Superior Court of the District of Columbia
Civil Division

HANDBOOK FOR PEOPLE WHO REPRESENT THEMSELVES IN CIVIL CASES

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Judge Melvin R. Wright
Presiding Judge, Civil Division

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GENERAL QUESTIONS

WHY SHOULD I READ THIS HANDBOOK?

This handbook provides basic information about what happens in civil cases in the DC Superior Court. It explains some of your basic rights and responsibilities if you represent yourself in a civil case – either as a plaintiff or as a defendant.

For additional information, please go to the Civil Division's webpage: www.dccourts.gov/internet/superior/org_civil/main.jsf. The Civil Actions Branch live chat feature is available at www.dccourts.gov/internet/public/aud_civil/civilchat.jsf, Monday through Friday from 8:30 a.m. – 4:30 p.m.

DO I NEED A LAWYER TO REPRESENT ME?

An individual does not have to have a lawyer, but a corporation has to have a lawyer represent it in court. Almost everyone is better off with a lawyer. A lawyer can advise you about what your rights are and how the court system works. A lawyer can help you understand the court's rules and procedures, which are often hard for a non-lawyer to understand and follow.

If you cannot afford to hire a lawyer, you may be able to find one willing to represent you for free in the list at the end of this booklet or if you visit the DC Bar's website, www.lawhelp.org/dc.

CAN THE COURT APPOINT A LAWYER TO REPRESENT ME?

No. The court cannot appoint lawyers to represent people who cannot afford a lawyer in civil cases. Although the court can provide information about finding a lawyer, it is up to you to find a lawyer willing to represent you.

WHAT ARE MY RESPONSIBILITIES IF I REPRESENT MYSELF?

In general, the same rules apply to parties who do not have lawyers as to parties who do have lawyers. The court expects self-represented parties to make themselves familiar with the court's rules, and self-represented parties must comply with the rules of this court.

Self-represented plaintiffs who do not comply with the court's rules and procedures may have their case dismissed or suffer other negative consequences. Self-represented defendants who do not comply with the court's rules and procedures may have a judgment entered against them or suffer other negative consequences.

Judges cannot give self-represented litigants an unfair advantage, and they cannot favor one side or the other. However, judges may make reasonable accommodations to help litigants who are not represented by counsel to understand how the court works and what the rules are. For example, a judge may provide brief information about the proceeding and about rules of evidence, or a judge may explain the basis of his or her ruling without using legal jargon.

WHAT ARE THE DC SUPERIOR COURT RULES OF CIVIL PROCEDURE?

The Rules of Civil Procedure are a detailed set of rules governing civil cases from start to finish. This handbook only summarizes some parts of the Civil Rules that are most important or that come up more frequently.

A copy of the DC Superior Court's Rules of Civil Procedure is available online at: www.dccourts.gov/civilrules.

HOW SHOULD I BEHAVE IN COURT?

In order to make a good impression when you are in front of a judge or jury, follow these simple rules:

- Arrive on time
- Act respectfully to the judge and the other party
- Wait your turn to speak
- Speak to the judge
- Do not argue with the other party in front of the judge
- Don't interrupt the judge or another party when they are speaking – you will get your chance
- Listen to the judge's questions and do your best to answer them
- Turn off your cell phone
- Don't eat, drink, or chew gum in the courtroom

Try to make arrangements so you don't have to bring your children into the courtroom. The court has a child care center in Room C-185 on the lower level of the Moultrie Courthouse for children aged 2 to 12. You may call (202) 879-1684.

WHAT SHOULD I WEAR TO COURT?

There is no formal dress code for court appearances, but you want the judge and jury to see that you take the case seriously and that you respect them. Wear clothes that you would wear to an important occasion – like a job interview.

GETTING ANSWERS

WHERE CAN I GO TO GET MORE INFORMATION ABOUT HOW TO HANDLE MY CASE?

The Consumer Law Resource Center provides information about debt collection, home improvement, security deposit, used car or car repair, and other consumer-related disputes on Wednesday and Thursday mornings from 9:15 until noon. This Center is located in Room 102 in Court Building B, 510 4th Street, N.W. You can also get information about debt collection cases on Friday mornings next door to the Civil Actions Branch Clerk's Office on the fifth floor of the Moultrie Courthouse.

Public libraries have some information about the law. They can also provide access to the Internet, where you can find more information.

CAN I CALL OR WRITE THE JUDGE IF I DON'T KNOW WHAT TO DO?

No. Court rules prohibit anyone, lawyers and non-lawyers, from calling or writing a judge or the judge's staff for assistance or guidance. Court rules also prohibit court employees from giving legal advice to anyone. That rule applies to employees in the Civil Actions Branch Clerk's Office and to the staff of individual judges. It also applies to people who work at the information booth on the first floor of the courthouse.

If you want the judge to do something, you must file a written motion and provide a copy to the other side. The procedures for filing a motion are explained later in this handbook.

The rules also strictly prohibit judges and their staff from discussing a case with only one side – communications that are sometimes called *ex parte* communications.

HOW DO I GET INFORMATION ABOUT WHAT IS HAPPENING IN MY CASE?

You can get information online about what documents and orders have been filed in individual cases. Visit court cases online at: www.dccourts.gov/CCO.

You can also come to the Civil Actions Branch Clerk's Office in Room 5000 at 500 Indiana Avenue, N.W.

FILING DOCUMENTS

HOW DO I FILE DOCUMENTS?

"Filing" means that you bring two documents to the Civil Actions Branch Clerk's Office: (1) the original document; and (2) a copy marked "Chambers Copy." The Civil Actions Branch Clerk's Office is located in Room 5000, Moultrie Courthouse at 500 Indiana Avenue, N.W.

Although lawyers are required to file and serve documents electronically, self-represented litigants are not. However, the court encourages self-represented litigants to file electronically if they can. See instructions for efiling services through File&ServeXpress at www.dccourts.gov/efiling.

WHEN CAN I FILE DOCUMENTS AT THE CLERK'S OFFICE?

You can file documents in Room 5000, Moultrie Courthouse, Monday through Friday from 8:30 a.m. to 5:00 p.m., from 9:00 a.m. to 12 noon on Saturdays.

In addition, you can file them at any time in the deposit box provided for civil filings on the first floor in the lobby of the Moultrie Courthouse. It is advisable to check the following business day to determine if your documents have arrived in the Civil Actions Branch Clerk's Office by calling (202) 879-1133 or (202) 879-1134.

WHAT CAN I DO IF I CANNOT AFFORD THE FEES TO FILE DOCUMENTS?

The court will allow you to file a complaint, motions, and other documents without paying the fees if you show that you cannot pay the fees without substantial hardship to

you or your family. To get a waiver of these fees, you must submit an affidavit or declaration such as that in Civil Actions Form 106A. See Civil Rule 54-II. You may qualify for a waiver even if you are at or above the federal poverty guideline. If you show that you receive Temporary Assistance for Needy Families (TANF), General Assistance for Children (GAC), Program on Work, Employment and Responsibility (POWER), or Supplemental Security Income (SSI), you can get a waiver without providing additional information. Otherwise, you may have to provide information about your income and your assets and expenses.

If you want to file a complaint without paying the filing fee, report to the Civil Actions Branch to complete the form. The form is sent to the Judge in Chambers for a decision. If you want a waiver of fees after you have filed, you have to get the waiver from the judge assigned to your case

STARTING A CASE

HOW DO I SUE SOMEONE?

You have to prepare a document called a complaint and file it with the court. The person who files the case is called the "plaintiff." The person who the plaintiff sues is called the "defendant."

In the complaint, you have to explain what you think the person you are suing did wrong, and what you want the court to do about it. The complaint must contain a short and plain statement of the claim showing that you are entitled to money or some action by the defendant. You do not have to include detailed factual information, but it is not enough for you to say only that the defendant unlawfully harmed you.

If you want more than $5,000 from the defendant, you must file your complaint in Room 5000 of the Moultrie Courthouse. That is also where you file cases seeking equitable relief, meaning that you want the court to order someone to do something (other than pay money) or not to do something.

WHEN SHOULD I SUE IN THE SMALL CLAIMS BRANCH?

If your claim is for $5,000 or less and you are not asking for anything from the defendant except money, you must file your case in the Small Claims and Conciliation Branch, located at 510 4th Street, N.W., Court Building B, Room 120. There are different rules and procedures for small claims cases.

There is a handbook for small claims cases, which is available online: www.dccourts.gov/internet/documents/SmallClaimsHandbook.pdf. If you want additional information about filing fees or other matters in Small Claims, you may call (202) 879-1120 or see Civil Rule 202.

WHAT IS THE LANDLORD AND TENANT BRANCH?

The Landlord and Tenant Branch generally handles cases in which landlords are trying to evict tenants. Simplified rules apply in these cases, which are put on a faster track than other civil cases. If you want more information, you can go to the Landlord and Tenant Clerk's Office in Room 110 in Court Building B at 510 Fourth Street, N.W. –

or to the Landlord and Tenant Resource Center in Room 115 between 9 a.m. and noon, Monday through Friday.

WHAT DO I HAVE TO DO TO FILE A COMPLAINT?

You must file four documents and pay the filing fee, unless you get permission not to pay the fee because you cannot afford to do so.

The four documents you have to file are:

(1) an original complaint that includes your name and address and the name and address of each defendant;

(2) one copy of the original complaint for each defendant;

(3) a summons form for each named defendant in the complaint; and

(4) a Civil Case Information Sheet.

The complaint and subsequent papers must be on white paper, size 8-1/2" x 11."

Here is an example of what the top of the first page should look like:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

[Name and address of plaintiff(s)],	:
Plaintiff(s),	:
	:
v.	:
	:
[Name and address of defendant(s)],	:
Defendant(s).	:

COMPLAINT

If you do not have a lawyer, you must sign the complaint and include your address and telephone number. Your signature indicates that to the best of your knowledge, everything in the complaint is true and you are not filing your complaint to harass the other party. If a judge finds that you violated this oath, the judge may impose monetary or other penalties. See Civil Rule 11.

WHAT HAPPENS IF I NEED TO FIX SOMETHING IN MY COMPLAINT?

If you realize that you need to include additional information in your complaint, you have the right to change it once without getting permission from the judge, as long as you do it before the defendant serves you with his answer or motion to dismiss. Otherwise, you need to file a motion asking the judge to allow you to amend your complaint. See Civil Rule 15.

WHAT DO I DO TO GET A JURY TRIAL?

You will not get a jury trial unless you ask for it. If you are the plaintiff, you should include a demand for a jury trial in your complaint. Other parties must file a jury demand not later than 10 days after the service of the last document filed directed to the issue that the party wants a jury to decide. See Civil Rule 38.

WHAT IS A SUMMONS?

A summons is the paper that gives formal notice to each defendant telling him or her to appear in court to answer the complaint. The summons tells the defendant that he or she must submit a written answer to the complaint within a specified time.

When you file a complaint, you must complete a summons for each defendant in the case. The Civil Actions Branch Clerk's Office provides a blank summons to the filing party. You must complete the summons, including the name and address of each defendant. In addition, you must print your name, address and telephone number in the lower left corner of the summons.

WHAT IS THE CASE INFORMATION FORM?

The clerk at the window provides a Case Information Form for the filing party to complete and file with the complaint. The Case Information Form lists the different categories of civil cases – for example, breach of contract, personal injury. You should check the category that describes the type of case you are filing.

WHAT IS THE CASE NUMBER?

When the clerk accepts a complaint for filing, the clerk assigns a Civil Action Number to the new case and stamps that number on the complaint and the summons.

You need to have the case number for any future filings in the case or if you want to get information about the case.

HOW DOES MY CASE GET ASSIGNED TO A PARTICULAR JUDGE?

New cases are randomly assigned to one of the judges who handle civil cases. The judge to whom the case is assigned generally handles the case from beginning to end. Sometimes judges move to different assignments on January 1, and if the judge to whom your case is assigned does so, a different judge will take over responsibility for your case.

WHAT IS AN INITIAL ORDER?

Once your case has been assigned to a judge, the Civil Actions Branch Clerk's Office prepares an Initial Order that it attaches to the original complaint and summons while the filing party waits at the window.

The Initial Order is a form generated by the computer that includes the following information:

- when you must file proof that you served each defendant
- when the defendant must file an answer to the complaint
- the name of the judge to whom the case is assigned
- the number and location of the courtroom of the judge to whom the case is assigned
- the time and date of the initial scheduling conference

You must serve the initial order on each defendant along with the complaint and summons.

HOW MUCH DOES IT COST TO FILE A NEW CASE?

It costs $120.00 to file a complaint, unless you get permission not to pay the fee because you cannot afford it (see page 3 of this handbook). You have to pay this $120.00 filing fee before the clerk gives you the copy of the complaint, summons and Initial Order to serve on each defendant.

Filing fees can be paid by cash, credit card (American Express, Discover, Visa or MasterCard), certified check, or by personal check, or money order made payable to: "Clerk, D.C. Superior Court." A personal check is only accepted for cases filed in the Civil Actions Branch and must be presented in person with proper ID.

SERVING THE COMPLAINT

HOW DO I SERVE THE COMPLAINT ON THE DEFENDANT?

Serving the complaint, summons and Initial Order means that you provide a copy of these document to each defendant.

You can serve a defendant in any of three ways: by hiring a process server, do so by certified or registered mail, or by first-class mail.

The first way to serve a defendant is by using a process server. A process server is a person who is 18 years of age or older and who is not a party to the case. You do not have to hire a company to serve the papers, but if you do, you are required to pay the costs. See Civil Rule 4(c)(2). The process server must give the complaint directly to the defendant, to an adult residing at the defendant's home or usual place of abode, or to an agent authorized by appointment or law to receive service of process. See Civil Rule 4(e)(2). If you use a process server to serve the defendant, you must file an affidavit by the process server with information about the process server and when and how the process server served the defendant.

You may also serve a defendant by mailing a copy of the complaint, summons and Initial Order by certified or registered mail, return receipt requested. See Civil Rule 4(c)(3).

The third way to serve a defendant is by mailing a copy of the complaint, summons and Initial Order by first-class mail, postage prepaid, to the defendant. The filing party must also include two copies of a Notice and Acknowledgment Form 1-A,

available in the Civil Actions Branch Clerk's Office (Room 5000), Moultrie Courthouse, and a return envelope, postage prepaid, addressed to the sender. See Civil Rule 4(c)(4). The filing party is responsible for filing the Acknowledgment Form, which must contain the defendant's signature acknowledging receipt.

If you get a waiver because you cannot afford to pay court fees without substantial hardship, the court takes responsibility for serving the summons and complaint on the defendant. See page 3 of this handbook.

ARE THERE SPECIAL RULES FOR SERVING CERTAIN TYPES OF DEFENDANTS?

Yes. There are special rules for serving defendants who are not people but organizations.

Corporations and Associations. To serve a corporation or association, you must mail a copy of the complaint, summons and Initial Order to a person authorized to accept service for that corporation or association. An authorized person means an officer, managing agent, general agent, or any other agent of the corporation or association authorized by appointment or law to receive service of process. See Civil Rule 4(h)(1). To find out who is designated as the authorized agent for service for a corporation, you can call or visit the DC Department of Consumer and Regulatory Affairs, Corporations Division. The telephone number is (202) 442-4430, and the address is 941 North Capitol Street, N.E., first floor, Washington, DC 20001.

Partnerships and Unincorporated Associations. If you sue a partnership or other unincorporated association, you generally have to serve the people who are partners or who make up the association. Those people must be sued and served like any other natural person. See Civil Rule 4(h)(1).

The District of Columbia and its officers or agencies. You can serve the District of Columbia and its officers or agencies by either delivering (by special process server) or mailing (certified or registered mail, return receipt requested) a copy of the complaint, summons and Initial Order to the Mayor of the District of Columbia (or designee) and to the Attorney General for the District of Columbia. See Civil Rule 4(j).

To determine the person designated by the Mayor for service of process, you should call (202)727-7306. For the Office of the Attorney General for the District of Columbia, you should call (202)727-6295. The address for the Office of the Attorney General for the District of Columbia is 441 4th Street, N.W., 6th floor south, Washington, DC 20001.

The United States and its officers or agencies. The most common and easiest way to serve the United States and its officers or agencies is by sending a copy of the complaint, summons and Initial Order by registered or certified mail to (1) the civil process clerk at the Office of the United States Attorney, Moultrie Courthouse and (2) the Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530. Other methods of serving the United States and its officer and agencies are explained in Civil Rule 4(i)(A) and (B).

WHAT DO I DO IF I NEED MORE TIME TO SERVE THE COMPLAINT?

You can file a motion for an extension of time for service. However, you must file the motion **before** the end of the time period allowed for service.

WHAT SHOULD I DO AFTER I SERVE THE DEFENDANTS?

You have to file proof of service. Proof of service consists of an affidavit or declaration that provides information about how service was made. Civil Rule 4(m) describes the information you must provide. You must file proof of service with the court within 60 days after you file your complaint. If you do not file the affidavit of service within the allowed time, the clerk will dismiss the complaint.

WHAT HAPPENS IF I DO NOT SERVE THE DEFENDANT?

If you do not serve the defendant within the allowed time, or if you do not file proof that you served the defendant, your case will be dismissed. See Civil Rule 4(m) and Civil Rule 40-III(b).

If your case is dismissed for that reason, you can file a motion for reinstatement of the case. You generally must file the motion within 14 days after the dismissal, and you must pay a $20.00 fee for filing a motion. See Civil Rule 41(b).

ANSWERING THE COMPLAINT

WHAT DOES THE DEFENDANT HAVE TO DO AFTER BEING SERVED?

The defendant usually has 20 days after being served with the complaint, summons and Initial Order to file an answer or a motion to dismiss the complaint. See Civil Rule 12(a)(1). If the defendant is the District of Columbia, it has 60 days to answer the complaint. The 20-day or 60-day period begins on the day the defendant is served with the summons. If the defendant does not specifically deny an allegation made in the complaint, the judge will treat that as an admission of the allegation. See Civil Rule 8(d).

The defendant must file his answer or motion to dismiss with the court and provide a copy to the plaintiff. Motions to dismiss are discussed on page 15 of this handbook. If a defendant files a motion to dismiss, he or she does not have to file an answer unless the court denies the motion. If the court denies the motion, the defendant then has 10 days to file an answer.

If the defendant thinks he or she has a claim against the plaintiff, the defendant may be able to file a counterclaim. If the counterclaim involves the same circumstances as the complaint, the defendant may have to chose between filing a counterclaim and losing the opportunity to do so at a later time. See Civil Rule 13.

WHAT HAPPENS IF THE DEFENDANT FAILS TO ANSWER ON TIME?

If the defendant fails to answer or does not file a motion for extension of time to answer within this time period, the Clerk will enter a default against the defendant. A default means the plaintiff wins the case and only needs to prove the amount of the claim.

If a default has been issued against you, you may file a motion to remove the default. This motion must be accompanied by a notarized answer setting forth any defenses that you have to the complaint. See Civil Rule 55-II. You must file the motion in the Civil Actions Branch Clerk's Office (Room 5000), Moultrie Courthouse and pay a $20.00 fee.

WHAT DOES THE PLAINTIFF DO IF A DEFENDANT DEFAULTS?

Once the Clerk enters a default, the plaintiff has 60 days to do one of two things:

First, the plaintiff can request a default judgment from the Clerk by filing an affidavit or declaration (which are discussed on page 12 of this handbook) stating a specific amount in damages that is owed by the defendant. The plaintiff must also serve a copy of the affidavit on the defendant at least 20 days before requesting the default judgment. In addition, the plaintiff needs to complete a form called the "Servicemembers Civil Relief Act Affidavit" verifying that the defaulting party is not in the military. This form is available in Room 5000, Moultrie Courthouse. See Civil Rule 55(b)(1).

Second, the plaintiff can file a motion asking the judge to issue an order that gives you a default judgment. You must file the motion in Room 5000. See Civil Rule 55 (b)(2).

You may need to request an *ex parte* proof hearing. At that hearing, you have an opportunity to prove that you were injured and what your damages are. See Civil Rule 55-II. The party seeking damages must bring proof of his or her damages. Even if the other side defaults, the defendant is entitled to notice of the hearing and a chance to challenge your evidence and to present its own evidence. You may request an *ex parte* proof hearing in Room 5000, Moultrie Courthouse.

If the judge agrees with you at the *ex parte* proof hearing, the court will enter a default judgment. A default judgment gives you the same rights as a judgment entered in your favor after a trial.

MOTIONS

WHAT DO I DO TO FILE A MOTION?

All motions and related papers must contain the following information:

- the name of the court across the top
- the case name and number
- the judge's name and calendar number
- a title that clearly states the action you are requesting the judge to order
- on a separate page, the reasons why the judge should do what you want (referred to as a Memorandum of Points and Authorities)
- a statement in your motion that you tried to get the opposing party to agree to what you are requesting in your motion (Civil Rule 12-I(a))

- a statement called a “certificate of service” that you sent a copy to each other party
- a proposed order for the judge to sign

Here is an example of the format for a motion or document:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

[Name of plaintiff(s)],	:	
Plaintiff(s),	:	2010 CA 00XXXX
	:	Judge Anthony C. Epstein
v.	:	Calendar 11
	:	Next court date:
[Name of defendant(s)],	:	[next event]
Defendant(s).	:	

[TITLE OF MOTION]

Before you file a motion, you must try to get the opposing party to agree to the relief that you are requesting in any motion. See Civil Rule 12-I(a). If you do not try to get the other parties to agree, the judge can deny the motion for that reason alone. If the motion involves seeking information from the other party, there are special rules for meeting to try to resolve the dispute before going to the judge. See Civil Rules 26(i) and 37(a).

You must bring to the Civil Actions Branch Clerk’s Office a copy of the motion for the Clerk and another copy for the judge (a “chambers copy”). See Civil Rule 5(e).

You must also pay a filing fee of $20.00. Parties may pay filing fees by cash, money order, or personal check. Personal checks are only accepted for cases filed in the Civil Actions Branch and must be presented in person with proper ID.

All motions and related papers must be on 8-1/2 x 11-inch white paper and signed by the filing party with his or her address and telephone number. See Civil Rule 10-I.

HOW DO I SERVE A MOTION?

You can serve a motion on the other side by mailing a copy. If you have Internet access and sign up at the Civil Actions Branch Clerk’s Office, and the other side is represented by a lawyer, you can serve motions electronically.

WHAT DO I DO TO OPPOSE A MOTION?

If you oppose another party's motion, you must file a written response explaining the reasons for your opposition.

You must file and serve your opposition to a motion within 10 days after you receive it. See Civil Rule 12-I(e). If you receive the motion by hand delivery, you start to count the 10-day period on the day after you were served, but do not include Saturdays, Sundays or legal holidays in your total of 10 days. See Civil Rule 6(a). For example, if the other side served you on Monday, October 3, 2011, you would have had to file and serve your opposition by Tuesday, October 18, 2011, because you don't count Saturdays, Sundays, and the legal holiday Columbus Day). If you receive the motion by mail, you have an additional 3 days to file and serve an opposition. In the example above, if the other side's certificate of service says it mailed the motion on October 3, your opposition should be filed and served by October 21. See Civil Rule 6(e).

Your opposition must include:

- On a separate page, reasons to support your opposition (referred to as a Memorandum of Points and Authorities)
- A proposed order for the judge to sign
- A statement called a "certificate of service" that you sent a copy to every party

When you bring your opposition to the Civil Actions Branch Clerk's Office to file, you must also bring a copy for the judge, or you may mail the judge's copy directly to the judge's chambers.

WHAT IF I NEED MORE TIME TO FILE OR OPPOSE A MOTION?

If you need more time, you should contact the other side and see if you can get them to agree to an extension. If the other side does not agree, you must file a motion asking the judge to extend the deadline – and including a certification briefly explaining your efforts to get the other side to agree. Do not assume that the judge will grant this motion.

If you want to extend a deadline that the judge set in an order in your case, you need to file a motion to get the judge's approval even if the other side agrees. The motion should say in the title that it is a "consent motion," which indicates that both sides agree to it. Judges usually grant consent motions.

WHAT IS AN AFFIDAVIT?

An affidavit is a written statement that you sign before a notary public after you swear or affirm that the information in the statement is true.

Instead of filing an affidavit, you can file a declaration swearing or affirming under penalty of perjury that the facts stated in the document are true and correct. See Civil Rule 9-I(e). Verification by an individual party may be in the form set out in CA Form 101. At the end of the document, include the following statement: "I declare [or certify, verify, or state] under penalty of perjury that the foregoing is true and correct. Executed on [date]." Then sign the document.

DISCOVERY

WHAT IS DISCOVERY?

Discovery is how one side gets information from the other side and finds out about what the other side will be saying at trial. Parties may obtain discovery regarding any matter not protected by the law that is relevant to the claim or defense of any party, including information about documents and the identity and location of persons who have information about the facts.

There are four main types of discovery.

1. **Depositions**. A deposition is a chance to get a party or a witness to answer questions under oath before trial. See Civil Rule 30. The party that wants to take the deposition has to give written notice of at least 30 days (70 days if the party to be deposed is the District of Columbia or the United States) to every other party. Depositions usually take place in offices, not at the courthouse. The judge is not present during a deposition. The party who takes the deposition must arrange, and pay, for a court reporter to make a record of the questions and answers. The party who takes the deposition can also videotape it. Unless the parties agree or the court orders otherwise, a deposition is limited to one day of seven hours. A party may also take a deposition on written questions. See Civil Rule 31. A party may be able to use at trial the transcript or videotape of a deposition. See Civil Rule 32.

2. **Interrogatories**. Interrogatories are questions that the other side has to answer under oath. See Civil Rule 33. You cannot serve another party more than 40 written interrogatories, unless the other party agrees or the court allows you to do so. In interrogatories, you can ask another party to identify people who know something about the facts, to identify expert witnesses, and to explain what his/her position is. A party who gets interrogatories generally has 30 days to respond. If the responding party objects to an interrogatory, the party must state the grounds in detail.

3. **Requests for documents**. A party can ask another party to allow him to review and copy documents. See Civil Rule 34. The requesting party must describe the document with reasonable specificity.

4. **Requests for admissions**. A request for admission requires the other side to admit or deny a fact – and to explain why it denies it if it does. See Civil Rule 36. A party can request another party to admit to factual statements or opinions or to the application of law to fact, including the genuineness of any documents described in the request. A party generally has 30 days to respond to a request for admissions. Under Civil Rule 36, the answering party must admit the matter, deny the matter, or set forth in detail the reasons why the party cannot truthfully admit or deny the matter. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

SHOULD I FILE DISCOVERY RESPONSES WITH THE COURT?

No. You should not file discovery responses with the court. You should keep them until the court asks to see them in the future.

WHAT HAPPENS IF ONE PARTY THINKS ANOTHER PARTY'S DISCOVERY REQUESTS ARE UNREASONABLE?

A party can object to another party's discovery requests within the time to respond allowed by the Rules of Civil Procedure. If the requesting party wants to pursue the request, it must (with a few exceptions) schedule a face-to-face meeting to try to resolve the disagreement. See Civil Rules 26(i) and 37(a). Both parties have an obligation to try in good faith to resolve the issue. If the parties cannot agree, the requesting party can file a motion asking the judge to order the other party to provide the discovery it refused to provide. The motion has to include a certification setting forth specific facts describing the good faith effort to resolve the dispute.

WHAT IS A PROTECTIVE ORDER?

A protective order limits discovery or imposes conditions on discovery to protect a party or a person from annoyance, embarrassment, oppression, or undue burden or expense. See Civil Rule 26(c). For example, a protective order can (a) prohibit a party from getting certain discovery or from inquiring into specified matters, (b) prohibit a party from publicly disclosing information obtained in discovery, including confidential personal or business information.

WHAT CAN I DO IF I NEED EVIDENCE FROM SOMEONE WHO IS NOT A PARTY TO THE CASE?

If you need documents from a person or organization that is not a party, and that person or organization will not give you them voluntarily, you can subpoena the records. If you need testimony from a person who is not a party or an employee of a party, you can subpoena the witness to give a pretrial deposition – and to bring documents with him. Civil Rule 45 contains the rules for subpoenas.

You can get a blank subpoena from the Civil Actions Branch Clerk's Office in Room 5000, Moultrie Courthouse, and you should complete it before serving it.

WHAT ARE EXPERT WITNESSES?

Expert witnesses are witnesses with some special knowledge or experience relevant to a case who are allowed to give their opinions. Any party who may want to call an expert to testify at trial has to give the other parties notice – identifying the person and stating the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. See Civil Rule 26(b)(4).

BEFORE THE TRIAL

WHEN IS THE FIRST HEARING BEFORE THE JUDGE?

The first hearing before the judge is the Initial Scheduling Conference. This conference usually occurs within 90 to 120 days after the filing of the complaint. This time is necessary in order to make sure that the defendant will have been served. The date and time of the first court hearing are included in the Initial Order which is issued to the plaintiff when the complaint is filed.

All parties must appear in person or have their lawyer at the Initial Scheduling Conference. See Civil Rule 16(b). The Initial Scheduling Conference usually is held on a Friday morning and lasts approximately 5 to 10 minutes. At this conference, the judge assigns the case to a track. The track determines the deadlines for filing motions, completing discovery, and scheduling an effort to resolve the case through settlement. The judge generally does not set a trial date at the Initial Scheduling Conference; scheduling the trial usually happens at the pretrial conference.

Some judges have additional written rules and procedures. They are available online: www.dccourts.gov/internet/public/aud_civil/generalorder.jsf. You also can ask the judge at the Initial Scheduling Conference for a copy of any special rules and procedures.

WHAT IF I NEED THE JUDGE TO DO SOMETHING ABOUT AN EMERGENCY BEFORE THE TRIAL?

If you have a problem with the other side that you think the judge needs to deal with immediately, you can ask for an emergency order. The main purpose of an emergency order is to stop the other side from doing something that cannot be undone and that would hurt you in a way that cannot be fixed at trial by money or in another way. See Civil Rule 65.

There are two types of emergency orders. The first is a temporary restraining order. A judge can issue a temporary restraining order without hearing from the other side if you show in your complaint or an affidavit that you did everything you reasonably could to make the other side aware of the hearing and that any delay in issuing the order would result in irreparable injury to you. A temporary restraining order is valid for no more than 10 days, but the judge may extend that time briefly. If the judge issues a temporary restraining order, the judge will set a date for a hearing on a preliminary injunction as soon as possible.

A preliminary injunction is the second type of emergency order. Judges generally issue preliminary injunctions only after a hearing in which the other side has a right to be present. At the hearing, one or both sides may have to call witnesses to testify under oath. At the hearing, you have to persuade the judge that (1) there is a substantial likelihood that you will prevail in your case, (2) you will suffer irreparable harm if you do not get a preliminary injunction, (3) there will be more harm to you if the judge denies the preliminary injunction request than to the other party if the judge grants it; and (4) the public interest will not be injured by the injunction. You do not have to seek or get a temporary restraining order to apply for a preliminary injunction.

You can get a form to request a temporary restraining order or a preliminary injunction in the Civil Actions Branch Clerk's Office in Room 5000.

CAN A DEFENDANT ASK THE JUDGE TO DISMISS THE CASE AT THE BEGINNING?

The defendant may believe that the plaintiff's claim or claims are false. That does not mean the judge can dismiss the case at the very beginning. Whether allegations are true or false is determined at trial, and the judge cannot short-circuit the process by dismissing the case before each side has a chance to present evidence at trial.

However, if the defendant believes that the plaintiff would not be entitled to any relief even if everything he or she says in his complaint were true, the defendant can file a motion to dismiss. See Civil Rule 12(b)(6). The judge may give the plaintiff an opportunity to provide more specific allegations that justify going forward with the case.

The defendant can also move to dismiss the case on other grounds – for example, because the judge does not have authority to hear the case or because the plaintiff did not serve him properly. See Civil Rule 12(b).

WHAT CAN A PARTY DO IF THE OTHER SIDE CANNOT WIN AT TRIAL?

Either side can file a motion for summary judgment. See Civil Rule 56. Motions for summary judgment are usually filed after all discovery is complete. The party seeking summary judgment must submit affidavits or discovery materials that establish that there is no genuine dispute of fact to be resolved at trial and that the judge or jury would have to return a verdict for that party at trial based on all the evidence. If the party seeking summary judgment does so, the opposing party must submit evidence in the form of affidavits or discovery material that is admissible and would permit a reasonable fact-finder to return a verdict in its favor. The judge will consider the evidence in the light most favorable to the party opposing summary judgment.

WHAT IS ALTERNATIVE DISPUTE RESOLUTION OR "ADR"?

Alternative Dispute Resolution or "ADR" is your chance to have a neutral person help you to try to find a way to resolve your case in a way that is satisfactory to you and that does not involve the delays and burdens of a trial and possible appeal.

An ADR session is scheduled after all discovery is complete and the judge has decided any motions that could resolve the case.

At the Initial Scheduling Conference, the parties select one of three types of ADR to help the parties settle the case. A specific date for the session will be scheduled by the judge at the Initial Scheduling Conference or later by the court's Multi-Door Dispute Resolution Division.

1. **Mediation**. In mediation, an experienced mediator helps the parties communicate their positions on issues and explores possible solutions or settlements.

2. **Case evaluation**. If the judge selects case evaluation, an experienced evaluator listens to informal presentations by the parties. The evaluator then discusses the strengths and weaknesses of each side's case. The evaluator provides the parties with a non-binding opinion as to the likelihood of success at trial and the fair settlement value of the case. The parties can discuss a settlement both before and after the evaluator gives his or her nonbinding evaluation.

3. **Arbitration**. If the judge selects arbitration as the method of ADR, the parties choose the arbitrator and an alternate from a list provided in the courtroom. The parties also decide whether the arbitration will be binding or non-binding. The arbitrator schedules a hearing within 120 days of the scheduling conference. Each side gives an informal presentation of his case. The arbitrator rules on all motions, as if the arbitrator were the judge in the case. After the hearing, the arbitrator issues a written award for one side or the other. If the parties select non-binding arbitration and either party is dissatisfied with the award, the dissatisfied party can request a trial. In binding arbitration, the arbitrator's award becomes the final judgment.

For more information, contact the Multi-Door Dispute Resolution Division. Its telephone number is (202) 879-1549. Its office is at 410 E Street, N.W., Court Building C.

WHAT IS THE PRETRIAL CONFERENCE?

The judge holds a pretrial conference when a case is ready for trial and efforts to resolve it through ADR have failed. If the parties fail to reach a settlement at ADR, they select a date for the pretrial conference in the Multi-Door Dispute Resolution Division. In most cases, the pretrial conference is scheduled approximately 60 days after ADR.

At the pretrial conference, the judge schedules the trial and issues an order setting the guidelines for the trial. Trials are usually scheduled to begin 2-6 months after the pretrial conference.

The parties must meet three weeks prior to the pretrial conference to try to reach an agreement on important issues. See Civil Rule16(c). At that time, each party must identify each of its trial witnesses, each document or photograph it wants to use at trial, and if it is a jury trial, each jury instruction it wants the judge to give. Two weeks before the pretrial conference, each party must file and serve any motion related to the conduct of the trial, and deliver it to the judge. One week prior to the pretrial conference, the parties file with the court and deliver to the assigned judge a joint pretrial statement that complies with Civil Rule 16(e) and that explains, among other things, any objection each party has to the other party’s proposed trial witnesses and exhibits.

At the pretrial conference, the judge may try to help the parties reach a settlement. Each party has to attend in person. If a party is an organization, it must bring a person to the pretrial conference who has authority to settle the case, or it has to get the judge’s permission to have that person available by telephone. You must attend the pretrial conference in person. If you fail to attend, the judge may dismiss the case, enter a default, or impose a fine. See Civil Rule 16-II.

THE TRIAL

WHAT HAPPENS AT THE TRIAL?

At the trial, each side has a chance to present evidence about its side of the story. You must be ready to present all the evidence you have that will convince a judge or a jury to decide in your favor. It is usually too late to present new information after the trial has ended.

Evidence includes all of the things you tell or show a judge or jury to prove your case. The kind of evidence you need depends on the kind of case you have. Ask yourself: "what information will convince the jury or judge to do what I am requesting?"

Evidence includes the testimony of witnesses who know or have observed you or the other party and can tell the judge what they have seen or heard first-hand. Usually, a witness can testify only about what the witness saw or heard with his or her own eyes and ears. Only rarely is hearsay evidence – evidence about a written or oral statement that someone made outside the courtroom when he or she was not under oath – admissible. The rules of evidence may permit a party to use a document as evidence.

At the trial, the plaintiff goes first because the plaintiff has the burden of proof. That means it is up to the plaintiff to prove his claim by a preponderance of evidence, which means that the plaintiff has to prove that it is more likely than not that his claim is true.

The defendant can question any witnesses the plaintiff calls. After the plaintiff presents his case, the defendant can call additional witnesses and present other evidence. The plaintiff has the right to question any witnesses the defendant calls.

After the defendant presents his case, the judge may give the plaintiff a chance to present evidence to rebut evidence that the defendant presented and that the plaintiff could not anticipate.

HOW DOES THE JURY GET PICKED?

The basic rules for jury selection are in Civil Rules 47, 47-I, and 48. Individual judges generally have additional rules and procedures for jury selection. Juries in civil cases usually have 8 jurors, and they must all agree on the verdict.

WHAT ARE THE RULES OF EVIDENCE IN DC SUPERIOR COURT?

The rules of evidence used in DC Superior Court have been established through hundreds of cases decided over the years by judges of the DC Superior Court and the DC Court of Appeals. These rules of evidence are not collected in one official book. However, with some exceptions, the DC Superior Court's rules are the same as the Federal Rules of Evidence, which are available online at www.law.cornell.edu/rules/fre. You can find a helpful summary of some rules of evidence on pages 36-44 in the manual for self-represented parties for the federal court in New York City. You can get that

manual online at: www.nysd.uscourts.gov/file/forms/trial-ready-manual-for-pro-se-litigants.

Like lawyers, people who represent themselves in trials are responsible for understanding the rules of evidence. If a party objects and the judge sustains the objection, that means the judge agrees with the legal basis of the objection, and the witness does not have to answer. If the judge overrules an objection, the witness must answer the question. If the lawyer objects and the judge sustains the objection, you can ask the judge to explain why the judge sustained the objection. But the judge may not give either side advice about how to get evidence in or keep evidence out.

WHAT SHOULD I DO TO PREPARE FOR TRIAL?

Here is a checklist that may be helpful:

- Do you have a clear, logical and easy-to-explain theory of the case?
- Have you prepared a notebook or organized your trial materials in some other manner?
- Have you made a list of what you have to prove at trial in order to carry your burden of proof on each of your claims or defenses?
- Have you identified all of your witnesses and potential exhibits – and listed them in the pretrial order?
- Have you anticipated possible objections to evidence that you plan to use at trial, and how you will respond to those objections?
- Have you thought about what evidence your opponent is likely to use at trial and what objections you might make to that evidence?
- Have you considered whether any disputes concerning evidence can, or should, be resolved through a motion before trial?
- Have you prepared questions for each of your witnesses?
- To the extent you can, have you met with and prepared your witnesses?
- Have you prepared questions for each of your opponent's witnesses?
- Have you prepared your opening statement?
- Have you prepared your closing argument?
- Have you made arrangements to ensure that all of the witnesses you need at trial will attend the trial?

AFTER THE TRIAL

HOW DO I COLLECT MONEY THE LOSING PARTY IS SUPPOSED TO PAY?

It is up to the winning party to collect money that the judge ordered the losing party to pay in a judgment.

If you want to get money from the employer or bank of the losing party, you may apply for a writ of attachment. You apply for the writ of attachment in the Civil Actions Branch Clerk's Office (Room 5000), Moultrie Courthouse.

If you do not know whether the losing party has any money or property, you may request an oral examination to determine what assets the defendant has. You may

request an oral examination date for hearing from the Civil Actions Branch Clerk's Office, Room 5000, Moultrie Courthouse.

WHAT CAN I DO IF I LOSE AT TRIAL?

The losing party – either the plaintiff or the defendant – may appeal any decision to the DC Court of Appeals. To begin the appeal, you must file a Notice of Appeal in the Civil Actions Branch Clerk's Office (Room 5000), Moultrie Courthouse. You have to file the notice within 30 days after the docketing date of the judgment order. The Notice of Appeal form is available in the Civil Actions Branch Clerk's Office (Room 5000), of the Moultrie Courthouse.