



Representing Yourself in Court

INTRODUCTION: *The information contained herein is not intended as legal advice.*



What is it called when I plan to represent myself without an attorney?

It means you are "pro se", meaning to represent yourself without having a lawyer help you.



What rules do I follow when I am representing myself?

The court is a very traditional place. When you are representing yourself in court, you are trying to persuade a judge or jury that you are right. So you must act, dress, and speak in a way that helps you with your case.



Here are some tips:

1. Be on time

- Your case can be dismissed if you are late.
- The judge may make a decision without hearing your side.



What do I do if I know I am going to be late to court?

Call the court, ask to speak with the secretary of the judge assigned to your case. Ask the secretary to tell the judge why you are late and when you expect to arrive.

2. Dress neatly

- You do not need fancy clothes, just make sure you are neat and clean.
- Tank tops, shorts, ripped jeans or baseball hats are not acceptable. T-shirts or hats with messages such as "Legalize Marijuana" or "Where's the Beef," while funny, are not acceptable for court.

3. Be respectful

- How you act is as important as how you look. Just like an attorney, you must be respectful to everyone in the court, including the judge, court staff, and the other party involved in your case.
- Do not speak while others are speaking. Do not get into an argument with the other side. If you disagree with what the other side is saying, wait until he or she is done and then tell the judge.
- Speak to the judge only when you are told it is your turn. Address the judge as "your honor." Never interrupt the judge.
- Try to control your emotions as much as possible, especially anger.

4. Do not bring children with you to court

It is okay to bring your child if it is a custody or visitation case and the judge or magistrate needs to talk with your child. In all other cases, find someone to look after your child.

5. Turn off all cell phones and pagers

Turn your phone/pager off when you enter the court. Ringing phones and beeping pagers are very distracting and make some judges very mad, which will not help your case!

What can I expect when I arrive at the Courthouse?

1. Check in at the clerk's office to find out which courtroom to go to.
2. Go into the courtroom and sit quietly until your case is called. You may have to wait for up to an hour; just be patient.
3. When your case is called, walk to the table or podium for lawyers in front of the judge and stand facing the judge. The judge will tell you when to speak.
4. When the judge asks you to present your case, tell the judge what it is that you are requesting and why you are requesting it.
5. After you are finished, the other side will have a chance to ask you questions.
6. Next, the other side will present his/her case. Don't forget, if you disagree with something the other side says, do not interrupt. You will have an opportunity to ask the other side questions when he/she is finished talking.

During the hearing the judge may ask you questions, so:

- If you don't understand the question, say so. Don't answer until you fully understand the question.
- If you don't know the answer, say "I do not know."
- Do not be afraid to admit that you don't know something.

Decisions are not always made right away.

In most cases, you will receive the judge's decision in the mail within two weeks.



WARNINGS:

Do not try to talk to the judge about your case before your case is called.

- The law prevents the judge from talking to one party if the other party is not present (unless the case is currently before the court).
- This one-sided conversation is called an “ex parte communication” and it is not allowed.
- Any letter, motion, or request you send to the court will be ignored by the judge (because it is an ex parte communication) unless you send a copy of that letter or request to the opposing party as well.
- Otherwise the judge will not even read your letter.

For example:

If you write a letter to the judge requesting that the court date for your divorce be changed, you must also send a copy of this letter to your spouse and let the judge know that you have done this.

Do not ask court staff for legal advice.

- Court staff are not attorneys and cannot provide legal advice. More importantly, they are employees of the court and must treat both sides in a case fairly. It is unfair and against the rules for them to help one party and not the other.
- However, court staff can answer questions about court procedure, court rules, and the meaning of certain legal terms.

Do not ask law librarians for legal advice.

- Your county may have a law library that keeps legal reference books that are used by judges, local lawyers, and their staffs.
- Most law librarians are not attorneys and cannot provide legal advice. Even if a librarian is an attorney, they are not acting as your attorney and cannot give you legal advice.
- They cannot tell you which form you need or what information to put on the form.
- Read the instructions provided and try to figure this out for yourself.



How do I file an appeal if I am representing myself?

The Supreme Court of Ohio provides a Pro Se Guide for filing an appeal in Ohio.



EVIDENCE



What is evidence?

Evidence is anything you use to prove your claim. Evidence can be a photograph, a letter, documents or records from a business, and a variety of other things. All evidence that is properly admitted will be considered by the judge.

Your case probably will be decided by a judge. If there is a jury, it will look at admitted exhibits during its deliberations.

For example:

- In a request for change of custody, the child's school records could be introduced as evidence that the child's grades have dropped or he/she has missed a significant amount of school while living with the other parent.
- In a domestic violence or stalking civil protection order case, a photograph of any injury you suffered or a threatening letter written by your abuser may help your case.
- In a divorce case, a copy of tax return documents or documents showing who has title to a car may be introduced as evidence.



Why use evidence?

- Evidence is more believable and trustworthy than what a person says. For example, in a domestic violence case, if you say that your ex-boyfriend has left you threatening messages but he testifies that this is an absolute lie, the judge may not know whom to believe. However, if you submit a tape recording of one of these messages, the judge will be more likely to believe you.
- Evidence may make something easier to understand. "A picture is worth a thousand words." Some things are hard to explain in words, while a drawing or photograph is descriptive and clear.



How do I present evidence to the Court?

Each court is different, but in most courts, you can't just walk into court with a photograph or document and show it to the judge or jury. There are many things you must do before the court will even look at the evidence you have. Further, there are many different types of evidence, and the rules for using each type of evidence are different. Once you follow these rules, your evidence will be "admitted."



Steps to follow to admit evidence

1. Before you go to court, think about the evidence you want to use to prove your case. Mark each piece of evidence with an exhibit number (attach a sticker labeled “Exhibit 1,” “Exhibit 2,” etc.)
2. Bring these marked exhibits with you to court. When you want to show the court one of the exhibits, do the following things:
 - a. Show the exhibit to the other party or the other party’s attorney.
 - b. Then “lay the foundation” for the evidence. To do this, you must show that the evidence is relevant to your case and authentic (not a forgery). Depending upon what you want the court to consider, follow the rules listed in this pamphlet for “laying the foundation” - explaining why and how the exhibit is connected to your case.
 - c. Either you or your witness must testify about the exhibit.
 - d. Ask the court to admit the exhibit into evidence. The other party or attorney may object to the exhibit for some reason. Try to answer these objections as best you can. If you can’t, let the judge decide.
 - e. If there are no objections from the other party, or the judge has ruled in your favor, ask the court to “admit the exhibit into evidence.”



Motion in limine

Motion in limine is a motion made at the start of a trial requesting that the judge rule that certain evidence may not be introduced in trial. This is most common in criminal trials where evidence is subject to constitutional limitations, such as statements made without the Miranda warnings (reading the suspect his/her rights).



Laying the foundation for photographs

1. Explain why a photo is connected to your case. For example: “This photo shows the injury I suffered after my ex-boyfriend punched and kicked me.”
2. Explain how you know about what is in the photo. For example: “I had my sister take this photograph within 2 hours after the incident occurred and went to get the film developed myself the following day.”
3. Explain that the photo is timely. For example: “At the bottom right-hand corner of the photo is the date on which it was taken. As you can see, the photo was taken on the same day that the incident occurred, which is also the same day the police arrested my ex-boyfriend.”
4. Explain that the photo “fairly and accurately” shows what is depicted in the photo as it appeared on the date relevant to your case. For example: “This photo is a fair and accurate depiction of how my face and side looked two hours after the incident and for the next 2 weeks.”



TIP

When using photographs, it is best to use color photos and enlarge them, if possible.

Foundation for letters

1. Explain why the letter is connected to your case. For example: “This is the letter that I received from my ex-boyfriend shortly before he beat me up.”
2. Explain when and how you got the letter. For example: “This letter was shoved under the door to my apartment some time before 6 p.m. on Wednesday, January 2, 2001. I found it on the floor when I came home from work that day.”
3. Prove that the signature is that of a party to the case. Ways to prove this:
 - Explain to the court that you are familiar with the other party’s signature, how you came to know that person’s signature, and that it is your opinion that the signature on the letter is the other party’s signature.
 - Call a witness who is familiar with the party’s signature, and ask the witness:
“Do you know the other party in this case? Are you familiar with the party’s signature? How?” Then show them the letter and ask “Is this the other party’s signature?”
 - Call the person who signed the letter. Show the witness the document, and ask the witness if that is his or her signature. Only do this if you think they will admit to it.
4. Explain that the letter is in the same condition now as when you received it. For example, state “The letter was kept in a safe place and nothing has been changed since I received it.”



TIP

Do not read anything from the letter until the court has admitted it into evidence.



TIP

If the other party objects to the letter saying that it is hearsay, respond by saying: “The letter shows the letter writer’s state of mind.”

Laying the foundation for documents and records from businesses

1. Explain how the document or record is related to your case.
2. Call a witness from the business/agency that produced the record, ask the witness what his or her responsibilities are at the business/agency and how he or she is involved in keeping records.
3. Show the witness the record and ask him/her if it is a record from the business/agency.
4. Ask the witness:
 - Was the record made by a person with knowledge of the acts or events appearing on it?
 - Was the record made at or near the time of the acts or events appearing on it?
 - Is it the regular practice of the business/agency to make such a record?
 - Was the record kept in the course of a regularly conducted business activity?



TIP

If the record is certified (a statement is attached to the record stating that it is in fact a record from a public agency or it has an agency seal on it) you do not need to do anything before you show it to the judge. Just let the judge know it is certified.



SERVICE



What does it mean to be served with court documents?

After you file court papers with the Clerk of courts, Ohio law requires that the opposing party be notified of this filing. This notice is called “service.”



Why is service so important?

Service gives the other party a chance to respond to whatever it is that you have requested from the court. It is only fair that both parties to a lawsuit have the chance to present their side of the case to the court.

If the opposing party is not properly notified, the court does not have the power to make any decisions regarding your case. In fact, your case could be dismissed if service is not completed in a timely fashion.



Who notifies the opposing party and how?

The Clerk of courts. Soon after you file, the Clerk will send or deliver one copy of all the forms you filed to the opposing party at the address you provided for that person.

Some courts will send these documents by certified mail - requiring a signature by the opposing party or another adult living with him/her.

Other courts will deliver these documents to the opposing party in person.

Often courts charge different fees for types of services. Certified mail is least expensive. You will have to choose and pay for service when you file your documents.



How will I know if service has failed?

The court will send you a notice in the mail letting you know that service has failed. The notice will tell you why service was not successful. Service usually fails because the opposing party refuses to sign for the documents or no longer lives at the address you gave to the court.

If this first effort is not successful . . . the court will notify you and then YOU must take steps to ensure service is completed!

The court will not do anything unless you write to them and tell them what you want them to do. If you don't do anything, your case could be dismissed!



What do I do after receiving a notice from the court?

Try to find another, more current address for the opposing party. Call friends and family members. You must make your best effort to locate the opposing party.

- If you are able to find a more recent address for the opposing party, complete a new instruction for service form (available from the clerks of courts office), requesting service by certified mail to this new address.
- If you are unable to find a more recent address for the opposing party, write a letter to the Clerk of courts requesting them to serve the papers by ordinary mail.

Wait about three weeks. Then call the Clerk of courts and ask if this second attempt at service was successful. Unless documents are returned to the court stamped “undeliverable,” service was completed.

If documents are returned to the court and stamped “undeliverable,” you must write to the Clerk of courts and request Personal Service or Service by Posting or Publication.



What is personal service?

Your court papers will be hand-delivered to the opposing party by someone from the court or the sheriff's department.



How do I obtain personal service?

You must complete a new instruction for service form (available from the Clerk of court's office), and request Personal Service. You must tell the clerk where the opposing party will be on the date he or she will be served (work or home address) so the party can be located.

The court will notify you in writing if it was unable to serve the opposing party in person. If you receive a written notice from the court stating that Personal Service has failed, you must try Service by Publication or Posting.

If you do not get a notice from the court after about three weeks, call the clerk of court and ask if service was completed.



What is service by publication?

The court publishes a notice regarding your case in a local newspaper. This notice will be published for six weeks. After this six-week period expires, the court will wait 28 days before a hearing will be set.

From start to finish, service by publication takes about three months. Even if the opposing party never sees the publication, this is adequate service under Ohio law.



How do I request service by publication?

Ask the court if they have a fill-in-the-blank "Affidavit for Service by Publication." If they do not, you must create your own. Title the document "Affidavit for Service by Publication" and give the following information:

1. State that you do not know the residence of the opposing party;
2. Explain the steps you have taken trying to locate a proper address and that these steps have failed; and
3. State that you cannot locate the opposing party's residence with reasonable diligence.

(When a case involves land (real estate), service must be done by publication and you must describe the land involved.)

The Affidavit must be signed by you, notarized by a notary public, and filed with the Clerk of courts. You will have to pay a rather large fee (over \$100) to file the Affidavit.



What is service by posting?

The court posts a notice regarding your case in two different locations in your community. This notice will be posted for six weeks. After this six-week period expires, the court will wait 28 days before setting a hearing date. Even if the opposing party never sees the posting, this is adequate service under Ohio law.



Who can request service by posting?

You can only request Service by Posting if:

1. you are filing for a divorce, annulment or legal separation AND
2. you filed a poverty affidavit (also known as an affidavit of indigency) with your request which allowed you to file without paying a filing fee.

If you did not file a poverty affidavit or the court made you pay a filing fee, you must do Service by Publication.

How do I request service by posting?

Ask the court if they have a fill-in-the-blank “Affidavit for Service by Posting.” If they do not, you must create your own. Title the document “Affidavit for Service by Posting” and state the same things you stated in the Affidavit for Service by Publication. You must ALSO write the last known address you have for the opposing party.

The Affidavit must be signed by you, notarized by a notary public, and filed with the Clerk of courts. You should not be required to pay any fees.

REMEMBER: The court will only allow you to do service by publication or posting if you have made efforts to locate the opposing party’s new address. You must explain in the affidavit for service by publication or posting exactly what you have done to try to locate the opposing party’s address.

For more information about representing yourself in court, see the Ohio State Bar Foundation Keys to the Courtroom brochure.



WITNESSES



When should I bring a witness to court?

It is always a good idea to bring a witness with you simply to tell the court that you are an honest person or to confirm that what you are telling the court is true.

In most cases that come before the court, both sides are telling a different version of the same story. The court knows that each side may be telling the version that best serves his or her own interests. The testimony of a witness (someone not involved in the case directly) will make your side of the story more believable.

In some types of cases, you are required by law to bring a witness. For example, in divorce cases, many courts require that you bring a witness to testify that you are a person known to have good character in your community (that you are an honest and good person).



What if my witnesses can't come to the hearing?

Your witness must come to the hearing! A handwritten note from a person will not be accepted by the court—the witness must show up at the hearing and testify. Live testimony is required so that the other side has an opportunity to ask questions of your witness.

To make sure your witnesses will show up, make sure you call them the week of the hearing and again the day before the hearing to remind them.



Who should I bring as a witness?

People who know you and your reputation in the community. People who know about the situation that brought you to the court from things they have seen or heard. Only use witnesses after you have talked to them and are sure that they will tell the court what is helpful to your case.

While it is okay to have a friend or family member be a witness for you, it is always best to have someone who does not favor one side over the other. With family members and friends, the court may assume that the person is testifying for you simply because they like you and want you to win.



How do I prepare my witnesses?

1. Think about what is the most valuable thing each witness could say on your behalf.
2. Write down a few questions that will help the witness get the idea across.
3. Practice with your witness ahead of time, so you know what answers will be given.



What should I do with my witnesses at the court hearing?

Start by asking the witness their name and address.

If your witness is a professional, you should ask what their job is, what their educational degrees are, and how long they have been doing their job.

Then ask specific questions about what information they have about your case.

With your own witness, it is not okay to ask “leading questions.” Leading questions give the witness the answer you want them to say.

You must keep your questions open-ended. Open-ended questions are Who, What, Where, When, How, and Why questions.

Witness Question Examples:

How would you describe my husband's condition when he dropped the children off at your house?

What did my husband do when he picked the children up from day care?



What about the other side's witnesses?

The other side will question their own witnesses first. The judge will give you an opportunity to "cross examine" them (that is, ask them your own questions). You do not have to ask any questions if you think the witness will only repeat what was already said.

When asking questions of the other side's witnesses, you are allowed to ask leading questions. Leading questions have Yes or No answers.

Witness Question Examples:

Was my husband ever drunk when he dropped the children off at your house?

Didn't my husband yell and swear at the children when he came to pick them up from day care?



What rules do I need to follow when questioning witnesses?

- Keep your questions short.
- Never ask a question when you do not know what the answer will be—the answer could hurt your case more than help it.
- If you don't get the answer you were expecting from a witness, do not argue with them or accuse them of lying. It makes you look bad before the judge. Remember . . . politeness at all times!
- If a witness refuses to answer a question, ask the judge to make the person answer.



What are some samples of questions to ask my witnesses?

- What is your name?
- What is your address?
- How long have you known me?
- During the time that you have known me, do you know my reputation in the community?
- Do I have a reputation for good character and honesty in the community?
- From what you know about me, am I someone the court can rely upon to tell the truth?
- You have heard what I have said in court. To the best of your knowledge, do you know it to be true?
- Please explain how you know this is true.

Legal Aid Services

How to Contact Legal Aid:

Call 1.866.LAW.OHIO (1.866.529.6446)

Request Services Online at www.columbuslegalaid.org or www.seols.org

Legal Aid does not discriminate against any person on the basis of actual or perceived race, color, national origin, disability, or age in admission, treatment, or participation in its programs, services and activities, or in employment.

