



The Process of a Civil Lawsuit



BACKGROUND INFORMATION

A civil case is a court case that involves disputes between people or businesses over money or injury to personal rights. A civil lawsuit starts when a person (the “plaintiff”) claims to have been harmed by the actions of another person or business (the “defendant”). If you seek to file the lawsuit without an attorney, you are considered a “pro se party” (sometimes referred to as “pro se litigant”). Pro se litigants are held to the same standard as licensed attorneys, so it is important you follow the rules and all applicable laws.

The plaintiff starts a court case in the pleading stage by filing a “complaint,” which is the document that outlines the plaintiff’s facts and legal theories (“claims”). In the complaint, the plaintiff must also make a request for relief, which is the legal remedy or solution to the plaintiff’s claim. The complaint is filed with the court, along with a filing fee and a summons. Once approved by a clerk of the court, the defendant will be given notice of the complaint and must respond with an answer.

The defendant will have a set amount of time to respond to the complaint (generally, 21 days). The defendant’s may file an “answer,” where he/she will admit or deny the claims you made, which may include a counterclaim (a claim for relief against you; you generally have 14 days to respond), or file a motion to dismiss (if granted, the case stops at this point; if not granted, the case continues).

If you would like to start a civil case, please follow the steps described in this handout.

Please note that each case is fact dependent and may not follow these exact steps. This document is not legal advice nor a substitute for an attorney.

For more terms and definitions, please see Appendix #1 (pages 7-8).



STEP 1: GATHER INFORMATION

To create a complaint, you will need to gather the following information:

- Your contact information: name, address, email, and phone number.
- The following contact information of the person or business you intend to sue: name, address, email, and phone number.
- Enough facts of the situation/event to explain why you are suing.
- An explanation of what would fix the problem (money, an injunction, etc.).

Although you do not have to attach this to your complaint, it is always helpful to gather any information or documents you plan to use in support of your case. This can include email interactions, pictures of injuries, contracts between the parties, police reports, leases, and so on. We suggest placing all this information together in a folder or binder!



STEP 2: DRAFT THE COMPLAINT

Your complaint (and all filed documents) must be typed in size 11 or bigger font, on white (8.5” x 11”) paper. Idaho Rule of Civil Procedure (I.R.C.P.) 2(a)(1).

To fill out a specified complaint form (custody modification, protection orders, divorce filing, housing, no contact order, small claims, etc.) please visit the [Ada County Clerk Website](#) or the [Court Assistance Website](#).

If you are interested in drafting your own complaint, it must include:

- A caption that identifies the plaintiff and defendant. I.R.C.P. 2(a)(2).
- A brief description of the parties, including their name(s) and address(es). I.R.C.P. 2(a)(2)-(5).
- Information on Subject Matter Jurisdiction, Personal Jurisdiction, and Venue. I.R.C.P. 8(a)(1).
- A short and plain statement of the facts about why you are suing. I.R.C.P. 8(a)(2).
- A request for the relief you want (money, an injunction, etc.). I.R.C.P. 8(a)(3).

Important: When you sign your complaint form, you are certifying that you are not filing the complaint for any improper purpose, such as to harass the other side, cause an unnecessary delay, or needlessly increasing the cost of litigation. Further, you are stating that you are making a good faith argument based in the law and that you have evidence to support the allegations you have made. I.R.C.P. 11(a).

For an example complaint, please see Appendix # 2 (pages 9-1011).



STEP 3: DRAFT THE SUMMONS

A summons is a legal document that will notify the person or business you are suing that their appearance is required in court. I.R.C.P. 4(a)(1)(A)-(K).

If you would like to fill in a generic summons form provided by the Ada County Courthouse, please [click here](#).

To draft your own summons, please use the same heading used in your complaint that included all yours and the defendant’s contact information. Underneath your heading will be the following: state the time and place the defendant must appear, notify the defendant that a failure to appear and/or respond will result in a default judgment against them, and have the clerk’s signature. I.R.C.P. 4(a)(1)(A)-(K).

For an example of a summons, please see Appendix # 3 (page 11).



STEP 4: FILE COMPLAINT & SUMMONS WITH THE COURT

Take a signed copy of your documents (the complaint and summons) and the filing fee to the courthouse you wish to proceed through. For the cost of filing, please refer to the [filing fee schedule](#). The best option is to take your documents and file them in the county courthouse in the county the defendant resides in. I.R.C.P. 4(b)(1)-(2). Remember to keep a copy of all the documents for yourself!

If you have barriers to transportation, there is an option to E-File your paperwork. For more information on E-Filing, please visit the [iCourt Guide and File Website](#).



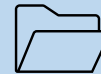
STEP 5: SERVE THE DEFENDANT(S)

Someone—other than you—serves the defendant(s) notice of the lawsuit. I.R.C.P. 4(c)(2). Each defendant must be served (given a copy) of the papers you file at the court (the complaint and the summons).

To serve the defendant, someone 18 years or older (other than you), must deliver the documents to the defendant. This can be done by certified mail or personal delivery. I.R.C.P. 4(c)(2).



How to Serve a Defendant with Papers



I.R.C.P. 4(c)(1) states that the plaintiff is responsible for furnishing the necessary copies to the person who makes the service. When a defendant is served, they must receive a copy of the summons requesting their answer and presence in court, and the complaint that states why they are being sued.

To serve someone, there are three different options available. As a reminder, you are not allowed to serve the papers yourself. If you serve the papers yourself, the court has the authority to dismiss the case.

The following are options on ways to give papers to the defendant personally:

1. Ask someone 18 years or older, who is not interested in the lawsuit and is not involved in the lawsuit to personally give each defendant a copy of the complaint and the summons. I.R.C.P. 4(d)(1)(A).
2. Pay a professional process server to serve the defendant. To do this, you will have to give the process server a copy of all the court forms and explain exactly where to find the defendant (at their home, place of work, etc.). I.R.C.P. 4(d)(1)(C).
3. Pay the Sheriff's office to serve the papers (or the Marshal's office for some counties). You must tell them exactly where to find the defendant and the Sheriff or Marshall will serve the information to the defendant. I.R.C.P. 4(d)(1)(C).

Once the papers are served, you are required to prove in writing that service was completed properly. How to do this is discussed in Step 6.



STEP 6: CERTIFICATE OF SERVICE

It is required by I.C.R.P. 4(g)(1) that proof of service of process must be in writing, identifying all the documents served, the date and time of service, and how the papers were served.

Once the defendant has been served, the completed [Affidavit/Certificate of Service form](#) must be returned to the Clerk. *The Affidavit Of Service Form can also be found in Appendix # 4 (page 12).*

If you selected Option 1 from Step 5, please fill out the Affidavit of Service and return it to the Clerk.

If you selected Option 2 or 3 from Step 5, the professional process server or the Sheriff/Marshall will fill out the Affidavit of Service for you, which you will then file with the Clerk.

At this point, you have started the process of a civil lawsuit!



STEP 7: WAIT FOR DEFENDANT'S RESPONSE

Generally, the defendant has 21 days to file a written response to the complaint, often known as an answer. I.R.C.P. 8(b); I.R.C.P. 8(c).

In his/her answer, the defendant will do at least one of the following:

- Admit the claims: the defendant can admit to certain pieces of the claims or all of the claims, meaning they agree with the facts in the complaint. I.R.C.P. 8(b)(2).
- Deny the claims: the defendant can deny certain pieces of the claims or all of the claims, meaning they disagree with the facts in the complaint. I.R.C.P. 8(b)(2).
- State they do not have enough information: the defendant can file a motion with the court, which states that your complaint was too vague for them to respond appropriately. I.R.C.P. 12(e).
- Make a counterclaim: the defendant can state that they have a counter-argument about the facts, which explains their actions. I.R.C.P. 13(a); I.R.C.P. 13(b).
- File a motion to dismiss: the defendant can file a motion to dismiss, which states that your claim does not have enough factual allegations to be true. I.R.C.P. 12(b)(6).

The defendant has the responsibility to serve you with their response. If the defendant fails to file a response, you may seek a default and default judgment. A Default requests that the court grant your claim because the defendant did not respond within the deadline. I.R.C.P. 55. (Note: you may not be able to receive a default judgment if the defendant is in the U.S. Armed Forces).



What are the Next Stages in a Lawsuit?



Discovery Stage I.R.C.P. 26-37

Discovery is a fact-finding process used by both sides to determine their adversary's legal claims and defenses.

Discovery can take different forms:

- Written questions which must be answered under oath.
- Sharing documents.
- Depositions, which are sworn statements taken in front of a court reporter or other court officer.

Pre-Trial Stage I.R.C.P. 16

This is where the parties decide on a strategy, what witnesses to call, and what evidence to submit. The court may order settlement meetings and conferences, which you must attend.

Trial Stage I.R.C.P. 42.2

During the trial, each side presents evidence to their claims. A brief is provided by each party before the trial, which is an outline of the arguments and evidence each side plans to present to the court.

The jury is then selected. After the evidence has been presented each attorney will give their closing arguments. The jury, under instructions from the court, will deliberate considering the evidence presented by each side; a verdict will eventually be reached.

Post-Trial Stage I.R.C.P. 59

After the judge and jury have heard the arguments, the judge will enter a verdict. If one of the parties does not like the outcome, or the judge made an error on an important portion of the case, there are two options.

First, either party can file an appeal, so that a higher court can review the decision. Second, either party can file a motion for a new trial, which means the previous verdict will be thrown out and a new trial will start over.

ANYTIME BEFORE OR DURING JUDGMENT

Settlement Negotiations or Alternate Dispute Resolution [I.R.C.P. 37.1]

The parties can agree to stop the case by voluntarily settling the case at any time. Sometimes, the parties can voluntarily resolve all their issues through a negotiated settlement or alternate dispute resolution such as mediation or arbitration. Most cases are settled outside of court!

Settlement saves time and money and puts the parties in control of the outcome. Often the cost of settling can be less than court costs and attorney's fees, even for the party who wins the case.



Appendix



DOCUMENT | ITEM

PAGE #

Appendix Item #1:
Glossary



Pages 7-8

Appendix Item #2:
Example Complaint



Pages 9-10

Appendix Item #3:
Example Summons



Page 11

Appendix Item #4:
Certificate/Affidavit
of Service



Page 12



Appendix Item #1: Glossary



Term	Definition
Plaintiff	The party who brings a civil suit in the court of law.
Defendant	A person sued in a civil proceeding.
Pro Se Litigant	One who represents oneself in a court proceeding without the assistance of a lawyer.
Pleading	A formal document in which a party to a legal proceeding sets forth or responds to allegations, claims, denials, or defenses.
Complaint	The initial pleading that starts a civil action and states the basis for the court's jurisdiction, the basis for the plaintiff's claim, and the demand for relief.
Claims	A statement that something yet to be proved is true.
Request for Relief	A request addressed to the court and appearing at the end of a pleading.
Summons	A notice commencing the plaintiff's action and requiring the defendant to answer the plaintiff's complaint and appear in court.
Clerk of the Court	A public official who works for the court and whose job is to keep records and accounts.
Answer	The defendant's response to a complaint, pleading, or discovery request.
Counterclaim	A claim for relief asserted against an opposing party after an original claim has been made, especially a defendant's claim against the plaintiff's initial complaint.



Appendix Item #1: Glossary

(continued)



Term	Definition
Motion to Dismiss	A request that the court dismiss the case because of settlement, voluntary withdrawal, or a procedural defect.
Affidavit	A voluntary declaration of facts written down and sworn to by a declarant, usually before an officer authorized to administer an oath.
Affidavit/Certificate of Service	A section of a pleading or motion filed with the court, usually contained separately on the last page, in which the filing party certifies to the court that a copy has been mailed to or otherwise served on all other parties.
Subject Matter Jurisdiction	The requirement that a given court have power to hear the specific kind of claim that is brought to that court.
Personal Jurisdiction	The power that a court has to make a decision regarding the party being sued in a case.
Venue	The proper place for a lawsuit to proceed, usually because the place has some connection either with the events that gave rise to the lawsuit or with the plaintiff or defendant.
Settlement	An agreement between the parties involved in a lawsuit, in which the parties arrived at outside of and without the court's participation.
Mediation	A method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution.
Arbitration	A private process where disputing parties agree that one or several individuals can make a binding decision about the dispute after receiving evidence and hearing arguments.
Stipulation	A formal legal acknowledgment and agreement made between opposing parties before a pending hearing or trial. (Example: agreed upon facts the parties do not want to dispute in court).
Default Judgment	A judgment entered against a defendant who has failed to plead or otherwise defend against the plaintiff's claims against him/her.



Appendix Item #2: Example Complaint



EXAMPLE CAPTION/HEADING

Your Full Name
 Your Mailing Address
 City, State, Zip Code
 Email Address
 Your Phone Number

IN THE DISTRICT COURT FOR THE (please see below) JUDICIAL DISTRICT FOR
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____.

YOUR FULL NAME

Plaintiff,

vs.

OPPOSING PARTY'S FULL
 NAME

Defendant.

Case No.: (leave blank; court
 clerk will fill in)

TITLE OF DOCUMENT
*(example: "COMPLAINT FOR
 COMPENSATORY
 DAMAGES")*

IDAHO COUNTIES WITHIN JUDICIAL DISTRICTS

Judicial District 1: Boundary, Conner, Kootenai, Benewah, and Shoshone Counties

Judicial District 2: Latah, Nez Perce, Lewis, Idaho, and Clearwater Counties

Judicial District 3: Adams, Washington, Payette, Gem, Canyon, and Owyhee Counties

Judicial District 4: Valley, Boise, Ada, Elmore Counties

Judicial District 5: Camas, Gooding, Blaine, Lincoln, Jerome, Minidoka, Twin Falls, Cassia Counties

Judicial District 6: Power, Oneida, Bannock, Franklin, Caribou, Bear Lake Counties

Judicial District 7: Custer, Lemhi, Butte, Clark, Jefferson, Madison, Fremont, Teton, Bonneville, and Bingham Counties



Appendix Item #2: Example Complaint

(continued)



EXAMPLE BODY OF COMPLAINT

COMPLAINT

Plaintiff, YOUR FULL NAME, pro se, complains against Defendant, OPPOSING PARTY FULL NAME, as follows:

I. PARTIES

1. Plaintiff, YOUR NAME, (hereinafter "Plaintiff") is an individual who is currently and was at all times, a resident of the State of _____, County of _____, City of _____.
2. Defendant, OPPOSING PARTY FULL NAME, (hereinafter "Defendant") is an individual who is currently, and was at all times, a resident of the State of Idaho, County of _____, City of _____.
3. Defendant, OPPOSING PARTY BUSINESS NAME, (hereinafter "Defendant") is a business/corporation who is currently, and was at all times, a resident with their principle place of business in the State of Idaho, County of _____, City of _____.

II. FACTS

(this is just an example, please fill this section in with a short and plain factual statement that explains why you are entitled to relief)

3. On or about July 1, 2018, Plaintiff contracted with Defendant to do basic plumbing repair at his residence at 100 Main Street, Boise, Idaho 83702.
4. On or about July 1, 2018, Plaintiff and Defendant signed a contract stating the terms of the repair to be done.
5. On or about July 5, 2018, Defendant arrived at the Plaintiff's residence and performed work in both the kitchen and the bathroom.
6. On or about July 20, 2018, Plaintiff was taken to County Hospital after a faulty plumbing job performed by the Defendant caused a flood, which caused property damaged to Plaintiff and injuries amounting to a broken ankle when Plaintiff slipped on flood.
7. Plaintiff brings forth the following counts and allegations supporting his cause of action:

III. JURISDICTION AND VENUE

To sue someone in Idaho, an Idaho court must have power over that person. If you are suing a person that resides in Idaho, a business located in Idaho, or suing in Idaho because that is where the events took place, and Idaho court likely has jurisdiction.

This Court is proper venue and jurisdiction because it resides in the State and County of Defendant's residence.

First Page of Complaint

(immediately follows caption/heading)

Second Page of Complaint

(immediately follows first page of complaint)

IV. CLAIMS FOR RELIEF

(this is just an example, please fill this section in with the legal claims you wish to make)

A. Breach of Contract

8. Plaintiff and Defendant had a valid and existing contract set forth above.
9. Plaintiff performed his obligations under the contract when he paid Defendant for services.
10. Defendant breached the contract when he did not, in good faith, meet the satisfactory standards in his performance of plumbing in the kitchen and bathroom.
11. As a result of Defendant's breach, Plaintiff sustained damages in the amount of \$8,000 in property damage, which will be proved at trial.

B. Negligence

12. Defendant, as a business, has a duty to use reasonable care under the circumstances while performing plumbing work.
13. Defendant's breach of their duty of reasonable care directly and proximately caused injury to the Plaintiff and her home as set forth above.
14. As a result of Defendant's breach, Plaintiff sustained damages in the amount of \$5,000 in medical expenses, which will be proven at trial.

IV. PRAYER FOR RELIEF

(this is just an example, please fill this section in with the relief you seek)

WHEREFORE, Plaintiff prays for the following relief:

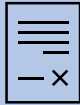
1. For compensatory damages for property damage and expenses for past, present, and future totaling \$8,000.
2. For compensatory damages for medical expenses for past, present, and future totaling \$5,000.
3. For such other and further relief as this Court deems equitable.

I declare under penalty of perjury under the law of the State of Idaho that the foregoing is true and correct.

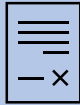
DATED this 10th day of August 2018.

(Your Signature)

Your Name
Your Address
Your Phone Number



Appendix Item #3: Example Summons



Your Full Name
 Your Mailing Address
 City, State, Zip Code
 Email Address
 Your Phone Number

IN THE DISTRICT COURT FOR THE *(please see below)* JUDICIAL DISTRICT FOR
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____.

YOUR FULL NAME

 Plaintiff,

 vs.

 OPPOSING PARTY'S FULL
 NAME

 Defendant.

Case No.: *(leave blank; court clerk will fill in)*

TITLE OF DOCUMENT
(example: "COMPLAINT FOR COMPENSATORY DAMAGES")

NOTICE

You have been sued. The court may enter judgment against you without further notice unless you respond. Read the information below.

If you want to defend this lawsuit, you must file a written response (Answer or appropriate Rule 12 I.R.C.P. Motion) to the Complaint at the Court Clerk's office for the above-listed District Court at:

(mailing address, physical address if different, and telephone number of the court, which will be filled in by the clerk) within 21 days from the service of this Summons.

If you do not file a written response the court may enter a judgment against you without further notice. A letter to the Judge is not an appropriate written response.

The written response must comply with Rule 2 and other Idaho Rules of Civil Procedure and include: your name, mailing address and telephone number, or your attorney's name, mailing address and telephone number, and the title and number of this case.

If your written response is an Answer, it must state the things you agree with and those you disagree with that are in the Complaint. You must also state any defenses you have.

You must mail or deliver a copy of your response to the Plaintiff or Plaintiff's attorney (at the address listed above) and prove that you did.

To determine whether you must pay a filing fee with your response, contact the Clerk of the District Court.

If you are considering talking to an attorney, you should do so quickly to protect your legal rights.

Date: _____

Clerk Signature: _____



Appendix Item #4: Affidavit/Certificate of Service Template

AFFIDAVIT/CERTIFICATE OF SERVICE TEMPLATE

For a link to the Affidavit/Certificate of Service Template, click [here](#).

Full Name of Party Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

Email Address (if any)

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

Petitioner,
vs.

Respondent.

Case No. _____

AFFIDAVIT OF SERVICE

I certify:

1. I am a resident of _____ County, State of Idaho, over the age of eighteen (18) years, and not a party to the above-entitled action.

2. On the _____ day of _____, 20____, I personally served copies of the _____

_____ on _____
the above-named Petitioner Respondent, in the County of _____,
State of _____ at (address) _____

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: _____

Typed/Printed Name

Signature