www.hawaii.edu/uhelp/>

Volunteer Legal Services Hawaii  
545 Queen St., Ste. 100  
Honolulu, HI 96813  
(808) 528-7046  
<https://www.vlsh.org/>

You can research your claims at the following law libraries:

Hawaii Supreme Court Law Library  
417 S. King Street, Room 115  
Honolulu, HI 96813  
(808) 539-4964

Third Circuit Court Law Library-Hilo  
777 Kilauea Avenue  
Hilo, HI 96720  
(808) 961-7438

University of Hawaii, William S.  
Richardson School of Law Library  
2525 Dole Street  
Honolulu, HI, 96822-2328  
<https://library.law.hawaii.edu/>

Third Circuit Court Law Library  
Kona Keakealani Building  
Kealahou, HI 96750  
(808) 322-8729

Second Circuit Court Law Library  
2145 Main Street, Room 207  
Wailuku, HI 96793  
(808) 244-2960

Fifth Circuit Court Law Library  
3970 Kaana Street, Suite 100  
Lihue, HI 96766-1281  
(808) 482-2327



## VII. CHECKLIST FOR FILING

Review the following checklist to ensure that you are fully prepared to file your case.

- Read through “Pro Se Litigant Handbook: A Guide to Filing Your Lawsuit.”
- Obtain court forms for use in filing your case, available online or at the Clerk’s Office. You may also prepare your own forms that comply with the District of Hawaii’s Local Rules and the Federal Rules of Civil Procedure.
- Fill out all forms completely (including the Civil Cover Sheet, Complaint, Summons, and if applicable, Application to Proceed in District Court Without Prepaying Fees or Costs (AO240)). Do not forget to sign your documents.
- Print your contact information on the Complaint and Civil Cover Sheet, including address and telephone number. It is your responsibility to notify the court in writing of any change of address.
- Have cash, check, or money order, ready at the time of filing to pay the civil filing fee and any copying or certification fees.
- If you cannot afford to pay the civil filing fee, submit a completed Application to Proceed in District Court Without Prepaying Fees or Costs (AO240). The Clerk will not issue the summons until the judge rules on your filed application.
- Fill out a separate summons for each defendant, including their address and the amount of days to file an answer.
- Bring your completed documents to the Clerk’s Office. Remember to provide extra copies, for your records and/or service.



## VIII. GLOSSARY

**Action:** Another term for lawsuit or case.

**Affidavit:** A written or printed statement made under oath.

**Amended Pleading** (complaint or answer): A revised version of the original complaint or answer that is filed with the court.

**Answer:** The formal written statement by a defendant responding to a civil complaint and setting forth the grounds for his/her defense.

**Appeal:** To seek formal review of a district court judgment by the court of appeals.

**Application to Proceed in District Court without Prepaying Fees or Costs:** A form asking permission to file the complaint without paying the filing fee at the start of the case because of an inability to afford the fee.

**Bench Trial:** A trial conducted before a judge without a jury. In such trials, the judge decides both questions of facts and questions of law. In a jury trial, questions of facts are determined by the jury and only questions of law are decided by the judge. The rules of evidence and procedural methods are the same in both.

**Burden of Proof:** Under legal rules, one party or the other bears responsibility for proving or disproving one or more elements of a claim.

**Civil Cover Sheet:** A form that asks questions about your case and is required when filing a new case.

**Clerk of Court:** An officer appointed by the Court to oversee the Court's administration. The Clerk of Court's signature may appear on some court documents. The Clerk of Court, however, does not take phone calls or come to the counter regarding your case. Instead, you should direct questions about your case to Clerk's Office staff or to the deputy clerk who works for the judge assigned to your case.

**Clerk's Office:** Located in the Honolulu, an office with court employees who can answer procedural questions and process your documents for filing. You can reach the Clerk's Office during normal business hours by calling (808) 541-1300.



**Complaint:** A document filed by the plaintiff that opens a civil case, stating what the plaintiff claims that the defendant did and requesting relief from the court.

**Contract:** An agreement between two or more persons that creates an obligation to do or not to do a particular thing.

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

**Court:** Government entity that resolves legal disputes.

**Damages:** Money paid by defendants to successful plaintiffs in civil cases to compensate the plaintiffs for their injuries.

**Defendant:** In a civil case, the person, company, or organization that the plaintiff is suing.

**District Judge:** A judge in the federal court system appointed for life by the President of the United States with confirmation by the United States Senate.

**Dismiss a case:** When a judge dismisses a case, the judge essentially ends the case without a trial. If the dismissal is “with prejudice,” the plaintiff cannot refile it. If the dismissal is “without prejudice,” the plaintiff may be able to refile it or reopen the case.

**Docket:** A summary of the activity in a case, containing a list of each filing. The docket shows who filed the case, who it is against, the attorneys, and when documents were filed. The docket is available electronically through the Court’s CM/ECF system. To “docket” an item is to upload it onto the court’s CM/ECF system.

**Evidence:** Information presented to a judge or jury, including documents and testimony of witnesses.

**Ex Parte:** Without notice to the other parties and without their being present (as in ex parte written or telephone communication with the court). An ex parte motion is filed without notice to the opposing party. Such communications are generally disfavored.

**Federal Question Jurisdiction:** Jurisdiction given to federal courts in cases involving the U.S. Constitution, acts of Congress and treaties.



**In Forma Pauperis:** “In the manner of a pauper.” Permission given by the court to a person to file a case without prepayment of the required court fees because the person cannot pay them.

**Interlocutory Order:** Court order issued before judgment.

**Interrogatories:** Written questions served on another party in the lawsuit, which must be answered or objected to in writing under oath.

**Issue:** (1) The disputed point between parties in a lawsuit; (2) To send out officially, as in a court “issuing” an order.

**Judge:** An official of the judicial branch with authority to decide lawsuits brought before courts.

**Judgment:** The official decision of a court finally resolving the dispute between the parties to the lawsuit.

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

**Jury:** The group of persons selected to hear the evidence in a trial and render a verdict on matters of fact.

**Lawsuit:** A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty which resulted in harm to the plaintiff.

**Magistrate Judge:** Judicial officers appointed by the judges of federal district courts pursuant to the United States Magistrates Act. Federal Magistrate Judges may be assigned some, but not all, of the duties of a United States District Court Judge.

**Motion:** A request by a litigant that a judge make a ruling or take some action relating to the case.

**Party:** A litigant. At the trial level, the parties are typically referred to as the plaintiff and defendant.

**Plaintiff:** The person who files the complaint in a civil lawsuit.



**Pleadings:** Written statements filed with the court which describes a party's legal or factual assertions about the case.

**Procedure:** The rules for conducting a lawsuit.

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

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

**Sealed:** To close off records from public access. *See* Local Rule 83.12.

**Statute:** A law passed by a legislature.

**Summary Judgment Motion:** A motion for summary judgment asks the court to rule in one party's favor without a trial on all or limited issues in the case.

**Summons:** A notice, typically served along with a complaint, informing the defendant that a lawsuit has been initiated and notifying the defendant where and when he or she must respond.

**Testimony:** Evidence presented orally by witnesses during depositions, trials or before grand juries.

**Witness:** A person called upon by either side in a lawsuit to give testimony before the court or jury.