



***Handbook  
for  
Self-Represented  
Litigants***

**in the Courts of  
Armstrong County**

## **MESSAGE FROM THE PRESIDENT JUDGE**

This Handbook is intended to advance the administration of justice in the various courts of Armstrong County, Pennsylvania.

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April 14, 2009

Hon. Kenneth G. Valasek  
President Judge  
33<sup>rd</sup> Judicial District  
Armstrong County,  
Pennsylvania

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## **PURPOSE**

For many different reasons, people sometimes represent themselves in court. Legal experts say that the number of these self-represented litigants will increase in future years. (A person who represents himself in court is often said to be *pro se*, which is a Latin phrase that means "for oneself.")

The main purpose of this Handbook is to give you, the self-represented litigant, a general idea of what you are getting into. You will first be challenged as to whether or not you should even represent yourself. If you do indeed choose to do so, you can then learn about what you can expect in the particular legal proceeding that you are involved in.

Even if the particular kind of court proceeding that you are involved in, is not among those discussed, you will still find this Handbook to be valuable. It will give you a "feel" of what to expect and what is expected of you. Take a look at the table of contents.

This Handbook also gives you tips on how to represent yourself; tells you why you should never try to communicate with a judge about your case except in the courtroom; gives you some insight into what your realistic expectations should be; and provides you with certain important names, addresses and telephone numbers.

You should not take anything in this Handbook as legal advice, which is something only a lawyer should give. It is merely intended to be a general aid to you, the self-represented litigant.

## **SHOULD I REPRESENT MYSELF?**

If you are thinking about representing yourself in Court, you are not alone. While you have an absolute right to represent yourself, there are certain significant risks and responsibilities attached to that right. The rules will not be set aside just because you choose to represent yourself. There are many cases judges and attorneys think people should never handle on their own. In fact, many have found that when people represent themselves under certain complicated circumstances, they will eventually need to hire an attorney to "fix" some mistakes. More times than not, it will cost more to hire an attorney to "fix" the problem than it would have to have hired the attorney to handle it from the beginning.

Neither court employees nor judges can answer your legal questions on how to proceed. In many civil cases, an attorney may represent the other party and you will have to go it alone without help from the Court. In more serious criminal cases, an attorney will always represent the law enforcement officer.

### **GENERAL TIPS FOR REPRESENTING YOURSELF:**

The Court is a very traditional and polite place where a certain demeanor (way of acting) is expected. When you are representing yourself, you are trying to persuade a judge you are right. You must act and speak in a way which helps you with your case.

#### **Before You Begin**

1) Educate yourself about court procedures. Read this Handbook. Read the state and local rules of court, which are available in the law library in the Courthouse (see Law Library) and at the Court's website at [www.accourts.com](http://www.accourts.com).

2) Designate a notebook and folder to hold all of your court records and forms and to record all of the activities related to the case.

3) Keep all of your legal papers and case related documents in one place and organized.

4) Keep track of all conversations you have with other side regarding your case.

6) Verify you are in the correct county.

7) Learn your time limitations. (See Time Limitations.)

### **Preparing Your Court Papers**

1) Determine what forms might be available to you at no cost. Go to the Court's website for more information, [www.accourts.com](http://www.accourts.com).

2) Since most lawsuit papers are open for public inspection in the Courthouse, you may be able to find lawyer-prepared examples there from other cases. You will have to do all the legwork yourself because Courthouse employees are not paid to do your legal work for you.

3) Make sure all of the required information is attached to or set forth on the forms and any documents you prepare yourself.

4) Make photocopies for your own records. Remember, that if you ask a court employee to make copies for you, you will be charged.

### **Serving Court Papers**

1) In many instances, it is your responsibility to serve your court papers on the other party.

2) Read the section of this Handbook entitled "The Problem of Serving Court Papers."

### **Preparing for Court**

1) Choosing to represent oneself in Court is a big decision. In many matters, it may be best to get some legal advice ahead of time from a lawyer so you are sure you are doing the right thing and are prepared for the court hearing. If unsure, or afraid of the court process, it may be best to seek the help of an attorney for the entire process.

2) Dress professionally, as you would for an important event. This means that your clothing should be neat and clean and that you are well groomed.

3) Do not chew gum and turn off your cell phones before going into the courtroom.

4) Look over the materials you are going to present in Court. Make sure you have made the proper number of copies for the Court and the other side. (Original plus three is usually a safe number.)

5) All witnesses must be present at the Court hearing. Verify that those people you wish to serve as your witnesses will be there for your hearing. Remember that your quoting what other people have said may be inadmissible hearsay evidence although not always. (Read the section of this Handbook entitled "Subpoenas.")

6) Be sure to bring with you the notebook in which you have recorded all the related events, as well as the folder with all the case-related documents. You must also bring paper and a pen to take notes. It is very helpful to make notes before you come to Court so you are prepared and know exactly what you want to say. The notebook can refresh your memory about things you testify about. You may need to prepare other documents after the hearing.

### **Going to Court**

1) Be on time! The Court has a busy schedule. If you are late, your case might be postponed to another date or dismissed entirely. You also could have a judgment or unfavorable ruling made against you if you are not there to defend your case.

2) Be respectful to everyone. This includes the judge, court staff, the other party involved in your case, lawyers, witnesses, and any other people in the area.

3) You should address the judge as "Your Honor" or "Judge."

4) Do not use profanity, argue or verbally react to answers given in Court by the opposing party or attorney. Do not speak at the same time or interrupt anyone who is properly asking or answering questions at the time. You will have your turn to speak.

5) The judge cannot speak to you about your case except when your case is in Court and when the other party is there. Court staff can help you with questions such as when your hearing is scheduled, or if you are in the right courtroom, but they cannot give you legal advice or recommendations about what you should do. (See Communication with a Judge.)

6) Even though you are representing yourself, the rules of evidence must still be followed.

## **COMMUNICATION WITH A JUDGE**

Would you like it if the judge spoke to the other side about your case without your knowledge? Probably not!

Under the Code of Judicial Conduct, judges are not allowed to permit or consider *ex parte* communications. *Ex parte* is a Latin phrase that means "on one side only; by or for one party." An *ex parte* communication occurs when a party to a case, or someone on the party's behalf, talks or writes to or otherwise communicates directly with a judge about the issues in a case without the other party's knowledge.

The ban on this type of communication helps judges decide cases fairly and it also preserves public trust in the legal and court system.

So, if you, the self-represented litigant in the Court of Common Pleas, want to tell the judge about your pending case, you should file a petition or motion with the Prothonotary or Clerk of Courts explaining what relief you are seeking and why you are entitled to it. ("Relief" means what you are asking the Court to do.)

There are certain exceptional circumstances, like a major emergency, where a judge may consider an *ex parte* communication, but these situations are rare.

## **PROCEEDINGS BEFORE MAGISTERIAL DISTRICT JUDGES**

1. Landlord-Tenant Evictions
2. Small Claims
3. Collecting a Judgment
4. Summary Offense Trials
5. Preliminary Hearings
6. Continuance

## 1. LANDLORD-TENANT EVICTION

If you, the self-represented litigant, are a landlord who seeks the eviction of a tenant, you may start a legal proceeding to cause the eviction. This lawsuit must be started in the magisterial district where the property is located. You must file a written complaint in the office of the Magisterial District Judge (MDJ); there is a filing fee. The complaint form is available at the MDJ's office. The MDJ has the responsibility of serving the complaint. There is a service fee. (See Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges No. 501, et seq.)

In this kind of lawsuit, a landlord can also sue for delinquent rent, physical damage to the property, and court costs.

If you, the self-represented litigant, are a tenant who has been sued by a landlord, you may file a cross-complaint against the landlord, asserting any claim which arises from your occupancy of the premises. You should talk to the MDJ's staff about how service of your cross-complaint must be done. The cross-complaint form is available at the office.

If a landlord wins judgment in this kind of case, the landlord may ask the MDJ to enter an order for possession. The request is made on a form available at the MDJ's office.

The losing party has the right to appeal the decision of the MDJ to the Court of Common Pleas. The appeal form is available in the Prothonotary's Office in the Courthouse. The completed form must be filed with the Prothonotary. If the person who appeals is a tenant, a delay of the eviction is possible if certain financial guarantees are put in place. (See Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges No. 1001, et seq., particularly Rule 1008.) The financial guarantees may be waived if certain affidavits are filed claiming inability to pay. These affidavits are also available in the Prothonotary's Office.

A losing tenant may appeal to the Court of Common Pleas on the issue of the amount of damages awarded by the MDJ, even if that tenant agrees that the eviction itself was proper.

There are rules on how to go about serving the notice of appeal. (See Pennsylvania Rule of Civil Procedure Governing

Actions and Proceedings before Magisterial District Judges No.  
1005.)

## 2. SMALL CLAIMS

If you, the self-represented litigant, have a claim against someone for \$8,000 or less (not counting interest or costs), you may start a lawsuit at the Office of the Magisterial District Judge (MDJ) and try to collect the sum owed. If your claim is for more than \$8,000, you may still start the lawsuit at the MDJ's office, but you can only recover \$8,000 if you win.

The lawsuit is started by filing a complaint. A complaint form is available at the MDJ's office. A filing fee is required unless the MDJ gives you permission to proceed *in forma pauperis*. An *in forma pauperis* application is available from the MDJ.

The MDJ is responsible for service of the complaint after it is filed by you, the self-represented litigant. There is a fee.

If you, the self-represented litigant, are the one who is being sued and you intend to defend against the claim, you must notify the MDJ immediately. The MDJ will then inform the other side of your intention. If you yourself have a claim against the person suing you, you may file a complaint against that person.

At the hearing conducted by the MDJ, both sides will have to bring witnesses and other evidence, such as promissory notes, contracts, photographs, etc.

An appeal from the decision of the MDJ may be taken by filing a notice of appeal in the Prothonotary's Office in the Courthouse. There is a filing fee unless the party is allowed to proceed *in forma pauperis*.

(See Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judge Procedure No. 301, et seq.)

## 3. COLLECTING A JUDGMENT

After the time for appeal has run and the losing defendant in a small claims case takes no appeal, the winning plaintiff may then enforce the judgment - that is, may try to collect the money due. It is important to remember that the Office of the Magisterial District Judge (MDJ) is not a collection agency.

If you, the self-represented litigant, are the winning plaintiff, you may start this enforcement process, called execution, by filing a written request for an order of execution. The form is available from the MDJ.

If you, the self-represented litigant, are the losing defendant, the order of execution can result in your tangible personal property being levied upon by a constable or sheriff. It can eventually be put up for public sale by the constable or sheriff; the proceeds would be applied toward satisfaction of the debt. Certain property is exempt from execution under the Pennsylvania Consolidated Statutes at 42 Pa.C.S. §§8121-8128. A claim for exemption must be given to the officer who is to conduct the sale. Also, if the property levied upon is owned by a third party, the third party can object to the levy by filing a written objection with the MDJ.

This is just a brief explanation of the process to enforce a judgment. Many details are not even mentioned. (See Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges Nos. 401-482.)

#### **4. SUMMARY OFFENSE TRIALS**

If you, the self-represented litigant, have been charged in a citation with a summary offense, like underage drinking, speeding, or a local ordinance violation, you have the right to plead not guilty and request a trial. You may enter a plea of not guilty and request a trial by personally going to the Office of the Magisterial District Judge (MDJ) or by mailing the MDJ a letter.

If you plead not guilty in person, the MDJ may require you to deposit money as collateral for appearance at trial. If you do it via the mail, you must deposit as collateral an amount equal to the fine and costs specified in the citation, or \$50 if they are not specified. A check or money order for the proper amount must accompany your written statement.

At the hearing, the police officer and the officer's witnesses will testify against you. It is up to the police officer to prove you are guilty beyond a reasonable doubt. You have the right to question all witnesses. You are not under any obligation to testify or present evidence.

If you want to present evidence, you should be prepared to do so. Bring your witnesses with you.

If you lose, you may file a notice of appeal with the Clerk of Courts in the Courthouse. The notice form is available in that office. It is also downloadable on the Internet @ [www.co.armstrong.pa.us/departments/prothonotary-clerk-courts](http://www.co.armstrong.pa.us/departments/prothonotary-clerk-courts). There is a filing fee unless you are given permission to proceed *in forma pauperis*. You may apply for such permission at the Clerk's office. The application form is also available there. (See Pennsylvania Rules of Criminal Procedure 460, et seq.)

(See also the section of this handbook pertaining to Appeal from Conviction by Magisterial District Judge.)

## 5. PRELIMINARY HEARING IN A CRIMINAL CASE

If you, the self-represented litigant, have been charged with a felony or misdemeanor, there will be a preliminary hearing before a Magisterial District Judge (MDJ). At the hearing, a police officer and the officer's witnesses will testify against you. In serious cases, a district attorney may be there to represent the police officer.

It is important for you to know the purpose of a preliminary hearing. It is not to determine if you are guilty or not guilty. Rather, the purpose is for the MDJ to determine if there is sufficient evidence against you which, *if believed*, would be enough to convict you if you stood trial before a judge and jury. If there is, the MDJ will certify the case to the Court of Common Pleas for disposition. If there is not, the MDJ will dismiss the charge.

You are free to testify and to bring your own witnesses, but you should bear in mind the purpose of the hearing. If you testify yourself, what you say can be used against you at a later date. You may ask questions of all witnesses.

In a less serious matter, you and the prosecuting police officer may be able to work out a final resolution of the case before the hearing starts.

If you fail to appear for a preliminary hearing, a bench warrant would be issued for your arrest.

## 6. CONTINUANCES

Magisterial District Judges do not like to grant continuances, particularly last minute ones. However, they will continue a hearing to a later date if there is a good reason to do so. It also helps if the other side consents. A good reason: you just took your child to the hospital emergency room for an injury. A bad reason: your ride didn't show up. (See Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges No. 209.)

## PROCEEDINGS IN COURT OF COMMON PLEAS

1. Protection from Abuse Hearings
2. Child and Spousal Support
3. Child Support Conference
4. Child Support Hearing
5. Argument on Exceptions to Report of Child Support Hearing Officer
6. Support Contempt Hearing
7. Appeal from Suspension of Driver's License or Registration by PennDOT
8. Appeal from Conviction by a MDJ for a Summary Offense
9. Formal Arraignment in a Criminal Case & PDQ Court
10. Criminal Case Status Conference
11. Guilty Plea to a Felony or Misdemeanor
12. Preliminary Conference with Master in a Divorce Action
13. Master's Hearing in a Divorce Case
14. Argument on Exceptions to Report of Master in Divorce
15. Custody Conciliation Conference
16. Child Custody Mediation Orientation
17. Custody Contempt Hearing
18. *In Forma Pauperis* Petition
19. Continuances
20. Law Library

## 1. PROTECTION FROM ABUSE HEARINGS

Because an alleged victim in a PFA case is almost always represented at the hearing by a lawyer from Laurel Legal Services, this article is written for the benefit of the defendant, that is, the alleged perpetrator of abuse.

You, the self-represented defendant, do not have a constitutional right to court-appointed counsel because this kind of case is civil in nature, not criminal. Of course, you may always hire your own lawyer to represent you.

Most PFA's are settled just before the hearing by the parties agreeing to the entry of an order. This order will typically direct a defendant to refrain from further abuse, stay away from the plaintiff's residence, etc. The agreed upon order can specifically state that you are not admitting any wrongdoing by allowing a judge to sign it. If you are indigent or unemployed, a judge will not require you to pay the court costs. In addition, if there is an agreed upon order entered, you will not have to pay the extra \$100.00 fee that you would have to pay if there was a hearing and you lost.

A PFA order can last up to three years.

If there is a hearing, it is up to the plaintiff to prove to the judge by a preponderance of the evidence (not beyond a reasonable doubt) that you have committed abuse. The definition of abuse can be found in the Pennsylvania Consolidated Statutes at 23 Pa.C.S. §6102.

At the hearing, you may ask questions of all witnesses. You may bring your own witnesses, of course. You too may testify, but bear in mind that if there are any criminal charges pending against you for the abuse incident, what you say at this hearing could possibly be used against you at a later date.

For all the different things that a judge can order you to do in a PFA order, see Pennsylvania Consolidated Statutes at 23 Pa.C.S. §6108.

Violation of a PFA order, even the temporary one entered at the beginning of the case, can result in your arrest. Even if the plaintiff invites you to have contact, you can still get in big trouble. The PFA order must be vacated or must expire before you start having contact again.

## **2. CHILD and SPOUSAL SUPPORT**

A support law suit, either for child support or spousal support, is started by filing a complaint in the Domestic Relations Office (DRO) in the Courthouse. The form is available at DRO and a DRO employee will help you, the unrepresented litigant, to complete it properly.

In addition, DRO will serve the complaint upon the defendant, that is, the person from whom support payments are sought.

The DRO will schedule a conference in front of a DRO conference officer. This conference is usually held a couple weeks after the complaint is filed. Both you (the plaintiff) and the defendant must be there. (See Child Support Conference.)

Although the plaintiff in a child support case is almost always a parent, it sometimes can be a non-parent, such as a grandparent who has custody.

Under certain circumstances, the conference officer will permit a party to participate by telephone.

## **3. CHILD SUPPORT CONFERENCE**

A person seeking child support starts the legal proceedings by filing a complaint in the Domestic Relations Office in the Courthouse. An office conference is then scheduled to occur a several weeks later. Both parties are notified to attend. Under certain circumstances, the conference officer will permit a party to participate by telephone.

The conference is conducted by a trained conference officer. The officer will look at things like federal income tax returns, paycheck stubs for the prior six months, proof of health insurance coverage, proof of childcare expenses, self-employment records, 1099's, etc. These things must all be brought to the conference.

If a defendant fails to come to a conference, the conference may still be conducted and a support order entered. A bench warrant may even be issued, as well. If a plaintiff

fails to come, the case will be dismissed unless a lawyer is there on behalf of plaintiff.

The conference officer will try to get the parties to agree upon the amount and terms of a support order. This is usually, but not always, successfully done. In so doing, the conference officer will make use of written support guidelines adopted by the Pennsylvania Supreme Court. These guidelines take into account a number of factors, including each party's income, the number of children, and childcare expenses.

If the parties cannot agree upon the amount and terms of a support order, then the conference officer will prepare, and get the judge to sign, an interim order. In signing an interim order, the judge will rely only on the recommendations of the conference officer. The judge will not hear what the parties themselves have to say before signing the interim order.

Both parties have the right to ask for a hearing if dissatisfied with the interim order. (See Child Support Hearing.) The request must be made within 20 days after the notice of the interim order was mailed. The request must be in writing delivered to the Domestic Relations Office.

If no request for a hearing is filed, the interim order becomes a final order.

#### **4. CHILD SUPPORT HEARING**

If a request for a hearing is filed after an interim child support order is entered, there will be a *de novo* hearing conducted by a hearing officer. *De novo* is Latin for "anew" and the hearing officer will look at everything again, as if the prior child support conference had never occurred. The hearing officer must be a lawyer by profession. The hearing is held in the Courthouse. Notice of the hearing will be given a couple weeks in advance.

Once a request for a hearing is filed, the request cannot be withdrawn without the consent of the other party. If you, the self-represented litigant, request a hearing but do not appear for the hearing, the hearing may still take place if the other party so desires. If you are the person who filed the recent complaint, your case may even be dismissed entirely.

The support hearing is more formal than the support conference. All witnesses (each party may bring witnesses) will be sworn. All testimony will be taken down by a court reporter or tape recorder. The hearing officer will receive documents as evidence, such as prior federal income tax returns, paycheck stubs, etc. Both plaintiff and defendant must bring all their income documentation with them even though they had already shown it to the conference officer several weeks earlier. (See Child Support Conference.) If there is a conflict in the testimony or other evidence, the hearing officer will determine which of the conflicting testimony or evidence is the more reliable. Generally, the decision of the hearing officer is based only on the evidence presented at the hearing.

The plaintiff's case will be presented first, the defendant's second. You, as a self-represented litigant, will have a chance to ask questions of all witnesses who testify.

After the hearing, the hearing officer will make a written report to the judge. The written report will be based on the written support guidelines and will contain proposed findings of fact (such as the parties' incomes, the amount of partial custody, etc.) and a recommended child support order. The judge will sign yet another interim order based on the hearing officer's report. The written support guidelines can be found at Pennsylvania Rule of Civil Procedure No. 1910.16-4.

Either party may file written exceptions to the hearing officer's report, within twenty (20) days after notice of it was mailed. The exceptions must be in writing and filed with the Domestic Relations Office. If one party files exceptions within the 20-day period, the other party has twenty (20) days after receiving them to file his or her own exceptions. Exceptions may be taken to rulings or evidence, findings of fact, conclusions of law, or to any other matters that came up during the hearing. The exceptions must be specific. If they are not raised in the written filing, they are waived. (See Pennsylvania Rule of Civil Procedure No. 1910.12.)

The party who files the exceptions is responsible for the preparation of the transcript and for filing it with the Court. (See Local Rule of Civil Procedure No. 1910.12.) If you, the self-represented litigant, are the one who filed the exceptions, you should contact the hearing officer about payment for the preparation of the transcript.

If no exceptions are filed, the interim order becomes final. If exceptions are filed, an argument (not a hearing) will be scheduled to occur before a judge. (See Argument on Exceptions to Report of Child Support Hearing Officer.)

## **5. ARGUMENT ON EXCEPTIONS TO REPORT OF CHILD SUPPORT HEARING OFFICER**

The judge will hear the arguments of each party. The arguments should address why the hearing officer's recommendations should be followed or not. For instance, a dissatisfied party might argue that the hearing officer made a mistake in calculating income; or that the hearing officer erred in applying the guidelines; or that the hearing officer had insufficient evidence to rule that one parent was disabled. The satisfied party would probably argue the opposite.

The judge will expect you to explain why the hearing officer was right or wrong, in your view.

At the argument, the judge will not hear any more testimony or receive additional evidence. The judge will rely only upon the written transcript of testimony from the hearing previously conducted by the hearing officer, and the exhibits admitted into evidence by the hearing officer. Therefore, it is pointless to bring witnesses with you to the argument.

The party who files the exceptions is responsible for the preparation of the transcript and for filing it with the Court. (See Local Rule of Civil Procedure No. 1910.12.) If you, the self-represented litigant, are the one who filed the exceptions, you should contact the hearing officer about payment for the preparation of the transcript.

## **6. SUPPORT CONTEMPT HEARING**

You, the self-represented litigant at a support contempt hearing, will almost always be a defendant who has fallen behind in support payments. A lawyer for the Domestic Relations Office (DRO) will be there, together with an enforcement officer from DRO, who will be a witness and testify about your support payment history. A judge will conduct the hearing.

A defendant can be sentenced to jail for a willful failure to pay support. This is why an application for the Public

Defender's services accompanies the hearing notice mailed to you. The Public Defender's Office will provide you with legal representation free of charge if you are indigent.

Many times a self-represented defendant can work out a settlement with the enforcement officer before the hearing actually starts. This is good reason to get to the Courthouse well before the hearing is scheduled to begin. It does not hurt if you bring some money.

## **7. APPEAL FROM SUSPENSION OF DRIVER'S LICENSE OR REGISTRATION BY PENNDOT**

Here are two things you, the self-represented litigant, should know.

First, a lawyer from the Department of Transportation will be there representing the other side. Usually this lawyer will have a certified copy of your driving record from PennDOT.

Second, if your license or registration is being suspended because you were convicted of a traffic offense, it will do you no good to tell the judge you were not guilty of that traffic offense. The judge will not consider the issue of guilt or innocence. The judge will only ask if you were convicted at some prior time.

## **8. APPEAL FROM CONVICTION BY A MAGISTERIAL DISTRICT JUDGE FOR A SUMMARY OFFENSE**

For you, the self-represented defendant, to appeal your conviction for a summary offense, you must file a Notice of Appeal with the Clerk of Courts in the Courthouse within thirty (30) days after the conviction. A Notice of Appeal form is available both online and at the Office of the Clerk of Courts. (See Summary Offense Trials.) It is best to attach a copy of the citation to the Notice when you file it.

After you file your Notice of Appeal, a hearing will be scheduled to be held in front of a judge. At the hearing, the District Attorney will represent the police officer who filed the charge. The District Attorney may call other witnesses to testify. If you have any witnesses, you should make sure they show up at the hearing, where they can testify.

The District Attorney will have to convince the judge that you are guilty of the offense beyond a reasonable doubt.

It is best to get to the hearing well before the starting time so that you can talk to the District Attorney and the prosecuting police officer about a final resolution of your case.

## **9. FORMAL ARRAIGNMENT IN A CRIMINAL CASE & PDQ COURT**

Almost all defendants who appear at the formal arraignment do so without a lawyer. At a formal arraignment, the judge formally advises a defendant of the charges and of the right to be represented by a lawyer. The judge will explain the services offered by the Public Defender's Office. The judge will inform a defendant of certain time limits to file certain court motions.

Immediately after Formal Arraignments are concluded, a judge will conduct "PDQ (Pleas Done Quickly) Court." At PDQ Court, the judge will receive guilty pleas and accept defendants into the Accelerated Rehabilitation Disposition Program (ARD) in cases approved in advance by the District Attorney.

Many defendants who enter guilty pleas or who enter the ARD program do not have to appear before a judge again. No more court appearances will be necessary in connection with their cases, barring any probation, parole or ARD violations in the future.

## **10. CRIMINAL CASE STATUS CONFERENCE**

Soon after your formal arraignment date, you, the self-represented litigant, will get a notice in the mail ordering you to attend a criminal case status conference. The conference will occur in the Courthouse about a month after the arraignment date.

At this status conference, you and the District Attorney (DA) will sit down and discuss your case. Plea agreements are almost always discussed. A plea agreement is a written agreement between the DA and a criminal defendant stating what the DA will do for the defendant if the defendant pleads guilty.

Typically, the DA will agree to recommend to the judge a certain sentence, such as probation, in exchange for a plea. Sometimes the DA will recommend a certain minimum sentence to the judge, such as X months in jail. The discussion will sometimes center on work release privileges or on house arrest. Sometimes the discussion focuses on the eligibility of a defendant for the ARD Program for first time offenders; this ARD Program carries no jail time. These are just some examples, to give you a feel for what might be talked about.

There is no judge present at a criminal case status conference.

If you and the District Attorney reach a plea agreement, your case will be scheduled for a later plea court or ARD court session. If there is no plea agreement, your case will go to trial.

## **11. GUILTY PLEA TO A MISDEMEANOR OR FELONY**

You, the self-represented defendant, have a constitutional right to plead guilty without a lawyer. A defendant who wants to represent himself or herself in court should, if possible, at least talk to a lawyer about all the consequences of a guilty plea. This is serious business: your liberty may be at stake. You should be certain you are not eligible to services of the Public Defender.

The District Attorney is willing to enter into plea agreements with defendants who represent themselves. The terms of a plea agreement can be discussed by you and the D.A. at the Criminal Case Status Conference which you are required to attend in the Courthouse. (See the section of this Handbook entitled "Criminal Case Status Conference.")

If you, the self-represented defendant, plead guilty to a misdemeanor or felony, you will have to read a Waiver of Counsel form before going in front of the judge, and you will have to complete a Guilty Plea Questionnaire. These will be given to you by the D.A. after you go into the courtroom. They are also available at the Court's website at [www.accourts.com](http://www.accourts.com).

Usually, the cases of self-represented defendants are the last to be called, so you will have the chance to watch defendants who are represented by lawyers, enter their guilty pleas before you do.

Get there on time.

## **12. PRELIMINARY CONFERENCE WITH MASTER IN A DIVORCE ACTION**

Generally, the judge does not hear the evidence in a divorce case. Instead, a master will be appointed to conduct a hearing and receive evidence. The master is always a lawyer. The master will make recommendations to the judge on how to resolve the divorce, property distribution, alimony, legal fees, and court cost issues.

Either party may file a motion with the Court asking that a master be appointed. A sum of money will be payable when the motion is filed (\$150.00 at the time this Handbook is printed). This money will be paid to the master as a fee, and the master will schedule a preliminary conference which you, the self-represented litigant, must attend. At this conference, the master will explore the possibility of settling all the issues so that no further litigation will be necessary.

You, the self-represented litigant, should bring important papers with you. These might include income tax returns, bank statements, 401(k) statements, real estate appraisals, etc.

If you and the other side cannot reach a settlement, the master will then schedule a full hearing to be held at a later date. (See Master's Hearing in a Divorce Case.) Before a full master's hearing is scheduled, substantially more money must be deposited with the Prothonotary. This money will go towards the master's and court reporter's fees.

## **13. MASTER'S HEARING IN A DIVORCE CASE**

If a master is not successful at mediating a settlement at the preliminary conference, the master will schedule a hearing. The hearing will be held several weeks after the conference so that you, the self-represented litigant, have enough time to prepare. You and/or the other side will be required to deposit money with the Prothonotary so that the master and court reporter can be paid at the end of the case.

The master's hearing is more formal than the preliminary conference. Rules of evidence apply. A court reporter or tape-

recorder will take down all testimony. The master will receive documents into evidence, such as federal income tax returns, bank accounts and 401(k) statements, etc. Not only will you have the chance to testify, but you may have other witnesses testify on your behalf, such as a real estate appraiser.

The plaintiff's case will be presented first, the defendant's second. You will have a chance to ask questions of all witnesses who testify.

The master will address divorce issues like grounds, equitable distribution of property, alimony, legal fees and court costs.

After the hearing, the master will prepare a written report with recommendations. It will be given to the judge. If nobody files written exceptions to the report, the judge will sign a final order following the master's recommendation. The exceptions must be filed in the Prothonotary's Office within twenty (20) days of the date the report was mailed out. The exceptions must be specifically stated.

If exceptions are filed, an oral argument will be held in front of a judge. (See Argument on Exceptions to Report of Master in Divorce.)

#### **14. ARGUMENT ON EXCEPTIONS TO REPORT OF MASTER IN DIVORCE**

The judge will hear the arguments of each spouse. The arguments should address why the master's recommendations should be followed or not. For instance, a dissatisfied party might argue that the master made a mistake in calculating income; or that the master erred in the valuation of real estate; or that the master erred in concluding that alimony should be awarded. The satisfied party would probably argue the opposite.

The judge will expect you to explain why the master was right or wrong, in your view.

At the argument, the judge will not hear any more testimony or receive additional evidence. The judge will rely only upon the written transcript of testimony from the hearing previously conducted by the master, and the exhibits admitted into evidence by the master. Therefore, it is pointless to bring witnesses with you to the argument.

The party who files the exceptions is responsible for the cost of preparation of the transcript and for filing it with the Court. (See Local Rule of Civil Procedure No. 1920.51.)

## **15. CUSTODY CONCILIATION CONFERENCE**

The first court appearance for the parents or other parties in a custody case (even where modification of an existing custody order is being sought) is usually at a custody conciliation conference. The conference is held at the Courthouse. You, the self-represented litigant, will receive a court order in the mail directing you to attend.

The first thing done at the conference is watching a movie. The parents and any lawyer will watch a film specially made for parents involved in a child custody dispute. The purpose of the movie is to make you and the other side aware of how children can be hurt in fights over custody, and how cooperation, not fighting, is best for them.

Next, you and the other side are required to talk to each other then and there about how the dispute can be settled with the best interest of the children in mind. Even if a full agreement cannot be reached, sometimes a temporary arrangement can be agreed upon.

Lastly, if a full agreement cannot be reached, you and the other side will be required to complete a checklist in anticipation of a future hearing in front of a judge. The checklist concerns things like jurisdiction, the need for home studies, the need for psychological custody evaluations, etc. The checklist is available at the Office of the Court Administrator, on the second floor of the Courthouse. The checklist can be reviewed in advance.

Psychological custody evaluations are expensive. The parents usually share the cost, although not necessarily equally

## **16. CHILD CUSTODY MEDIATION ORIENTATION**

If the custody conciliation conference does not resolve all the custody issues, the Court will order all the parties to attend an orientation session to acquaint them with the possibility of using a mediator to help them resolve their

differences. The Court will not order that this be done if the child or either party has been the victim of recent abuse or domestic violence. Read Pennsylvania Rule of Civil Procedure No. 1940.3.

The purpose of the orientation is to introduce the parties to the idea of mediation. Mediation is the confidential process by which a neutral mediator assists the parties in attempting to reach a mutually acceptable agreement on issues arising in a custody action. The role of the mediator is to assist the parties in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise and finding points of agreement. An agreement reached by the parties must be based on the voluntary decisions of the parties and not the decision of the mediator. The agreement may resolve all or only some of the disputed issues. Parties are required to mediate in good faith, but are not compelled to reach an agreement. While mediation is an alternative means of conflict resolution, it is not a substitute for the benefit of legal advice.

If the parties agree that mediation is the best way to go after the orientation session is over, the Court will refer the parties to a trained mediator. The minimum qualifications for a mediator can be found at Pennsylvania Rule of Civil Procedure No. 1940.4.

It is a good idea to read all the state court rules on mediation, which are Pennsylvania Rules of Civil Procedure Nos. 1940.1 - 1940.9.

## **17. CUSTODY CONTEMPT HEARING**

A parent who violates the terms of a child custody order can be held in civil contempt of court.

If you, the self-represented litigant, are the aggrieved parent (i.e., the accuser), you may file a petition in the Prothonotary's Office asking a judge to hold the offending parent in contempt. The petition must state how and when the custody order was violated. You can find the form for a custody contempt petition in Pennsylvania Rule of Civil Procedure No. 1915.2(a). Subsection (d) of the same rule tells you how to serve your petition upon the other parent.

If you, the self-represented litigant, are the alleged violator of the custody order, you must appear in court at the scheduled time. If you fail to appear, a bench warrant would be issued for your arrest. If the judge decides that you willfully violated the order, you can be fined, ordered to pay attorney's fees, even sent to jail, in order to insure future compliance.

The vast majority of these kinds of cases are settled by agreement before the judge starts the hearing. Therefore, you should get to the Courthouse well before the hearing is to start so that you will have a chance to discuss a settlement.

## **18. IN FORMA PAUPERIS APPLICATION**

A party who is without financial resources to pay the costs of litigation in a civil (that is, a non-criminal) matter is entitled to proceed *in forma pauperis*. If a judge permits you, the self-represented litigant, to proceed *in forma pauperis*, you will not be required to pay the filing fee or costs usually imposed by the Court.

In order to get a judge's permission to proceed *in forma pauperis*, you must file a written petition with the Prothonotary in the Courthouse. The petition is available at the Prothonotary's Office in the Courthouse.

You should read Pennsylvania Rule of Civil Procedure No. 240 for a full explanation.

## **19. CONTINUANCES**

Judges do not like to grant continuances, particularly last minute ones. However, judges will continue hearings to a later date if there is a good reason to do so. A good reason: you just took your child to the hospital emergency room for an injury. A bad reason: your ride didn't show up. It also helps if the other side consents to the continuance.

For continuances in criminal court cases, see Pennsylvania Rule of Criminal Procedure 106 and Local Rule of Criminal Procedure 106.

For continuances in civil court cases, see Pennsylvania Rule of Civil Procedure No. 216 and Local Rule of Civil Procedure No. 216.

See also Local Rule of Civil Procedure No. 1910.12 as it pertains to continuances in support cases.

The request for continuance should be in writing. It must be served on the other side. (See The Problem of Serving Court Papers.)

## **20. LAW LIBRARY**

There is a law library on the second floor of the Courthouse. It is maintained by the County and is open to the public during regular business hours.

In the library, you, the self-represented litigant, will have access to both state and local rules of court procedure, as well as all Pennsylvania and federal cases and statutes and many treatises. The law library is not a lending library, but there is a photocopier in it if you want to make copies.

In addition, there is a computer with a monitor and printer. This system provides free public access to Westlaw, a computerized legal research resource.

The law library has no attendant librarian to help you do legal research. You will have to do it on your own.

## **TIME LIMITATIONS**

The law creates time limits for absolutely everything. Here are some examples:

- You must start your automobile accident lawsuit within X years of the date of the accident.
- You must start your homeowner's insurance lawsuit within Y years of the date of the loss.
- You have 30 days to take this appeal.
- You have 10 days to request that hearing.
- You have 20 days to file an answer.

You must absolutely know what your time limits are. If you miss one, it could be a disaster for you.

Some court papers will tell you what your time limit is. Pay attention!

## **THE PROBLEM OF SERVING COURT PAPERS**

In civil cases started at the office of a Magisterial District Judge, there is generally no problem faced by you, the self-represented litigant, in serving court papers. In almost all cases, the office staff will cause the complaint (the initial filing) to be served by mail and/or a constable, although you will be responsible for the costs. Quite often, the complaint is the only court paper filed in a civil case at this level.

It is usually far different for cases in the Court of Common Pleas.

In civil cases, if you, the self-represented litigant, are the plaintiff (the party who is suing), you will be confronted with the problem of how to serve the first court paper you file (usually a complaint) upon the defendant (the person being sued). There are different rules that can apply. Sometimes a sheriff must serve the complaint, sometimes not. Sometimes service of a complaint can be done by mail, sometimes not.

Good starting points for your research of how to serve a complaint are Pennsylvania Rules of Civil Procedure No. 1930.4 for family law cases and No. 400 for other kinds of civil cases.

Different rules apply for service of court papers other than the complaint. A good starting point for your research is Pennsylvania Rule of Civil Procedure No. 440 for civil cases, and Pennsylvania Rule of Criminal Procedure 576 for criminal cases.

The two last-mentioned rules generally require that when you file a motion or petition with the Prothonotary (civil cases) or Clerk of Court (criminal cases), the paper must have an attached certificate verifying that you served a copy of the paper upon the other side and sometimes the Court Administrator by mail or personally. In other words, you are responsible for service of the paper and proof of service (the certificate), as well. Read the two rules carefully to avoid serious problems.

In civil cases, the Prothonotary will serve copies of court orders signed by a judge. In criminal cases, the Clerk of Courts will do the same thing. In Armstrong County, the same public official always holds both offices.

## **SUBPOENAS**

A subpoena is a court order directing a witness to appear at a specified time and place for a court hearing or trial. A subpoena may also direct the person to bring along documents or other things.

If you, the self-represented litigant, are in need of a subpoena for a hearing in front of a Magisterial District Judge (MDJ), the MDJ will issue one for you. The subpoena must be served personally upon the witness either by handing him or her a copy, or by handing a copy to a family member at the witness' residence or a person in charge of that residence or the witness' business. (See Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges Nos. 213 and 214.)

For civil cases in the Court of Common Pleas, it is the Prothonotary in the Courthouse who will issue you a subpoena. The subpoena may be served in the same way as for a MDJ hearing (see above) and, in addition, by mail. The rules for service of a subpoena by mail are tricky. (See Pennsylvania Rules of Civil Procedure No. 234.1 through No. 234.9.)

For subpoenas in civil cases in the Court of Common Pleas, there is a requirement that the witness be given a fee for attendance and mileage. The money is payable upon demand at the time the witness is personally being served; a check for the fee and mileage must accompany a subpoena served by mail. (See Pennsylvania Rule of Civil Procedure No. 234.2.)

In criminal cases in the Court of Common Pleas, subpoenas are issued by the Clerk of Courts in the Courthouse.

## **SIX ADDITIONAL TIPS**

1. Do not go to a hearing and tell a judge to call someone on the telephone to verify some fact. That person should be present at the hearing to testify as a witness.

2. If there is a conflict in the testimony of certain witnesses, it is up to the judge about whom to believe. It is proper for you, the self-represented litigant, to tell the judge why your witness should be believed and not the other.

3. Try to settle your case out of court. Most disputes do. In many instances, it is better "to have a bird in hand, rather than two in the bush." You can always call the opposing lawyer in advance of the court date and try to resolve your dispute.

4. Be honest. A single stretching of the truth about one event can make you look unreliable in the eyes of the judge. Remember, the judge determines the believability of each witness.

5. If you do not prevail, do not think the judge has found you to be a bad person. The judge's job is not to condemn but to decide the narrow legal and factual issues of the case.

6. Acquaint yourself with the wealth of information at the Court's website at [www.accourts.com](http://www.accourts.com).

**IMPORTANT ADDRESSES and TELEPHONE NUMBERS**

**Magisterial District No. 1**

Hon. J. Gary DeComo  
206 Fifth Avenue  
Ford City, PA 16226  
724-763-7866

**Magisterial District No. 2**

Hon. James H. Owen  
201 North Jefferson Street  
Kittanning, PA 16201  
724-543-2313

**Magisterial District No. 3**

Hon. James Andring  
241 Market Street  
Leechburg, PA 15656  
724-842-3571

**Magisterial District No. 4**

Hon. Samuel R. Goldstrohm  
720 Main Street  
Rural Valley, PA 16249  
724-783-6886

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**ARC Manor**

200 Oak Avenue  
Kittanning, PA 16201  
724-548-7607

**Domestic Abuse Counseling Center**

627 Market Street  
McKeesport, PA 15132  
1-800-845-0550

**Clerk of Courts**

Armstrong County Courthouse  
500 E. Market Street, Suite 103  
Kittanning, PA 16201  
724-548-3251

**Family Counseling Center**

300 S. Jefferson Street  
Kittanning, PA 16201  
724-543-2941

**Clerk of the Orphans' Court Division**

Armstrong County Courthouse  
500 E. Market Street, Suite 102  
Kittanning, PA 16201  
724-548-3220

**HAVIN**

724-543-1180  
Hotline - 724-548-8888

**Court Administrator**

Armstrong County Courthouse  
500 E. Market Street, Suite 200  
Kittanning, PA 16201  
724-548-3284

**Prothonotary**

Armstrong County Courthouse  
500 E. Market Street, Suite 103  
Kittanning, PA 16201  
724-548-3251

**District Attorney**

Armstrong County Courthouse  
500 E. Market Street, Suite 323  
Kittanning, PA 16201  
724-548-3455

**Public Defender**

Armstrong County Courthouse  
500 E. Market Street, Suite 105  
Kittanning, PA 16201  
724-548-3258 or 724-548-3259

**Domestic Relations Office**

Armstrong County Courthouse  
500 E. Market Street, Suite 100  
Kittanning, PA 16201  
724-548-3349

## ARMSTRONG COUNTY LAWYERS

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