

# District Court of Guam



## FILING A CIVIL CASE ON YOUR OWN BEHALF

**District Court of Guam  
4th Floor, U.S. Courthouse,  
520 West Soledad Avenue  
Hagåtña, Guam 96910**

**Office Hours: Monday through Friday, 8:00 a.m. to 3:00 p.m.  
(671) 969-4500**

<http://www.gud.uscourts.gov>

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## I. INTRODUCTION

This handbook is intended to assist an individual wishing to participate in a civil lawsuit in the District Court of Guam without the help of a lawyer. **It is not intended for prisoner litigation.** When you are without an attorney, you are "proceeding pro se." If you represent yourself in Court, you are called a "pro se litigant" or a "self-represented litigant." "Pro se" is a Latin, legal term meaning "for himself," and a "litigant" is someone who is either suing someone or is being sued in court. It is not intended for use by people who want to defend themselves in a criminal case without a lawyer or for companies or artificial entities. Under General Rule 20.1, a corporation may not appear pro se in a case in the District Court of Guam.

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*While this handbook is designed to help you proceed without an attorney, it is intended to serve only as a general guide and is not a substitute for having your own lawyer and CANNOT take the place of an attorney's legal advice. This handbook is by no means comprehensive and is only intended to assist you in understanding the basic terms and procedures required by the Court. It does not take the place of the Federal Rules of Civil Procedure and this Court's Local Rules of Practice and does not relieve the pro se litigant of the responsibility of complying with them, or any other obligations imposed by law.*

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A civil case generally refers to all cases other than criminal cases. A civil case is the only type of case you can start without an attorney. It is different from a criminal case which can only be started by government officials. In a civil case, you do not have a constitutional right to a lawyer appointed by the Court. Therefore, if you start a civil case as a pro se litigant, you should be prepared to pursue it to completion on your own.

The Court may request a lawyer to assist you in civil cases only under rare circumstances which may not be met in your situation.

Besides having to research and learn the facts in your case, you must also learn and obey detailed procedural rules that may seem confusing or even picky. Those rules are important, and failing to follow them can affect the outcome of your case; in some cases a mistake may even cause you to lose your case. Litigation is already stressful and time-consuming for the people involved; that stress is even greater for people who are trying to be their own lawyer. This handbook does not try to cover all of the procedures that may apply to your case; it is only a summary. Therefore, you should NEVER rely entirely on these materials, and you should ALWAYS review the law before taking any action in your lawsuit. It is your responsibility to find answers to your questions or to learn about the law. Representing yourself means that you are responsible for following the law. Not knowing the law is no excuse; you will need to do research at a law library yourself. So as you read these materials, remember that deciding to act without a lawyer is a major step, and that not presenting your arguments effectively can have a dramatic effect on your case and, in turn, your life. **The Court strongly urges everyone who needs to participate in a lawsuit to obtain a lawyer, if possible.**

Many of the terms in this handbook may seem unfamiliar, so please refer to Section II, "Terminology" to look up explanations for words you do not understand. You can also look up unfamiliar words in a legal dictionary at your local public library or at a law library such as the Guam Territorial Law Library. One that is often used is *Black's Law Dictionary*. You can also try free internet legal dictionaries; one can be found at the website: <http://dictionary.law.com>.

To bring a case in this Court, you need to know the procedural law or “steps” of a lawsuit. You also need to know the “substantive law,” that is, what your case is about. For example, your case may concern an employment issue, or discrimination, or social security benefits; each of these subjects has a different set of laws. Before you bring a lawsuit, you should look through the rules that explain the court’s procedures. They can be found in several places, and you must know them all.

**First**, you need to know the **Federal Rules of Civil Procedure (“FRCP”)**. These rules apply in every federal court in the country, including this Court. You can review the Federal Rules of Civil Procedure at the Guam Territorial Law. You can also find them on the internet at <http://www.law.cornell.edu/rules/frcp/overview.htm>. The court does not provide copies of the Federal Rules of Civil Procedure.

**Second**, you should consult the **Federal Rules of Evidence (“FRE”)**. These rules define what types of evidence can be given to the court. Obviously, a case can turn dramatically on what information can and cannot be shown to the court, so you should learn these rules early in your case. You can review the Federal Rules of Evidence at the Guam Territorial Law Library. You can also find them on the internet at <http://www.law.cornell.edu/rules/fre/overview.html>. The court does not provide copies of the Federal Rules of Evidence.

**Third**, this Court has what are known as “Local Rules” that every person must know. The **Local Rules of the District Court of Guam** are in addition to and supplement the Federal Rules of Civil Procedure; and they apply **only to this Court**. These rules include information such as when briefs are due, how many pages they can be, and various other procedures. You can obtain a copy of these rules in three different ways:

(a) If you have a computer, you can download a copy of the rules for free to your computer from this Court’s website at [http://www.gud.uscourts.gov/local\\_rules](http://www.gud.uscourts.gov/local_rules).

(b) You may also pick up a hard copy by visiting the Office of the Clerk during office hours and paying a fee of \$7.50.

(c) You may also obtain a copy by mail by sending a written request, along with a check or money order in the amount of \$7.50 and a self-addressed stamped 10”x14” envelope to:

Clerk’s Office  
District Court of Guam  
520 West Soledad Avenue, 4<sup>th</sup> Floor  
Hagåtña, Guam 96910

All pleadings must be delivered or mailed to the Clerk’s Office, U.S. District Court of Guam, 4<sup>th</sup> Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam 96910. No filings should be delivered directly to the judge’s chambers or to the judge’s staff unless directed by the Court. You should always keep a copy of any of your documents filed with the Court for your records.

Once a case has been filed, it is very important for the plaintiff to be diligent in pursuing the case; to make the case ready for trial; to complete discovery within the time required and according to procedures; to respond to all motions; to appear for all conferences and hearings; and to obey all orders of the Court. Failure to do so is grounds for dismissal.

The staff of the Clerk’s Office can help you with court procedures, but they are forbidden by federal law to provide you any legal advice. (See [28 United States Code Section 955](#)). For example, they cannot help you interpret the law or rules; recommend a course of action; decide how to litigate your lawsuit; suggest legal strategies that may help you win your lawsuit; predict a decision by a judicial officer, give you “inside information” about judges or other court personnel; or even advise you about when documents are due. If you have questions or need to know more about the law, you need to research the answers yourself. You may not call the judge or the judge’s staff to ask for legal advice on how to pursue your case or to argue your position outside of court.

## II. TERMINOLOGY

The following is a list of some legal terms and definitions.

<b>ALLEGATION</b>	A statement or claim made by the plaintiff against the defendant.
<b>ANSWER</b>	The document filed by the defendant in response to the complaint.
<b>APPEAL</b>	A request usually made after a trial or after your decision is rendered, asking another court (usually the court of appeals) to decide whether the trial was conducted properly or to challenge a court decision. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the appellant.
<b>CASE NUMBER OR DOCKET NUMBER</b>	The number assigned to your case number which includes the "CV" designation of a civil case, followed by the last two digits of the calendar year in which the case is filed, and the number of the case in the order filed during the calendar year. (Example: CV-02-00024).
<b>CLERK OF COURT</b>	An officer appointed by the Court to work with the Chief Judge in overseeing the Court's administration.
<b>COMMON LAW</b>	The legal system that originated in England and is now in use in the United States. It is based on judicial decisions rather than legislative action.
<b>COMPLAINT</b>	This is the document that a Plaintiff files to start a civil action. A complaint contains a clear statement of important information about the claim(s) of the plaintiff and identifies each defendant.
<b>COUNSEL</b>	One who has been admitted as an attorney at law to assist his/her client with advice, and pleads for him/her in open court.
<b>COUNTERCLAIM</b>	A claim that a defendant makes against a plaintiff.
<b>COURT</b>	Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."
<b>COURT REPORTER</b>	A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request.
<b>DEFAULT JUDGMENT</b>	A judgment rendered because of the defendant's failure to answer or appear.
<b>DEFENDANT</b>	The party that is being sued.
<b>DEPOSITION</b>	An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used later in trial.
<b>DISCOVERY</b>	Process by which parties exchange or acquire information about the issues in their case before trial such as depositions, interrogatories, request for document production, and requests for admission.

<b>DOCKET</b>	A log containing brief entries of court proceedings and filings.
<b>FILE</b>	To place a paper in the official custody of the clerk of court to enter into the files or records of a case.
<b>IN FORMA PAUPERIS</b>	To proceed without prepayment of costs or fees for filing and serving a complaint.
<b>INITIAL DISCLOSURES</b>	The release of relevant information that must be answered in writing as part of the discovery process.
<b>INTERROGATORIES</b>	Written questions asked by one party of an opposing party, who must answer them in writing and under oath; a discovery device in a lawsuit.
<b>JUDGMENT</b>	The official and authentic decision of a court adjudicating with finality the respective rights and claims of the parties to a lawsuit.
<b>JURISDICTION</b>	The power or legal authority of the court to hear and decide a case.
<b>LAWSUIT</b>	A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty, resulting in harm to the plaintiff.
<b>LITIGANTS</b>	Parties to a lawsuit.
<b>LODGED</b>	Documents “lodged” with the court are documents received by the Clerk of Court for safekeeping until a decision is rendered by the Judge as to whether the document shall be filed.
<b>MOTION</b>	A request made to the court for the purpose of obtaining a ruling or order directing an act to be performed in favor of the applicant or movant.
<b>ORDER</b>	A document issued by the judge that usually directs the plaintiff or the defendant to do something. An order may also be issued to grant or deny a motion.
<b>PLAINTIFF</b>	The individual who files the case.
<b>PLEADING</b>	A paper that is specifically, the complaint, answer, or cross-complaint filed with the court.
<b>PRO SE</b>	A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers. You appear Pro Se when you represent yourself in a legal action without the aid of counsel.
<b>RECORD</b>	A written account of all the acts and proceedings in a lawsuit.
<b>REQUEST FOR ADMISSIONS</b>	A discovery tool in which you submit a written statement of facts you believe are true to the opposing, and ask the other party to admit that those statements are true or to admit the application of any law to any fact.
<b>REQUEST FOR PRODUCTION</b>	A discovery tool in which in which you write out descriptions of documents you think another party has that would provide information about the issues in the lawsuit, and ask them to provide you with copies of any of their documents that satisfy your descriptions.
<b>SCHEDULING CONFERENCE</b>	A hearing at which the judge, with the help of the parties, sets the trial schedule for the case.

<b>SERVICE OF PROCESS</b>	The required notification by personal delivery, mail, or publication of pleadings (such as complaints and motions) to the person that is involved in the action or proceedings. You are responsible for making service of process on each defendant. Service of process is often called “service”.
<b>STATUTE OF LIMITATIONS</b>	A law that sets the time within which parties must take action to enforce their rights.
<b>SUBPOENA</b>	A command to a witness to appear and give testimony.
<b>SUBPOENA DUCES TECUM</b>	A command to a witness to produce documents.
<b>SUMMARY JUDGMENT</b>	A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the material facts of the case, and one party is entitled to judgment as a matter of law.
<b>SUMMONS</b>	A formal command made by the court that informs the defendant that an action has been filed against him/her and an answer is required.
<b>TEMPORARY RESTRAINING ORDER</b>	An order that prohibits a person from an action that is likely to cause irreparable harm. This differs from an injunction in that it may be granted immediately, without notice to the opposing party, and without a hearing. It is intended to last only until a hearing can be held.
<b>TESTIMONY</b>	Evidence presented orally by witnesses during trials or hearings.
<b>TRANSCRIPT</b>	A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral deposition.
<b>VENUE</b>	The geographical location in which a case is tried.
<b>VOIR DIRE</b>	"Voir dire" is a phrase meaning "to speak the truth." The process by which judges and lawyers select a petit jury from among those eligible to serve, by questioning them to determine knowledge of the facts of the case and a willingness to decide the case fairly and impartially.
<b>WAIVER OF SERVICE OF SUMMONS</b>	“Notice of Lawsuit and Request for Waiver of Service of Summons,” can be mailed by First-Class Mail to each defendant by the plaintiff to request the defendant to save costs by not requiring service of process.
<b>WITNESS</b>	A person called upon by either side in a lawsuit to give testimony before the court or jury.
<b>WRIT</b>	A formal written command, issued from the court, requiring the performance of a specific act.

### **III. BEFORE FILING YOUR CASE**

#### **A. Are you in the Right Court?**

Before you file a case, you should ensure that you are filing your case in the right court. This can be especially important if you are working with a deadline for certain statutes of limitations. Filing in the wrong court might affect whether you meet those deadlines or not.

Guam's judicial authority is vested the District Court of Guam (this Court) and a local court system known as the judicial branch of Guam, as follows:

1. The judicial branch of Guam consists of a trial level court (the Superior Court of Guam) and a local appellate court (Supreme Court of Guam). Although the local court must enforce the federal constitution and laws, most of the cases it decides involve the laws of Guam, such as divorce and family disputes, probate cases, local traffic cases and landlord-tenant matters. You can learn more about the judicial branch of Guam at <http://www.guamcourts.org>
2. The District Court of Guam (this Court) is a trial level federal court with the same jurisdiction as a district court and bankruptcy court of the United States. This Court's jurisdiction is **limited** to certain types of cases and generally only hears the following:
  - Cases in which the United States is a party;
  - Cases involving a violation of the U.S. constitution or federal laws (called federal question jurisdiction);
  - Cases between citizens of different states or citizens of different countries and where the amount in controversy exceeds \$75,000 (called diversity jurisdiction); and
  - Bankruptcy, tax, copyright, patent, and maritime law cases

Here are some questions that you should ask to ensure you are in the right place:

Is your case about divorce, child custody, adoption, a will, a name change, a broken contract, or a landlord-tenant dispute? If your answer is "Yes," you may be in the wrong court. The Superior Court of Guam generally adjudicates these types of cases.

Is your case about the U.S. constitution or a federal law, the denial of Social Security or other federal benefits, a decision of a federal agency, or bankruptcy, tax, copyright or maritime issues? If your answer is "Yes," you are probably in the right court.

Are you suing a citizen of a different state or country for more than \$75,000? If your answer is "Yes," you are probably in the right court.

If in doubt, contact an attorney for legal advice about your specific situation. The clerk's office cannot make this determination for you.

#### **IV. FILING YOUR CASE: INITIAL PLEADINGS**

To begin a lawsuit, you must file a complaint, which is a written explanation of your claim with the court. The party who starts a civil lawsuit by filing a complaint is called the plaintiff. The party being sued is the defendant. Both are called litigants, which means parties to a lawsuit. A complaint gives formal notice of your lawsuit to the defendant and the Court.

The Administrative Office of the United States Courts has adopted a number of form complaints that may be of assistance to you. These form complaints can be downloaded at: <http://www.uscourts.gov/services-forms/forms?c=841>.<sup>1</sup>

The forms do not cover every type of case and are limited to types of cases often filed in the federal courts. No form provides legal advice and is not a substitute for having or consulting a lawyer. Following a form does not guarantee that any pleading is legally or factually correct or sufficient. Be careful to use the form that fits your case and the type of pleading you want to file. Be careful to change the information the form asks for to fit the facts and circumstances of your case.

If you wish to demand a jury trial, you may file it as a separate document or request it in the Complaint. If you request it in the Complaint, the title of the Complaint must also state “. . . And Jury Demand.”

When filing a complaint you must submit:

1. The original signed complaint and copies for the following:

- one copy for each named defendant;
- one copy for the Court; and
- one copy that will be returned to you.

2. An original and copies of the Summons for the following:

- one copy for each named defendant;
- one copy for the Court; and
- one copy that will be returned to you.

Note: The original summons must be submitted to the Court upon completion of service. A Summons form can be downloaded at:

[http://www.gud.uscourts.gov/sites/default/files/forms/AO\\_440.pdf](http://www.gud.uscourts.gov/sites/default/files/forms/AO_440.pdf).

3. An original and copies of the Notice of Lawsuit and Request to Waive Service of a Summons and copies for the following:

- one copy for each named defendant;
- one copy for the Court; and
- one copy that will be returned to you.

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<sup>1</sup> The court has adopted separate forms for tax matters which can be downloaded here: <http://www.gud.uscourts.gov/local-rules-tax-practice-forms>. There are also Rules of Practice that must be followed in tax cases which can be viewed here: [http://www.gud.uscourts.gov/local\\_rules](http://www.gud.uscourts.gov/local_rules).

A form Notice of Lawsuit can be downloaded at:  
<http://www.uscourts.gov/sites/default/files/ao398.pdf>

4. An original and copies of the Waiver of Service form for:
  - two copies for each named defendant;
  - one copy for the Court; and
  - one copy that will be returned to you.

A form Waiver of Service can be downloaded at: Waiver of Service Form:  
<http://www.uscourts.gov/sites/default/files/ao399.pdf>

5. The current filing fee. Fees are due at the time of filing. If no filing fee is received with the filing of a complaint and summons, the complaint will not be filed and the summons will not be issued until the fee requirement is met. The Court's fee schedule can be viewed on the court's website: [http://www.gud.uscourts.gov/fee\\_schedule](http://www.gud.uscourts.gov/fee_schedule). This payment may be made by cash, check, or money order and must be made payable to "Clerk, District Court of Guam" or "Clerk, U.S. District Court." **(Please do not mail cash payments.)**

If you are unable to pay the current filing fee, the court may allow the case to be filed without paying this fee in advance. Cases of this type are called in forma pauperis (IFP) cases. An original and two copies of an IFP application with supporting information regarding your financial status, and an original and two copies of a proposed order granting leave to proceed IFP for the Judge's signature must be submitted. The IFP application and proposed order are available for download at: [http://www.uscourts.gov/sites/default/files/ao240\\_0.pdf](http://www.uscourts.gov/sites/default/files/ao240_0.pdf) and <http://www.uscourts.gov/sites/default/files/ao240a.pdf>.

The IFP application must be filed at the same time as the complaint, summons, notice of lawsuit and waiver of service. **Note:** The granting of an IFP application only means that you do not need to pay the filing fee and service fees. Payment of copy fees or search fees are required at the time the request is made.

If the court grants the IFP application, the Clerk will issue the summons and forward the documents to the U.S. Marshals Office for service pursuant to the FRCP. If the IFP application is denied, you will be required to pay the current filing fee, otherwise, the case will be dismissed. The summons will not be issued until the filing fee is paid. You will also be responsible for serving the complaint, summons, notice of lawsuit and waiver of service on each defendant. See Section V.

Pro se litigants may ask the Court to appoint an attorney for them in a civil case. Appointment is discretionary and Pro se litigants have no guaranteed right to be represented by court-appointed counsel, and the Court has no funds to pay appointed counsel.

If you would like to request that the Court appoint counsel to represent you in your lawsuit, you must file a Motion for Appointment of Counsel in addition to the above documents.

**V. SERVICE OF THE SUMMONS AND COMPLAINT.**

Federal Rule of Civil Procedure 4 explains about service of the summons and complaint on the defendant(s). There are various ways to serve a defendant. The requirements vary and depend on factors such as whether the defendant is an individual, the United States and its agencies, a corporation, or some other legal entity and where the Defendants can be found. Read [FRCP 4](#) carefully.

Service may be made by anyone who is at least 18 years old and not a plaintiff or defendant in the case. There are private process servers who will serve the Defendants for a fee. The person who does the serving must file with the court a proof of service. If service is not made within 90 days from the date the Complaint is filed, the case may be dismissed. See [FRCP 4](#).

## **VI. SERVICE OF OTHER DOCUMENTS.**

Once you serve the summons and complaint it usually becomes easier to serve other documents. When you file a document with the Court, you must always serve a copy on each of the parties and indicate at the end of the document, or by a separate certificate of service, that you have done so. If the party you have served has a lawyer, then you must serve that party by serving their lawyer. See [FRCP 5](#) and/or the Local Rules of Practice for more guidance on service of other documents.

Sign all documents you file with the Court. Place the words “Pro Se” after your name.

## **VII. WHAT'S NEXT AFTER THE COMPLAINT IS SERVED?**

### **A. Actions by Defendant.**

Once a defendant has been served, the defendant may (1) file an answer, (2) file one of the motions specified by [Rule 12](#) of the Federal Rules of Civil Procedure; or (3) do nothing. If there is more than one defendant, a combination of these actions may occur.

If the defendant files an answer, he or she can also file a counterclaim, which is a complaint against the plaintiff. If the defendant files a counterclaim, the plaintiff must file an answer to the counterclaim within the time set forth by Rule 12(a)(1)(B) of the Federal Rules of Civil Procedure.

If the defendant chooses to file a Rule 12 motion, he or she does not need to file an answer to the complaint until after the court decides the motion. The plaintiff must file a response (also known as an opposition) to a defendant's Rule 12 motion within the time frame provided by Civil Local Rule (CVLR) 7 ([http://www.gud.uscourts.gov/sites/default/files/documents/civil-rules\\_effective-20150215\\_1.pdf](http://www.gud.uscourts.gov/sites/default/files/documents/civil-rules_effective-20150215_1.pdf)). The defendant will also have an opportunity to file a reply to the plaintiff's opposition. No other oppositions or replies can be filed without permission of the court. See CVLR 7(h). All motions shall be decided by the court without oral argument. If either litigant desires oral argument, you must follow the procedures set forth in CVLR 7(i).

If the defendant does not file an answer in the permitted time, the plaintiff can file a request with the Clerk of Court for entry of default. The request must include proof that the defendant has been served with the summons and complaint and has not yet filed a written response to the complaint. The Clerk must enter a defendant's default if he or she finds, after satisfactory proof of service, that the defendant has failed to plead or otherwise defend. The same applies to counterclaims. See [FRCP Rule 55\(a\)](#).

Once the Clerk has entered default, the plaintiff can file a motion for the entry of default judgment against the defendant. See [FRCP Rule 55\(b\)](#). If the court grants the motion for default judgment, the plaintiff has won the case.

### **B. The Scheduling Conference.**

Approximately forty (40) days after the filing of the complaint, the Clerk of Court will issue a scheduling notice which sets forth the deadline by which the parties must meet and confer to discuss submission of the Scheduling and Planning Conference Report and setting a hearing date for the Scheduling Conference. The requirements for a meet and confer between the parties is explained in detail by [FRCP 26\(f\)](#) and [CVLR 26\(f\)\(1\)](#). If a defendant has not yet been served with the summons and complaint by the due date of the Scheduling and Planning Conference Report, the plaintiff shall file an independent status report containing the current status of the non-appearing parties. In addition, if service has not been effected, the status report must set forth the reasons why service has not been effected and what attempts at service have been made. See [CVLR 26\(f\)\(3\)](#). At the Scheduling Conference, the judge will discuss the Scheduling and Planning Conference Report with the parties and may also discuss other issues in the case. All parties must attend the Scheduling Conference. At the conclusion of the Scheduling Conference, the judge will issue a Scheduling and Planning Order which sets deadlines for completing or filing certain documents in the case. It may include deadlines for completing discovery, filing motions, or making disclosures to the opposing party.

The Scheduling and Planning Order will also set pretrial conferences and the trial date. The parties are responsible for adhering to all the requirements of the Scheduling and Planning Order.

### **C. Disclosures.**

Before the parties begin discovery, they are required to hand over to each other certain types of information. This is called an “initial disclosure.” [Federal Rule of Civil Procedure 26\(a\)](#) lists three types of disclosures which you must provide to the other parties at different times during the course of the lawsuit: initial disclosures, expert disclosures, and pretrial disclosures. Initial disclosures, covered in detail in FRCP 26(a)(1), are required in all civil cases except those listed in FRCP 26(a)(1)(B), such as: actions for review of administrative agency action (like social security appeals), petitions for habeas corpus, actions brought by pro se prisoners and actions to enforce arbitration awards. In all other types of cases, you will have to serve initial disclosures on the other parties early in the case. Even though you may not yet have fully investigated the case, you are required to make initial disclosures based on the best information available to you.

### **D. Discovery.**

“Discovery” is the process of obtaining relevant information from the opposing party or from nonparty witnesses before trial. Discovery is allowable in most civil cases. The process of discovery is governed by [FRCP 26 through 37](#), as well as the Local Rules of Practice and any orders issued by the court. The Scheduling and Planning Order will contain a deadline for the completion of discovery.

There are five main types of discovery. Each main type is discussed below:

#### **1. 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. Rules 30 and 31 of the Federal Rules of Civil Procedure explain the procedures for taking a deposition. The person taking the deposition must pay the costs associated with it. If the person who will answer the questions is not a party to the lawsuit, [FRCP 45](#) explains how they can be made to appear for questioning.

#### **2. Interrogatories.**

“Interrogatories” are written questions served on another party to the lawsuit. These questions, unless subject to objections, must be answered under oath. Rule 33 of the Federal Rules of Civil Procedure and the Civil Local Rule states the rules for serving interrogatories.

#### **3. Requests for Production of Documents.**

In a “request for production of documents,” one person asks the other person to turn over documents about the issues in the lawsuit. The person asking for the documents must describe them in enough detail that the other person knows which documents are being requested. [Rules 34\(a\) and \(b\)](#) of the Federal Rules of Civil Procedure explain how to request documents from the other side in the lawsuit. If the person that you want documents from is not a party to the lawsuit, FRCP Rules 34(c) and [45](#) explain how to request their documents.

#### **4. Requests for Admission.**

In a “request for admission,” one side writes out statements that it wants the other side to admit are true. Rule 36 of the Federal Rules of Civil Procedure and Civil Local Rules establish the requirements for requests for admission.

#### **5. Physical or Mental Examination.**

When the mental or physical condition of a party is at issue in a lawsuit, FRCP Rule 35 allows the Court to order that person to submit to a physical or mental examination. The examination must be done by someone qualified, like a physician or psychiatrist. The party who requested the examination must pay for it.

Pursuant to [FRCP 5](#) and CVLR 5, requests for discovery, discovery responses, initial disclosures, expert reports or testimony, notices of taking depositions, subpoenas, privilege logs and certificates of service related to discovery documents **should generally not be filed with the court**, however, discovery related documents may be filed if necessary for the court to resolve a discovery dispute or a pretrial motion.

### **E. Motion Practice.**

#### **1. In General.**

A motion is an application or request made to the Court for the purpose of obtain a ruling or order directing an act to be performed in favor of the applicant or movant. Be aware of the civil local rules regarding motion practice (CVLR 56 for summary judgment motions and CVLR 7 for other motions). All motions, except those made during a hearing or trial, must be in writing and must comply with the Civil Local Rules or the court may “strike” or disregard them. Motions are used to seek various types of relief while a lawsuit is pending, such as a motion to amend pleadings or a motion to compel discovery. A note of caution: motions should only be filed when necessary; multiple or frivolous motions can result in penalties by the court. Opposition and reply deadlines to motions are automatically set by CVLR 7, unless otherwise ordered by the court. Review the Scheduling and Planning Order for any deadlines imposed by the court for filing motions.

#### **2. Motions for Summary Judgment.**

A motion for summary judgment asks the court to decide a lawsuit without going to trial because there is no dispute about the key facts of the case. A motion for summary judgment can address the whole lawsuit or it can address one or more individual claims. A case must go to trial because parties do not agree about the facts. When the parties agree upon the facts or if one party does not have any evidence to support its version of what actually happened, the court can decide the issue based on the papers that are filed by the parties. If the summary judgment motion addresses the whole lawsuit, and the court grants summary judgment, the lawsuit is over.

The procedure for filing and defending a motion for summary judgment are set out in [FRCP 56](#) and CVLR 56.

## **VIII. TRIAL**

If your case is not dismissed during pretrial proceedings, then your case will go to trial on the date set forth in the Scheduling and Planning Order. Pretrial disclosures such as expert disclosures, witness and exhibit lists and trial briefs must be filed prior to the trial and within the timelines set forth in the Scheduling and Planning Order.

At the final pretrial conference generally scheduled a week before trial, the judge and the parties will go over the procedure for the trial and resolve any final issues that have arisen before trial.

In addition to submitting documents, you may also need to arrange for all of your witnesses to be present at trial. If a witness does not want to come to trial, you can serve that witness with a trial subpoena. A trial subpoena is a court document which requires a person to come to Court and give testimony on a particular date. Generally, the same rules that apply to subpoenas for deposition witnesses also apply to trial subpoenas.

If your case is scheduled for a jury trial, the judge will decide the legal issues that are applicable to your case, such as the jury instructions that will inform the jury of the elements of your claims and the burden of proof you must meet. The jury will decide the factual issues based on the evidence presented at trial and the law provided in the jury instructions. At a bench trial, the judge decides both the legal and the factual issues.

## IX. HOW DO I APPEAL MY CASE?

A party dissatisfied with the outcome of a trial in the District Court of Guam may file a motion for new trial or a motion to alter or amend a judgment (see [FRCP 59](#)) or file an appeal to the U.S. Court of Appeals for the Ninth Circuit. The Federal Rules of Appellate Procedure explain when an order is appealable, and you must familiarize yourself with these rules before filing a notice of appeal. Filing a notice of appeal prematurely will delay final resolution of your case and may add unnecessary expense to your case.

To initiate an appeal, file a Notice of Appeal with the Clerk of the District Court of Guam. [Rule 3\(c\) of the Federal Rules of Appellate Procedure](#) identifies what information must be included in your notice of appeal and [Rule 4\(a\)](#) governs the time within which a notice of appeal must be filed. The Clerk's Office has the responsibility to notify the appeals court and all parties that a notice of appeal has been filed. See the [Federal Rules of Appellate Procedure](#). The current appellate filing fee must also accompany the Notice of Appeal. If you cannot afford to pay the filing fee, you may file a motion for leave to proceed *in forma pauperis* on appeal.

We will accept a Notice of Appeal without prepayment of any required fee, but a fee may later be ordered, or your appeal dismissed for failure to pay the required appellate filing fee. The current fee amount may be found on the court's website: [http://www.gud.uscourts.gov/fee\\_schedule](http://www.gud.uscourts.gov/fee_schedule). If you pay the fee to this office by check, make it payable to "Clerk, U.S. District Court, or "Clerk, District Court of Guam." **If you file an appeal to the Ninth Circuit Court of Appeals, you will be required to complete the [Transcript Order Form for Appeal](#), even if a trial or hearing was not held.**

**X. GENERAL INFORMATION.**

**A. Format of Documents.**

All pleadings and papers must be presented in accordance with the requirements set forth in General Local Rule 5.1 (<http://www.gud.uscourts.gov/general-rules-practice>).

Every document you file must begin with a caption page. Your name, address and telephone number and an email address, if any, must be placed in the upper left hand corner of the first page of all pleadings. The caption should also include the name of this court, the name of the case, the case number and a title describing the document. [Rule 11](#) of the Federal Rules of Civil Procedure requires that you sign each document you file with the court. Place the words “Pro Se” after your name.

A sample caption is as follows:

**SAMPLE CAPTION**

Your Name  
Your Address  
Your Telephone Number  
Your Email address, if any

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

Your Name,	)	CIVIL CASE NUMBER XX-XXXXX
	)	(The case number is assigned at the time of filing the
Plaintiff,	)	complaint)
	)	
vs.	)	
	)	[TITLE OF YOUR DOCUMENT]
<u>Name of the Defendant(s),</u>	)	

Dated: (YOUR SIGNATURE IN INK)  
Your name typed or printed

If you change your address or telephone number, it is your responsibility to notify the Court in writing so that you will receive copies of orders and other papers mailed to you.

**B. Copies of Documents.**

The Court requires the filing of an original and one copy. If you want to receive a filed stamped copy, you must provide an additional copy of the document. In addition, you must have a copy for each defendant.

A self-addressed, stamped envelope is required if you file your document by mail and want to receive a filed stamped copy.