

Federal Practice and Procedure

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Knowing the Rules and Playing the Game

- Welcome to Federal Court!
- Knowing the Rules of the Game
- Rhode Island is Special
- Pro Bono Panel

Federal Court - Welcome!



Think Federal, Think Friendly!

- What's so great about it?
 - Judges
 - Staff
 - eFiling - PACER
 - Procedures
 - Cases move FASTER
 - Zoom
 - FREE MEDIATION!



RULES OF THE GAME

Think Federally

Act Locally



General Federal Rules Apply

- Federal Rules of Evidence
- Federal Rules of Procedure

Mostly Similar to RI Rules
EXCEPT:

Subsequent remedial actions

Expert Testimony

Discovery Disputes





RULE 407 - Subsequent Remedial Measures

Rhode Island

When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is admissible.

Federal: When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is **not admissible to prove**:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or – if disputed – proving ownership, control, or the feasibility of precautionary measures.



Rule 703 Bases of an Expert

Rhode Island: An expert's opinion may be based on a hypothetical question, facts or data perceived by the expert at or before the hearing, or facts or data in evidence. **If of a type reasonably and customarily relied upon by experts in the particular field in forming opinions upon the subject, the underlying facts or data shall be admissible without testimony from the primary source.**

Federal: An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. **But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.**



Discovery Processes

Rhode Island:

Discovery is E-Served

Rule 37 Letter

Motion

Motion for COD

Motion for Dismissal

Federal:

Discovery is NOT E-Served

Required Court Conference

Rule 37 “Meet and Confer”

Motion



Some Local Rules

Make it a habit to cross-reference the local rules until you become fluent in those that apply to your circumstances.

These can be found on the Court website.

LR Gen 102 - Documents Containing Confidential Information

LR Gen 112 - Use of Electronic Devices

LR Cv 5 - Form and Filing of Documents

LR Cv 7 - Motions and Other Papers

LR Cv 26 - Discovery

LR Cv 47 - Empanelment of and Communication with Jurors

LR Cv 51 - Waiver of Jury Instructions

LR Cv 56 - Motions for Summary Judgment

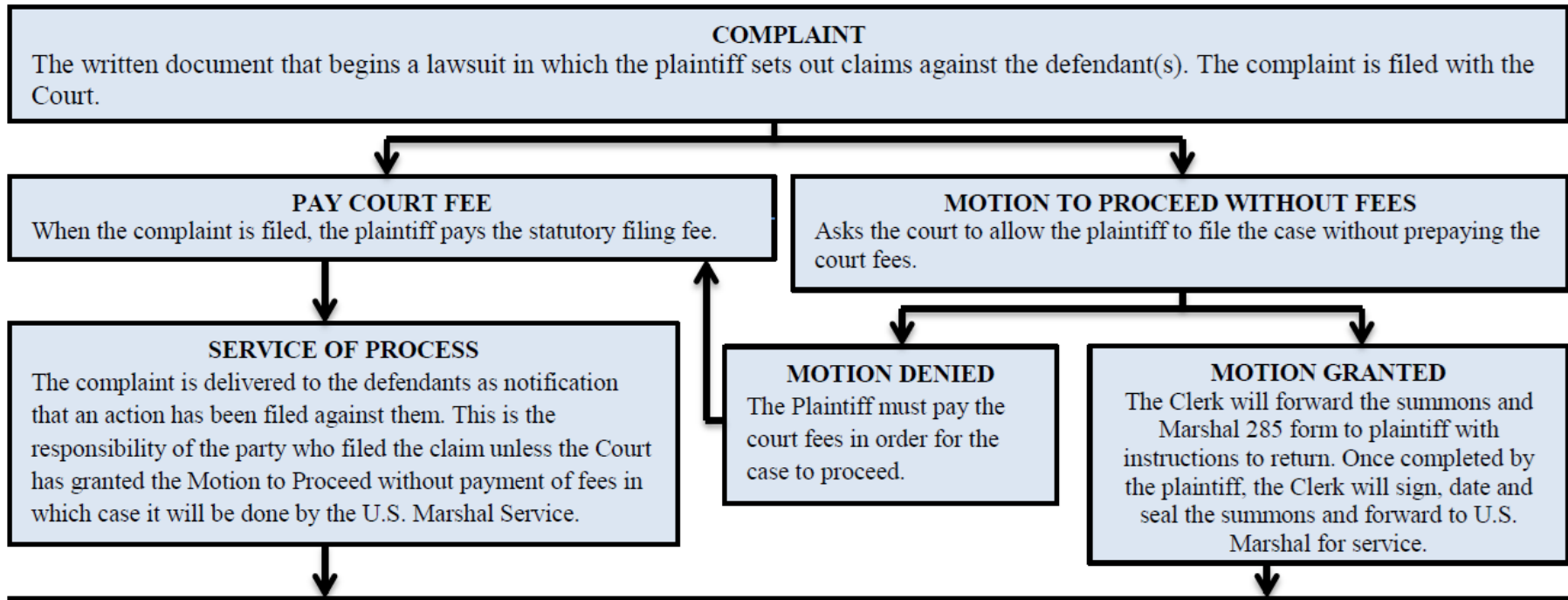


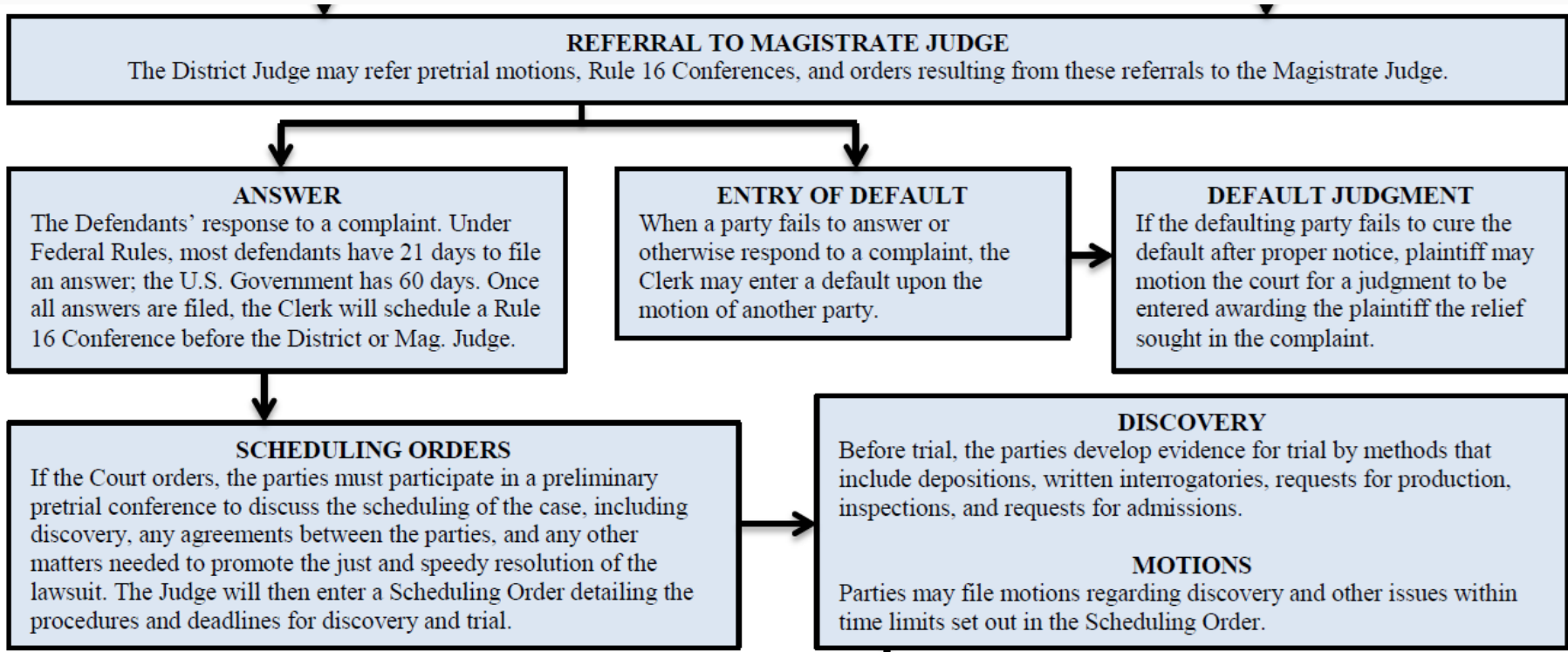
Motion for Summary Judgment

Focuses on whether or not there exists material facts that are at issue in the case.

- Statement of “UNDISPUTED FACTS” filed by movant.
 - CITING evidence in support.
- If the respondent wishes to dispute any of the facts, they must do so in a separate document of “DISPUTED FACTS”
 - May also file a separate statement of “UNDISPUTED FACTS”
- Why? narrows down factual disputes

PATH OF A CASE - HANDOUT





DISPOSITIVE MOTIONS

After the period for discovery, it may appear that the facts of the case are not disputed, and one or more parties may file a motion for summary judgment. The Judge will determine whether there are material disputed issues of fact and rule on the motion. If such a motion is granted on all claims, no trial is needed, and the lawsuit will be resolved by that motion; in some cases, the motion may be decided in part, and only certain issues will remain for trial.

FINAL PRETRIAL CONFERENCE

After dispositive motions and prior to trial, the Judge conducts a conference with the parties to discuss the issues for trial, the evidence that will be used at trial, and the possibility of settlement.

TRIAL

A trial allows the parties to formally present their case in open court by offering testimony and evidence in support of their positions and by making oral argument. In many instances, the parties have a right to a trial by jury in a civil action, and the jury ordinarily must reach a unanimous verdict.

JUDGMENT

After a verdict, the court enters a judgment on its docket which states the result of the proceeding and clearly identifies the specific relief to which the prevailing parties are entitled.

NOTICE OF APPEAL

A dissatisfied party may appeal the judgment by filing a notice of appeal with the clerk of the District Court. The notice of appeal must be filed within 30 days after the judgment, or 60 days if the United States is a party. A party who was permitted to proceed IFP in the District Court may proceed IFP on appeal without further authorization, unless the District Court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis*.

Start your engines!

Initially Assigned to Judge AND Magistrate
Sometimes, later JUST to a Magistrate

- Great for Resolution!
- Employment Cases
- No-cost Mediation

Role of a case manager

- Scheduling Purposes
- Judge Preferences
- Exhibits
- Administrative Orders
- Process Questions - Answered!



Get in the Game - Pro Bono Panel