

HANDBOOK

FOR

NORTHAMPTON COUNTY

SELF-REPRESENTED

LITIGANTS

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PURPOSE

There may be many different reasons why people may elect to represent themselves in court without the aid of an attorney. The recent statistics in Northampton County indicate that the number of self-represented litigants has been steadily increasing. Anecdotal information from Northampton County Judges suggest that self-represented litigants are often at a significant disadvantage because they do not understand their duties and responsibilities, are unfamiliar with legal procedure and, perhaps most importantly, lack the knowledge and understanding of relevant statutes and case law that may apply to their matter.

The purpose of this handbook is to provide self-represented litigants with a general idea of the legal process and to further provide some direction with regard to self-representation. Also, the last section of this handbook provides internet addresses for websites designed to provide information, forms and other support to self-represented litigants in Pennsylvania actions.

You should also know that the Code of Judicial Conduct requires that judges must remain impartial and independent. Only attorneys are permitted to provide you with legal advice. In fact, judges are precluded from providing legal advice to attorneys and litigants involved in matters which are, or will be, active in their court system. Therefore, you should not interpret anything in this Handbook as legal advice. This Handbook is merely intended to be a general aid to you with regard to explaining how you must conduct yourself and providing, in a general way, information with regard to your duties and responsibilities when appearing as a self-represented litigant in our court system.

If the judges in Northampton County can provide any advice to self-represented litigants, it would be that any person who is involved in a legal dispute or may likely appear as a party in any matter, should strongly consider consulting with an attorney. A directory of the attorneys in Northampton County, along with some information with regard to areas of expertise, can be found at the Northampton County Bar Association. The Bar Association's address and phone number is provided at the back of this Handbook.

SHOULD I REPRESENT MYSELF?

If you are thinking about representing yourself in Court, you should know that you have an absolute right to do so. However, you should also realize that there are significant risks and responsibilities attached to that right. The Rules of Procedure and the applicable law will not be ignored or set aside just because you choose to represent yourself without an attorney. Further, you there are many complex cases where nearly all legal professionals and consultants believe that people should never handle on their own because of the difficult nature, specialized knowledge and legal experience required in order to obtain a favorable outcome. In fact, many people who have sought to avoid the expense of hiring their own attorneys, have later come to learn that they may eventually need to hire an attorney in an effort to “fix” mistakes or attempt to re-address an unfavorable outcome. [In many such cases, not only will it often cost more money to hire an attorney to attempt to “fix” the problem, but also the unfavorable outcome may constitute a final decision which cannot be altered.]

You should also know that court employees, including judges, their support staff and the employees in the Civil, Criminal and Orphans’ Court, are not allowed to answer questions or provide advice as to how you should proceed or what possible outcome you may achieve.

In any serious criminal case, law enforcement will be represented by an Assistant District Attorney who will prosecute the criminal case to a conclusion. Indigent persons (those who qualify for court appointed defense counsel because they have little or no income) will be appointed a public defender or an experienced defense counsel from the Northampton County Conflicts Team to provide representation at no cost. All other defendants who are not considered indigent must hire their own attorney or proceed without an attorney.

For self-represented litigants in civil cases, you should expect that an attorney may represent the other party(s). You should also expect that you will have to prepare all your written filings and appear in Court without any legal assistance.

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 or jury that you are right. You must act and speak in a way which helps you with your case. The following are tips that will well serve any self-represented litigant:

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 may be found at various websites referenced later in this Handbook.

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

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

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

5) Verify that you are in the correct county.

6) Become familiar with your time deadlines and limitations related to filing your pleadings and other documentation as required by the various Rules of Court. (See Time Limitations.)

Preparing Your Court Papers

1) Determine what forms might be available to you. You may wish to consult the Pennsylvania Legal Aid Network website, as well as the Northampton County website for general legal information and to locate commonly used legal forms:

www.PaLawHELP.org

www.nccpa.org

2) Since most legal filings are open for public inspection in the Courthouse, you may be able to find “lawyer-prepared” examples in other cases. However, you will have to do all the research as to locating appropriate files by yourself because Courthouse employees are not allowed to do legal work for you, to provide you with legal advice or to spend their time reviewing files on your behalf.

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.

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) In many matters, it may be best to get some legal advice ahead of time from a lawyer to ensure that you are doing the right thing and are prepared for the court hearing. If you are 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 should be well groomed.

3) Do not chew gum. 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 for Court proceedings in which the testimony of the witnesses may be relevant. Verify that those people you wish to call as your witnesses will be there for your hearing. You should know that generally, important and/or relevant statements made by others may be inadmissible hearsay evidence. Therefore, you should always bring those witnesses to your hearing or trial. (Read the section of the 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 can be helpful to make notes regarding the issues that you wish to raise during your proceeding before you come to Court, so you are prepared and know exactly what you want to say. The notebook can be used to refresh your memory about evidence you wish to testify about or the issues you wish to raise before the Court.

Going to Court

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

2) Be respectful to everyone. This includes the judge, court staff, other party(s) 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.

7) If you need the services of an interpreter in a criminal or protection from abuse matter, please contact the office of Northampton County Court Administration so that arrangements can be made to have a certified court interpreter available for your court appearance. In civil matters, it is generally the obligation of the party, (including you, the self-represented litigant) to provide your own certified court interpreter in order to develop an accurate record. If you are indigent and have been granted *in forma pauperis* status, contact the office of Northampton County Court Administration so that a certified court interpreter can be provided to you at no cost. Finally, you should be aware that a judge may refuse to allow an untrained, uncertified and inexperienced lay person to serve as an official interpreter. If you have any questions with regard to court interpreters, you may access the AOPC website¹ and/or contact the office of Northampton County Court Administration.

¹ <http://www.pacourts.us/judicial-administration/court-programs/interpreter-program>

COMMUNICATION WITH THE JUDGE

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” or “by one party only.” 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 *ex parte* communication helps assure that judges decide cases fairly and impartially. It also preserves public trust in the legal and court system. You can best understand this concept by considering the following question: Would you like it if the judge spoke to the other side about your case without your knowledge? Would you like it if the judge accepted and reviewed a letter written by the lawyer or party on the other side of your case without your knowledge and/or permission? . . . **of course not!**

So, if you, the self-represented litigant in the Court of Common Pleas, want to tell the judge anything about your pending case, you must do so in a written petition or motion filed with the Prothonotary (Clerk of Civil Court) or the Clerk of Criminal Court and served upon the other side, explaining what relief you are seeking and why you are entitled to relief. (“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 exceedingly rare. There are also very limited areas in which communication does not qualify as improper *ex parte* communication. Communication that does not involve a discussion of issues, testimony or evidence, such as scheduling a date for a hearing or trial, is an example.

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 Evictions

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 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 claims 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 also 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 regarding the proper service of 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 \$12,000 or less (not counting interest or costs), you may start a lawsuit at the Office of the Magisterial District Judge (MDJ) to pursue the collection of the sum alleged to be owed. If your claim is for more than \$12,000, you may still start the lawsuit at the MDJ's office, but you can only recover \$12,000 if you win. Please know that the MDJ can only award the payment of money for damages. The MDJ has no legal authority to order or direct the return of property.

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.

If you, the self-represented litigant, is 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 related claim against the person suing you, you may file a cross-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 (generally referenced as the execution process), 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 personal property being levied upon by a constable or sheriff. If successful, your property can eventually be put up for public sale by the constable or sheriff, with the proceeds 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. There are other details, procedural rules and defenses that can be provided by consulting with an attorney. (Also please review the 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 (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 collateral is not specified. There is also a mandatory \$8.00 hearing fee for traffic court (vehicle citation) matters. 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, as you have a Constitutional right to remain silent.

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 Criminal Court in the Courthouse. The notice form is available in that office. It is also downloadable on the Internet at www.nccpa.org. 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. and 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. Private Criminal Complaint

If you believe you are the victim of a crime, and the police have not filed criminal charges on your behalf, you may file a Private Criminal Complaint against the person who has committed the crime. This complaint must be filed at the Office of the Magisterial District Judge which has jurisdiction over the criminal matter (the office which covers the location where the incident(s) occurred). There is no filing fee. Private Criminal Complaint forms are available at the Office of the Magisterial District Judge and on-line at <http://www.pacourts.us/forms/for-the-public>.

If the alleged crime is a misdemeanor or felony offense, the Private Criminal Complaint must be submitted to the appropriate Office of the Magisterial District Judge, who will then forward the Complaint to the Northampton County District Attorney's Office for approval. There may be additional forms available at the Office of the Magisterial District Judge, which must be completed before the Private Criminal Complaint will be sent to the District Attorney for approval.

If the Private Criminal Complaint is a summary offense, and the defendant pleads "not guilty," a Summary Offense Trial will be held at the Office of the Magisterial District Judge. If the Private Criminal Complaint is a misdemeanor or felony offense, and has been approved by the District Attorney of Northampton County, a Preliminary Hearing will be held at the Office of the Magisterial District Judge.

Generally, the District Attorney will not assign an Assistant District Attorney to assist you in presenting your case. You, the self-represented litigant, must present evidence in support of your complaint at the Preliminary Hearing. Therefore, you must bring all of your evidence and witnesses to the Preliminary Hearing.

7. Continuances

As in most legal matters, 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.)

Website for MDJ forms: www.pacourts.us/forms/for-the-public

PROCEEDINGS IN COURT OF COMMON PLEAS

1. Protection from Abuse Hearing
2. Motions Court
3. Child and Spousal Support
4. Child Support Conference
5. Child Support Hearing
6. Support Contempt Hearing
7. Appeal from Suspension of Driver's License or Registration by PennDOT
8. Appeal from Conviction by an MDJ for a Summary Offense
9. Formal Arraignment in a Criminal Case
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 Settlement Conference
17. Custody Contempt Hearing
18. *In Forma Pauperis* Petition
19. Continuances
20. Law Library

1. Protection from Abuse Hearing

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.

Many 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 had 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 that you have committed abuse. The definition of abuse can be found in the Pennsylvania Consolidates 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 of 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 be held in contempt. The PFA order must be vacated or must expire before you start having contact.

If you have been cited for contempt of a PFA order, you should know that the maximum possible sentence can be six months in jail and/or \$1,000 as a fine. Defendants who have been charged with contempt of a PFA order will be provided an attorney through the Public Defender's Office if the Defendant is indigent. Any self-represented litigant who feels that he or she does not have assets to hire an attorney should make an application to the Public Defender's Office for the assignment of a Public Defender. If the Public Defender's Office, after investigation, is satisfied that the self-represented litigant is indigent (a low or no income litigant), a Public Defender will be assigned to provide legal representation.

2. Motions Court

Motions Court in Northampton County is held every business day of the year between 9:00 and 10:00 A.M. in Courtroom No. 4. Each day a judge will be present to review petitions and schedule court orders for the purposes of listing matters for hearing and/or trial. Motions Court is the proper venue for presenting custody petitions and obtaining custody master hearing dates, license suspension appeals, certain emergency matters and disputes related to pre-trial issues, such as discovery.

A judge may not grant affirmative relief to any litigant unless the litigant fully complies with the requirements of Northampton County Local Rule of Court N208.3 regarding a litigant's duty to provide three business days prior notice before the presentation of a motion seeking affirmative relief.

3. Child and Spousal Support

An action for either child support or spousal support is started by filing a complaint in the Domestic Relations Office (DRO) located at 126 S. Union Street, Easton, Pennsylvania. Although the plaintiff in a child support case is almost always a parent, it sometimes can be a non-parent, such as a grandparent, other relative, or a guardian of a child if he/she has custody of the child. The forms for commencing these actions are 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 support conference. The conference is usually held several weeks after the complaint is filed. Both the plaintiff and the defendant must be present. Under certain circumstances, the DRO will permit a party to participate by telephone.

The support conference is conducted by a trained DRO Conference Officer. The officer will examine documentation such as 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, extraordinary (and re-occurring) medical expenses, etc. All relevant documentation 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 in the defendant's absence. A bench warrant may even be issued, as well. If a plaintiff fails to come, the case will likely 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. 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. It is not unusual to reach an agreement.

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. Recommended interim order will be consistent with the financial documentation submitted by the parties and Pennsylvania Support Guidelines. (General information related to the Pennsylvania Support Guidelines can be found at <https://www.humanservices.state.pa.us/csws>.) In signing an interim order, the judge will rely only on the recommendations of the conference officer, without input from the parties.

A dissatisfied party has the right to appeal an interim order by requesting a *de novo* hearing before a judge. (See Child or Spousal 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 is filed within 20 days the interim order becomes a final order.

4. Child or Spousal Support Hearing

If a request for a hearing is filed after an interim support order is entered, there will be a *de novo* hearing conducted before a judge. The term *de novo* is Latin for “from the beginning.” At the *de novo* hearing, the judge will review the file compiled by the Conference Officer, review the decision of the Conference Officer, hear any new or additional testimony, receive any new, additional or updated documentation and listen to argument by the parties before rendering a decision. There are two courtrooms within the Domestic Relations Office building where the *de novo* hearings are held. Notice of the hearing will be given several 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 complaint and successfully obtained an interim support order, your case may be dismissed entirely if you fail to appear for a *de novo* hearing.

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. The court will receive documents as evidence, such as prior federal income tax returns, paycheck stubs, etc. Both plaintiff and defendant must bring any income documentation not presented at the support conference or not contained in the Domestic Relations file. If there is a conflict in the testimony or other evidence, the judge will determine which of the conflicting testimony or evidence is more reliable. Generally, the decision of the judge is based upon the evidence contained in the Domestic Relations file and any additional evidence presented at the *de novo* 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.

5. 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 arrive at the Courthouse well before the hearing is scheduled to begin. It generally helps if you bring money to pay on your account.

6. 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 be concerned with the record (proof) of conviction.

7. 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 Criminal Court in the Courthouse within thirty (30) days after the conviction. A Notice of Appeal form is available at the Office of the Criminal Clerk. 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.

At the hearing, the District Attorney will have the burden 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 possible resolution of your case.

8. Formal Arraignment in a Criminal Case

Some defendants appear at formal arraignment without a lawyer. At a formal arraignment, the judge provides notice to the 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 also inform a defendant of certain time limits to file certain court motions.

During your formal arraignment appearance, the judge will often inquire about the possibility of resolving your case by an admission into the ARD (Accelerated Rehabilitative Disposition) Program. Generally, ARD is available to first-time offenders who are not charged with a crime of violence, a sexual offense or a serious felony. Those offenders charged with a second DUI offense will be given the opportunity to apply for the Second Offender's Program. Offenders who qualify for the Second Offenders Program serve a much shorter period of incarceration than is required by the statutory mandatory minimum sentence because they agree to participate in alcohol treatment.

In most other cases the judge and an Assistant District Attorney will discuss the possibility of a negotiated guilty plea. Generally, a negotiated resolution in arraignment court results in the most lenient (generous) resolution that will be available in your matter. In many misdemeanor and low level felony cases, is not uncommon that guilty pleas entered in Arraignment Court result in a probationary or time served sentences. Thus, for many who plead guilty at formal arraignment, the case will be finally concluded that day and they will not have to appear in court before a judge again, barring any probation or parole violations in the future.

Defendants who do not resolve their criminal cases in Arraignment Court will be given a date certain to return for trial. On that date, defendants must be ready to pick a jury and to commence trial. Defendants who appear for trial should not expect to receive any offers for a negotiated resolution. Finally, defendants should not expect to receive a continuance of a trial date, unless a compelling, exigent reason in support of a continuance application is presented.

9. Guilty Pleas to Misdemeanor or Felony Charges

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 for the services of a Public Defender.

The Assistant District Attorney assigned to your case 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 Assistant District Attorney at formal arraignment and/or at other times acceptable to the Assistant District Attorney.

If you, the self-represented defendant, plead guilty to a misdemeanor or felony, you will have to complete a Waiver of Counsel form and a Guilty Plea Colloquy prior to appearing in front of the judge. These forms will be given to you once you arrive in the courtroom.

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

One last word of advice: please get into your courtroom on time for your scheduled matter. If you fail to appear on time, it is likely that the court will issue a bench warrant for your failure to appear. The bench warrant will result in your being detained by the Sheriff's Department (or Police Department) and lodged in the Northampton County Prison.

10. How to Apply for a Pardon

The Board of Pardons application **cannot** be obtained online and an online version from another source will **not** be accepted.

At the present time, the only means of obtaining a Board of Pardons application is through the mail directly from the Board of Pardons.

To obtain an application, send a money order, certified check, cashier's check, Institution check or law firm check in the amount of \$8.00, made payable to the Commonwealth of Pennsylvania, **Personal checks and cash are not accepted**. This fee is non-refundable.

Enclose a letter requesting an application along with a self-addressed business size envelope with \$.65 postage.

Mail these items to the following address: Board of Pardons
333 Market Street
15th Floor
Harrisburg, PA 17126

Upon receipt of the \$8.00 fee, you will be mailed an application for clemency, along with a complete set of instructions.

[Incarcerated Applicant Instructions.doc](#)

[Non-Incarcerated Applicant Instructions.doc](#)

11. Criminal Case Status Conference

If your case is not resolved at formal arraignment, you will be given notice directing your appearance at a criminal case status conference, scheduled before your trial date.

At the status conference, you and the Assistant District Attorney assigned to your case will discuss your charges with the Judge assigned to the case. Possible plea agreements are almost always discussed. However, the intent of the status conference is to tie up any loose ends, including open pre-trial motions, in order for your trial to commence on the scheduled date.

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 (\$750.00 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 papers 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. Before a full master's hearing is scheduled, substantially more money must be deposited with the Prothonotary. This money will go toward master and court reporter 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 record 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 case 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 at the hearing.

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 (an appeal of the master's report), the judge will sign a final order following the master's recommendations. Exceptions must be filed in the Prothonotary's Office within twenty (20) days of the date the report was filed and mailed out. The exceptions must be specifically stated.

14. Argument on Exceptions to Report of Master in Divorce

If exceptions are filed, an oral argument will be scheduled in front of a judge. Further, the parties will be required to file a brief (written argument) in support of or against the filed exceptions prior to the appearance in argument court.

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

The judge will not hear any more testimony or receive additional evidence. The judge must rely on 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

In order to commence a custody action, you will need to prepare an appropriate petition and Order of Court. You may access custody petitions and related paperwork in the Northampton County Law Library. Once you have fully completed the forms and printed them out, you must take the forms, with the Court Order, to Motions Court where a judge will sign the order and schedule your Custody Conciliation Conference. It will be your duty to serve the Court Order scheduling your conciliation conference, along with the underlying petition, to all parties, as well as the praecipe to schedule the conciliation conference.

The first court appearance for the parties in a custody matter is the conciliation conference before a custody master. The conference is held at the courthouse. Generally, a week prior to the conciliation conference, all parties will receive a notice from Court Administration confirming the conference.

Be sure to fill out all necessary paperwork, including a pre-trial statement required under local Rule N1915.1 (3), prior to the conciliation conference.

At the conciliation conference, you will meet with the parent or other parties involved in your custody dispute, before the custody master who will attempt to negotiate an agreement. If the parties can reach an agreement, the custody master will reduce the agreement to writing and present it to a judge for signature. You may be required to obtain home evaluations, prior to receiving a trial date.

It is advised that you should familiarize yourself with Northampton County Rule of Civil Court N1915.

16. Child Custody Settlement Conference

If the custody conciliation conference does not resolve all the custody issues, the custody master will schedule the parties for a trial. It is possible that the parties will be referred to a separate settlement master who may make a final attempt to reach a resolution. You will be required to file a Pre-trial Statement

If a settlement is not possible, the parties will be scheduled for a Non-Jury Trial before a judge. The Rules of Civil Procedure will apply related to the admission of testimony and other evidence. Please be familiar with the Rules of Evidence prior to appearing for your trial.

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 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.

The contempt petition and the appropriate scheduling order, as required under the Pennsylvania Rules of Civil Procedure, must be presented to the Motions Judge who will then schedule an initial conference before a custody master. If the contempt dispute can be resolved before a custody master, an agreed order will be presented to a judge for signature. If the master cannot negotiate a satisfactory resolution, the contempt of court dispute will be scheduled for a hearing before a judge. Please know that a person who has been found to have violated a custody order may be held in civil contempt. A finding of civil contempt may result in incarceration up to six months and/or a fine of up to \$1,000.00. The purpose of a contempt finding is two fold: to punish the contemtor and to assure future compliance with the court order.

The vast majority of these cases can be settled by agreement before the hearing stage. Therefore, you should always get to the courthouse before the hearing is scheduled to start so that you will have 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 submit a written petition with a Judge in Motion's Court. The form 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 or other court appearances for a later date if there is a good reason to do so or a legitimate “last minute” emergency.

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.

Any request for a continuance must in writing. The appropriate form for a continuance can be obtained in the Prothonotary’s Office (Clerk of Civil Court), Clerk of Criminal Court, Orphans’ Court, or at the Office of Court Administration.

20. Law Library

There is a law library on the first 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 the 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 (there will be a per page charge for making 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 an attendant librarian to provide limited assistance, generally related to the location of requested or appropriate research tools. The librarian is not an attorney nor is the librarian trained to give legal advice or to conduct legal research. You will have to do it on your own. There is also a great deal of information at the Court’s website at www.nccpa.org.

TIME LIMITATIONS

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

- * Generally, you must start your automobile accident lawsuit within 2 years of the date of the accident.
- * Generally, you must start your breach of contract lawsuit within 4 years of the date of the breach.
- * Generally, you have 20 days to file an answer to a complaint in a civil action.
- * Generally, you have 30 days to take an appeal of a final Order in civil matters.
- * Generally, you have 10 days after the imposition of sentence to file a post-sentence motion.
- * A Petition for Post Conviction Relief in criminal matters must be filed within 1 year of the date the conviction becomes a final Order.

You must learn what your time limitations are. If you miss one, it could result in the loss of your claim, cause of action, or appeal. Some Court papers may advise you of your time limitations for filing a response or an appeal. However, many time limitations are not required to be provided to you. Thus, often it is the your obligation to determine or find your time limitation on your own. Your should consult the Rules of Court and Pennsylvania Standard Practice 2d.

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 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 your official court papers and proof of service (a 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.

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 the 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 or to look up a fact online. You must have all your witnesses present for your hearing and have all of your evidence ready for presentation. Please consult Pennsylvania Rules of Evidence and Pennsylvania Standard Practice 2nd with regard to any evidentiary questions you may have.

2. Although this should not need to be said, always be honest in your dealings in the courtroom and with the judge. If you “stretch the truth” or lie, it may result in a conclusion by the judge that you are not credible and therefore that anything you say cannot be relied upon.

3. If there is a conflict in the testimony of certain witnesses, it is up to the judge to determine all issues of credibility. It is improper for you to interrupt testimony or to make other demonstrations as to your displeasure. At the end of the proceeding (after all the witnesses have finished testifying) you will be given an opportunity to tell the judge why your witnesses and/or testimony is more credible than the that of the other side.

4. Try to remain open minded about the possibility of settling your case. In many instances (especially in family matters) it is often better for the litigants to agree to compromise than to risk having a judge, who does not know any of the parties and who often has heard only a limited amount of evidence, decide your dispute based solely on the information provided in a court proceeding. You can call the lawyer on the other side or, if there is no lawyer representing the other side and there is no prohibition directing no contact, call the other side to discuss an out-of-court resolution.

5. If you do not prevail, do not take it personally. The judge is not ruling against you because the judge does not like you or is attacking you as a person. The judge is required to decide cases. That is part of a Judge’s job duties. Often, a decision made by a judge is based on narrow legal considerations or may be supported by a contested factual record where the judge has done his/her best to decide issues of credibility.

6. Acquaint yourself with the applicable Rules of Court (both the Court Rules established the Pennsylvania Supreme Court and Northampton County local Rules of Court found at www.nccpa.org), Pennsylvania Rules of Evidence, and any statutes or case law governing your matter. Also, please consult the websites and the materials referenced throughout this Handbook and, in particular, in the last section of this Handbook.

WEBSITE SUPPORT FOR SELF-REPRESENTED LITIGANTS

1. www.Palawhelp.org/

Palawhelp.org provided self-help information in many legal areas affecting low-income individuals. Support in the following areas can be found on this website:

- **Consumer**
- **Employment**
- **Housing and Shelter**
- **Disability**
- **Elder Law**
- **Migrant Issues**
- **Children and Families**
- **Health Law**
- **Public Benefits**
- **Education**
- **Immigration Issues**
- **Veterans and Military**

2. <http://www.pacourts.us/forms/for-the-public>

The Unified Judicial System of Pennsylvania provides both sample legal forms and some legal direction in the following areas:

Civil

- **Civil appeals from MDJ Judgment**
- **Cover sheet for Civil Complaint - Court of Common Pleas**
- **Civil Complaint**
- **Landlord Tenant Documents**
- **Protection From Abuse**

Criminal

- Private Criminal Complaint
- Notice of Appeal from Summary Criminal Conviction
- Expungement

Orphans' Court

- Estate and Audit Documents
- Guardianship
- Abortion Control Act
- Foreign Adoption

3. www.northpennlegal.org

North Penn Legal Services provides free attorneys for some indigent persons who qualify. Their website also provides a general self-help information regarding court matters in the following areas:

- Child Support
- Custody
- Family Law Matters
- Landlord and Tenant
- Housing

4. www.nccpa.org The Northampton County Court of Common Pleas website provides both local Rules of Court and the following court related forms:

- **General Criminal Court Forms**
 - Defendant Payment Agreement Forms
 - Motion to Expunge Forms
 - Summary Appeal
 - Praecipe for Hearing List
 - Superior Court Appeal Form

- **Domestic Relations**
 - Change of Address Form
 - Objection Form
 - Wage Attachment Form

- **General Juvenile Court Forms**
 - Juvenile Probation Admission Colloquy
 - Juvenile Probation: DRS IV-E Data Form
 - Juvenile Probation: Social Investigation Form
 - Appellate Rights Form
 - Entry or Withdrawal of Appearance
 - Miranda Warning
 - Restitution Form - Medical
 - Restitution Form - Property
 - Written Allegation Petition

- **DUI Forms**
 - ARD/DUI Application
 - ASP/DUI Application

- **Self Help**
 - Child Custody
 - Divorce
 - Expungement of Record
 - Name Change

5. **Motor vehicle forms:**

www.dmv.state.pa.us/forms/motorvehicleforms.shtml

www.co.lancaster.pa.us/prose/lib/prose/packets/involvehicletrans.pdf

NORTHAMPTON COUNTY FORMS FOR *PRO-SE* LITIGANTS

The following forms are available to *pro se* litigants at the courthouse offices listed below (the list also references several, previously listed, self-help websites):

DRS:

- Petition for Modification of an Existing Support Order - This can be requested from our local DRS office or is available online at www.childsupport.state.pa.us.
- The Initial Complaint for Support is also available on that website and will be stored there for 60 days. When a party comes to DRS for the initial intake, DRS personnel can download the information that the party has saved on the state website.

Civil:

- Driver License Appeal - Available in Civil Division.
- In Forma Pauperis Petition and Order - Available in Civil Division.
- Notice to Resume Prior Surname - Available in Civil Division.

Criminal:

- Summary Appeal - Available in the Criminal Division.

Magisterial District Judges:

- Private Criminal Complaint - Available in the MDJ offices.
- Landlord Tenant Complaint - Available in the MDJ offices.
- Civil Complaint - Available in the MDJ offices.

Custody:

- Complaint - Available on line at www.Palawhelp.org. This form must be completed on line and prints with all relevant information. A blank form cannot be printed.
- Petition for Contempt and Modification - Same as above.

Continuance Forms:

- Continuance forms for criminal and civil matters are available in Court Administration.

Law Library:

- Petition to Appeal Nunc Pro Tunc
- An Example for a Generic Motion
- Petition for Emancipation
- Custody Relocation Petition
- Emergency Petition for Custody
- In Forma Pauperis Petition and Order
- Petition to Obtain Title to Abandoned Vehicle
- Driver License Appeal - This form differs significantly from the one available in the Civil Division

Attorney Referral and Information

Northampton County Bar Association

Lawyer Referral Service

P.O. Box 4733

Easton, PA 18042

Telephone; (610) 258-6333

Fax: (610) 258-8715

Website: www.norcobar.org

Email: ncba@norcobar.org