



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS**

FREQUENTLY ASKED QUESTIONS

After filing my case, how do I go about getting facts and information from the defendant(s) so that I can prepare for trial?

The process of getting facts and information is called discovery. Federal Rule of Civil Procedure 26 controls discovery and you should refer to this rule for the methods you can use to obtain facts and information. Please refer to the Discovery Guidebook located in this section of the Court's website. www.arwd.uscourts.gov

Can Clerk's Office personnel answer legal questions or provide legal advice?

No, Clerk's Office personnel may not give legal advice. The Clerk's Office will not be able to advise you on such things as:

explaining the meaning of rules,

answering questions as to whether this is the proper Court in which to file your complaint,

commenting on your case -recommending how you should proceed,

predicting a decision a judge officer might make,

answering questions as to how long you have to file a complaint in this Court.

Can I amend my complaint after I file it?

Refer to Rule 15 of the Federal Rules of Civil Procedure regarding when you can file an amended complaint. You may not amend your complaint by filing separate or supplemental documents. All of the claims you wish to bring must be included in one single complaint form. When you file an amended complaint, it completely replaces the complaint(s) you filed previously, so it must include all of the claims you wish to bring.

Can I file a case on my own behalf without an attorney?

Yes, filing a case on your own behalf without an attorney is referred to as filing "*Pro Se*." You should be aware that if you represent yourself (proceed *Pro Se*), you will be required to follow the same Court rules as an attorney.

Can I file a case without paying the \$405 filing fee?

Maybe. To seek the Court's permission to proceed in Court without paying the filing fee, you must file a fully completed Application to Proceed in District Court Without Prepaying Fees or Costs (short form) also known as a Motion to Proceed *In Forma Pauperis* (IFP). This form is available in this section of the website and from the Clerk's Office.

Can I file a criminal case against someone?

You cannot file a criminal case against anyone. The United States Attorney's Office is responsible for filing federal criminal cases. Allegations of criminal behavior should be brought to the attention of the local police, the Federal Bureau of Investigation, or other appropriate law enforcement agency.

Can I get a copy of this Court's Local Rules?

A full copy of all the Court's Local Rules can be obtained from this Court's website, www.arwd.uscourts.gov.

Can I pay the \$405 filing fee in installments?

No. You must pay the full \$405 filing fee or file an Application to Proceed in District Court Without Prepaying Fees or Costs (short form).

The law contains special provisions for prisoners who are granted leave to proceed *in forma pauperis* (IFP) or without prepaying the filing fee. 28 U.S.C. § 1915(b)(1). While prisoners are required to pay the full filing fee under a law known as the Prison Litigation Reform Act, they may do so in installments through deductions from their prison accounts.

Can someone tell me before I decide to pay the filing fee whether the Court will allow me to proceed without prepaying fees or costs?

No. Eligibility for proceeding without prepaying fees or costs will be decided only when a Judge rules on your application.

Could there be additional costs involved in litigating my lawsuit besides paying the \$405 filing fee?

Yes, for example, you may have to pay someone to deliver your complaint. Also, there may be costs for getting documents, obtaining information from witnesses and the defendant(s), and fees to have witnesses appear in Court. Finally, the losing party may have to pay for some of the winning party's expenses.

How do I file a case on my own behalf (*Pro Se*)?

A case is started by filing a complaint. You should refer to the Federal Rules of Civil Procedure and this Court's Local Rules for information about the proper form of your complaint. The Court requires a civil cover sheet (available from the Clerk's Office and

in this section of the website) and a complaint that includes an original signature and your address. You must also either pay the \$405 filing fee or request the Court to allow you to file the case without paying the filing fee.

This subsection of the website provides several form complaints, a *Pro Se Manual*, and several Guidebooks or instruction sheets that may be used to assist you in properly filing a complaint.

I tried to file a motion with the Court but it was returned to me because it did not contain a certificate of service. What is a certificate of service?

Each document that you file with the Court must contain your signature and a certificate of service. A certificate of service indicates to the Court that you have delivered a copy of the document to the other parties. The certificate of service states the name and address of the attorney or party served with the document, the manner of service, and the date of service. The *Pro Se Manual* contains an example of a certificate of service.

After the case is opened and the Complaint served, no certificate of service is needed for documents **filed in the Court's electronic filing system for parties represented by attorneys**. Fed. R. Civ. P. 5(d)(1)(B).

Any documents served on unrepresented or *Pro Se* parties must contain a certificate of service.

Additionally, documents not filed with the Court, such as discovery documents, must still contain a certificate of service.

I was granted leave to file my complaint IFP and now I want to appeal, do I need to file another IFP motion for appeal?

Yes. Your circumstances might have changed and the Court needs to determine whether you meet the financial standards for appealing IFP.

If I file a case and request to proceed without prepaying fees or costs, will that stop the running of the statute of limitations or other deadlines?

Yes, if your complaint is accompanied by a fully completed Application to Proceed in District Court Without Prepaying Fees or Costs (short form).

My case has been assigned to a Magistrate Judge. What is a Magistrate Judge?

Magistrate Judges are judicial officers appointed by the Court to assist in the work of the Court. They can also decide civil cases when all parties consent to have the case heard by a Magistrate Judge instead of a District Judge. If your case is assigned to a Magistrate Judge, you will receive a form that gives you the option to have your case heard by the Magistrate Judge or reassigned to a District Judge.

However, even if the case is reassigned to a District Judge, pretrial matters may still be referred to the Magistrate Judge for decision.

Once the defendant(s) receives a copy of the complaint, how long does he/she have

to reply?

The defendant(s) has twenty-one days from the date he was served with the summons and Complaint to file an answer or a motion to dismiss. However, if the Defendant is the United States, it has sixty days to respond to the Complaint.

What can I do if the Court dismisses my case?

If you are dissatisfied with the Court's decision to dismiss your case, you may appeal your case to the United States Court of Appeals for the Eighth Circuit. You must file your notice of appeal in the District Court Clerk's Office. The filing fee for a notice of appeal is \$605 and is paid to the Clerk of the District Court. A form notice of appeal is included in this section of the website.

What happens after I am assigned a case number?

If you paid the filing fee, you would need to have a copy of the complaint delivered to each person you have named as a defendant. The way in which a copy of the complaint is delivered to the defendant(s) is called "service." The Clerk's Office can provide assistance on how to do this.

If you did not pay the filing fee, the Court will review your Application to Proceed in District Court Without Prepaying Fees or Costs (short form) and decide if you can proceed without prepaying the filing fee. The Court will also review your complaint to determine whether a copy of the complaint should be delivered to the defendant(s). If the Court decides that you do not have to pay the filing fee and determines that the complaint should be delivered to the defendant(s), the Court will order the United States Marshal's Office to serve your complaint on the defendant(s).

What if my Application to Proceed in District Court Without Prepaying Fees or Costs (Short form) is denied?

The Court will notify you in a written order that your application has been denied and you may be given additional time to pay the filing fee.

What type of civil action can be filed in the District Court?

Federal District Courts can only hear certain types of cases. Generally, only civil cases that involve diversity of citizenship (parties in the case live in different states and the amount in controversy is greater than \$75,000), a federal question (lawsuits that have been authorized by Congress) or have the United States as a party can be filed in Federal Court.

Will the Court provide me with an attorney?

There is no right to appointed counsel in civil cases. You can, however, ask the Court to appoint you counsel by filing a motion for appointment of counsel. Form motions are available from the Clerk's Office or in this section of the website. If you file a motion for appointment of counsel, you must still proceed with your case while you wait for the Court to make its decision on your motion.