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FOR MODERN COURTS

## Frequently Asked Questions for Litigants and Witnesses

### **What is the difference between state court and federal court?**

Pennsylvania's state courts decide cases involving child custody, divorce, most crimes, contract disputes, and traffic violations--just to name a few! These courts can also hear cases that are appeals from state or local agencies.

For more about Pennsylvania state courts, please [visit our page on Court Structure](#).

Federal courts hear cases in which the federal government is a party. They can also resolve controversies between states or between the US government and foreign governments. They may hear "diversity of citizenship" cases, where each party resides in a different state, if the claim exceeds \$75,000. These courts can also hear cases that are appeals from federal agencies.

Pennsylvania has three federal courts:

[The U.S. District Court for the Eastern District of Pennsylvania](#)

[The U.S. District Court for the Western District of Pennsylvania](#)

[The U.S. District Court for the Middle District of Pennsylvania](#)

### **What should I consider before I sue someone?**

Here are a few things to consider before deciding to bring a civil suit:

- The courts cannot resolve every type of unfairness: you must have a legal claim in order to proceed.
- If you must sue someone, be objective and gather ALL of the relevant facts. Just because you think you're "right" does not mean you're going to win in court. You have to prove your case to the judge or a jury.
- If you do plan to file a court case, be as prepared as possible. Get as much information as you can about how the person or entity you are going to sue can be contacted.
- Consider if the defendant has money to satisfy a judgment (pay your damages and costs if s/he loses).

### **How can I get and pay for an attorney?**

If you wish to seek legal advice or representation, you should do so as soon as you are thinking about filing a lawsuit, or as soon as you receive any paperwork indicating you are being sued. Do not wait until the day before the hearing to seek legal advice or assistance. A directory of Pennsylvania attorneys [can be found here](#).

The costs of legal representation are usually not cheap. However, a number of legal services organizations may be able to help you get a lawyer at little or no charge, depending on your financial situation. Also, older individuals may find legal help in their county by contacting their [local Office of Aging](#).



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Additionally, some cases arise from incidents in which insurance coverage is available (examples: car accidents, slips and falls). Did you have insurance when the event happened? If so, tell your insurance company that you have been sued. If the event was covered by insurance, check if the insurance company is going to provide a lawyer to defend the claim. Even if it is, you may still want to explore getting your own attorney.

### **If I don't have an attorney, what do I do to bring a lawsuit?**

Here is what you will need to do file a lawsuit without an attorney:

- Contact the local Court Clerk (or Prothonotary) for information on accessing the local rules, filing fees, procedures for service, and to find out if your court has a Pro Se Clerk to help people representing themselves. To look up your individual county court, [click here](#).
- In order to bring a lawsuit, you must first file a complaint. This is a document where you explain why you are suing. [Click here to download a template](#) for a civil complaint.
- A complaint should be brief and plainly worded, but it has to be specific enough to show that you would win the case if all of the facts you alleged turned out to be true. If your complaint does not meet this requirement, your case will be dismissed by the judge before trial.
- In some counties, you can file a complaint electronically. For example, Philadelphia uses a civil E-Filing system, where you can send and receive documents, pay filing fees, notify other parties, receive court notices, and retrieve court information. If you are filing a court case in Philadelphia and have no access to the internet, you can use the E-Filing Center in City Hall Room 127. More information about E-Filing in Philadelphia [can be found in this manual](#).
- After you file your complaint, you must formally serve (a legal form of delivery) the opposing party, either by mail or in person. Your Clerk of Court's office can explain to you the relevant rules and procedures and provide you with the necessary forms.

### **If I don't have an attorney, what do I do if I am being sued?**

If you are being sued and do not have an attorney, here is what you will need to do:

- File an answer with the court you are being sued in. In the answer, you must admit or deny the allegations the plaintiff made in his or her complaint. [Click here to download](#) a sample answer.
- Make sure to respond to all of the plaintiff's allegations. The judge will treat any unanswered allegations as admitted. This can have devastating effects on your defense.
- In addition to responding to the plaintiff's allegations, you can present [affirmative defenses](#) and [counterclaims](#).
- After you file your answer, you must formally serve (a legal form of delivery) the opposing party, either by mail or in person. Your Clerk of Court's office can explain to you the relevant rules and procedures and provide you with the necessary forms.

For more information about responding to a lawsuit, please visit our [Resources for Self-Represented Litigants FAQ](#).

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### Does it cost anything to file a case, and if so, how do I make payments to the court?

- Filing a court case is not free. You have to pay filing and service fees to the court, unless you can prove that you cannot afford to do so. If because of your economic circumstances you are unable to pay filing fees and court costs, you might be permitted to have them waived in forma pauperis (a Latin expression that literally means “in the manner of a poor person”). Information and forms regarding filing in forma pauperis are available here.
- The Clerk’s Office has lists documenting fees for different court filings. Check these lists to ensure that you have the proper amount and form of payment to accompany your court filings.
- If you are a defendant, there are various payments that may need to be made depending on the type of case you are involved in. Various methods of payment are available. See, for example, [Citizens' Guide to Court Procedure Making Payments to the Court](#) (discussing a broad range of the relevant cases -- from Traffic Court cases to adult criminal cases -- including the cases that involve bail payments).

### How do I know if I'm in the right court?

- You cannot sue someone in whatever court you feel like. You can only bring a case against someone in the judicial district where that individual lives or where the event, transaction, or occurrence that you are suing over happened.
- There are sixty judicial districts in Pennsylvania. The judicial districts generally follow the boundaries of Pennsylvania’s sixty-seven counties, except that seven judicial districts each cover two counties. To find your judicial district, click here.
- For more information about what types of courts handle what types of cases, please visit our [Court Structure page](#).

### What procedures will be followed during my court case?

- The Pennsylvania Rules of Civil Procedure govern civil cases except those in the minor courts. These rules cover just about everything except evidentiary matters. For example, the Rules of Civ. Pro. will tell you where a plaintiff can file a case, what the defendant can do if the plaintiff has filed in the wrong court, and how to add parties to a case.
- If your case is in a minor court, you must follow the Pennsylvania Minor Court Rules. This set of rules is much shorter and more manageable than the Rules of Civil Procedure.
- In addition, many county courts develop rules to govern cases in their local courts. You can obtain copies from the Clerk’s Office. Also, some judges like particular procedures to be followed. Check with the Clerk’s Office to determine if the judge in your case has published a list of such procedures.



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### How do I deal with all this paperwork?

- Keep copies of everything!
- If you don't understand something, don't sign it.
- Sometimes, you will be required to file multiple copies, and some things may need to be notarized. Check with the Clerk's Office to find out what is required.
- File documents with the proper office and keep a copy of anything you file with the Court or send to the opposing party or opposing counsel.
- You can get a list of documents pertaining to your case that have been filed with the Court and even obtain permission to copy them. Contact the Clerk's Office to find out how they handle requests for copies.

### What is the discovery process, and how does it work?

Discovery is a pretrial process by which one party reveals, at the opposing party's request, relevant facts and documents pertaining to the litigation. Discovery takes three basic forms: document production, depositions (asking questions of witnesses), and interrogatories (written questions).

Discovery helps parties find evidence to support their positions (claims) and learn what evidence the opposing party has in support of its claims or defenses. In discovery, both plaintiff and defendant can ask for, and are entitled to receive and examine different types of documents, reports, DVDs, tapes, and other materials that the opposing party has.

In addition to production of documents, discovery also involves depositions (pre-trial testimony of a witness or a party in a legal proceeding), and written interrogatories (written answers to questions, made under oath). Discovery is governed by the [Rules of Civil Procedure](#) and the [Rules of Evidence](#). A good resource for various Pennsylvania Rules is [Jenkins Law Library's Resource Page](#).

Note that there are certain types of information that do not have to be disclosed. You may be able to invoke a privilege (a legal right not to testify) and refuse to provide certain documents or answer certain questions. For example, commonly recognized privileged information includes the attorney-client privilege (aimed to protect statements you make to your attorney), doctor-patient privilege (aimed to protect statements made to a physician by a patient), inter-spousal (aimed to protect statements between husband and wife), and the Fifth Amendment privilege against self-incrimination. The Fifth Amendment to the U.S. Constitution applies in criminal cases but generally not in civil cases.

The specific Pennsylvania Rules of Procedure governing discovery may be found [here](#).

### What do depositions involve?

At a deposition, the opposing parties and witnesses, after being placed under oath, respond to questions. An attorney asks questions and the questioned individual responds. The testimony is taken down by a court reporter. A transcript of the testimony can be prepared for a fee.



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### **What if a witness does not want to appear to testify at a legal proceeding like a deposition or hearing?**

You are entitled to have subpoenas issued to witnesses by the judge, through the Clerk's Office. Subpoenas compel individuals to appear at a hearing or a deposition at the specified time and testify. Once a subpoena is served on witnesses, they must appear for legal proceedings, such as depositions and hearings, even if they don't really want to. In addition to the requirement of the witnesses' physical presence at the deposition or hearing, a special kind of subpoena can also require witnesses to bring relevant documents that you requested.

Please note that the earlier you have the subpoenas issued and served on witnesses, the better the chances they will be able to make arrangements to adjust their work or personal schedules accordingly.

A subpoenaed individual who fails to appear without cause may be charged with contempt of court and as such may be subject to civil or criminal penalties.

### **Can I send questions to my opponent to be answered in writing?**

Yes, you can. In fact, for discovery purposes, any party in the litigation may send written questions ("interrogatories") to another party. Interrogatories require a written response made under oath. This is one of the most widely used forms of discovery.

Interrogatories seek to discover what the opposing party knows (including the facts the opposing party has learned from others) and what information the opposing party can reasonably obtain and rely on in a lawsuit.

In contrast to depositions where both the litigants and witnesses must respond to questions, interrogatories are addressed only to litigants.

You can object to questions you are asked in interrogatories, and until the Court decides on the validity of your objections, you will not have to answer them.

Interrogatories are less expensive than depositions. The number of questions that can be presented to the opposing party is limited (usually to 25). Also, the form of these Interrogatories is controlled by the Pa. Rules of Civil Procedure and local court rules.

### **What if my opponent has a medical condition that is relevant in the case?**

The Court may order a party whose physical or mental condition might be at issue in the case, to submit to a physical or mental examination by a licensed or certified examiner (the examined party can get a copy of the report upon request). The examined party must also provide any prior reports of examinations for the same condition, and waive confidentiality of the testimony of his/her examiner about the condition he/she was examined for.



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### **Can I reach a settlement with the opposing party without going all the way through litigation?**

Litigation is expensive, time-consuming, and stressful. As a result, a great number of cases get settled out of court. In many instances, both parties to a case would prefer to reach an agreement (settlement) rather than go all the way through the court process. Litigation is expensive, time-consuming and stressful. The goal of negotiating a settlement is to work out an agreement that would be satisfactory to the parties and in compliance with the law.

Here are some things to remember when negotiating a settlement:

- If you wish to settle, you should contact the opposing party far in advance of the court date.
- The opposing party does not have to agree to a settlement.
- Under the terms of many settlements, you may be giving up your right to sue later.
- Settlements are binding on both parties, which means that once the parties have committed, they cannot back out.
- Like most compromises, settlements usually require each party to take less than they may want. The parties may conclude that the benefits of certainty and finality make the settlement more attractive.
- If you do not understand something in the proposed settlement, do not sign it.
- You should consider all the advantages and possible disadvantages of the proposed settlement before agreeing to it.

### **What is alternative dispute resolution, and how does it work?**

Alternative dispute resolution is a form of conflict resolution that provides parties the opportunity to find resolution without going to court. There are two main types of alternative dispute resolution: mediation and arbitration.

In mediation, a mediator (a neutral third party) will review the case and help the parties resolve the case. It is then up to the parties whether or not to follow the recommendations of the mediator.

In arbitration, an arbitrator (a neutral third party who is usually an attorney), presides over a hearing in which evidence and testimony of the opposing parties is heard. Arbitration takes place out of court and can be voluntary or mandatory. Unlike a mediator, the arbitrator has the power to make a decision about the conflict's resolution. This decision is usually final.

Different counties have different ways of implementing alternative dispute resolution. Some counties require the use of conciliators or mediators, especially in custody cases, in an effort to try to help resolve disputes before they go to court. Some counties also use Masters, court-appointed officials who have some judicial powers. Masters can usually make decisions in a case, which can then be appealed to a judge. Other counties have local Arbitration Panels, for cases involving modest amounts of money. These panels are made up of three lawyers appointed by the Court, who can render decisions. Parties dissatisfied with the results of Arbitration Panels can also appeal to a judge.

Even when required, alternative dispute resolution is not a replacement for your right to go before a judge. However, you should look at alternative dispute resolution as a genuine opportunity to solve your dispute without having to go to Court.



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## Can my case be dismissed altogether?

Often, cases will be dismissed by the Judge for various reasons. Dismissal can happen at various stages during the litigation process. Some reasons that cases may be dismissed are:

- There is insufficient evidence.
- The lawsuit is filed too late.
- The defendant makes a formal request (motion) to a judge to dismiss the case, asserting that the plaintiff is not entitled to legal remedy.

Any party in a lawsuit can also file a motion for summary judgment. Summary judgment usually occurs after discovery and means dismissal of a case when the undisputed facts of the case and the applicable law leave no issue for a judge or jury to decide. A motion for summary judgment can be supported by any kind of evidence that is normally admissible at trial. There are two criteria to be met for summary judgment to be granted:

- There must be no genuine issues of material fact (meaning that the key facts of the case must be undisputed.)
- The moving party (the party who files the motion) must be entitled to judgment as a matter of law. In other words, judgement in favor of the moving party must be authorized by the law when it is applied to the facts of the case that are not in dispute.

The initial burden of showing that summary judgment is appropriate is on the moving party. The court will review the evidence presented in the light most favorable to the opposing party.

For more information on summary judgment, please see the [Pennsylvania Rules of Civil Procedure](#).

Partial summary judgment can also be granted, and some, but not all, claims can be discarded as a result.

## What happens at trial?

At trial, after the attorneys (or a plaintiff or defendant who is representing himself/herself) make opening statements (present facts of the case and explain what will be proved at the trial), the plaintiff and his/her witnesses will typically testify. The opposing party lawyer will cross-examine the witnesses. Then, the defendant will present his/her witnesses and the plaintiff attorney will cross-examine the witnesses.

After that, both parties will make their final arguments (closing arguments) on behalf of their respective clients and will request a decision on the case favorable to their clients. The judge will instruct the jury about the applicable law. (In a non-jury case, the judge will make a decision.) The jury will then weigh the facts of the case and decide whether or not the plaintiff was harmed because of the defendant. The jury will also make a decision on the monetary award to the plaintiff.



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### **How can I get a Language or Sign Language Interpreter?**

Litigants with limited English proficiency and those who are deaf or hard of hearing are entitled to a professional language or sign language interpreter for judicial and most administrative hearings.

To obtain an interpreter, let the court know in advance that you need an interpreter. This will help ensure that one is available when you show up in court. Please note that local courts are developing individual procedures for insuring litigants receive interpreter services, and you should contact your local Clerk's office to find out the procedures for your county.

In cases that involve low-income parties, the Court bears the cost of the interpreter services. In certain civil cases where the parties can afford the costs, the Court may include interpreter costs in fees assessed against the parties.

### **What can I expect after a trial or hearing?**

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- Be patient with the lawsuit process. After the hearing, there may be a lengthy wait before you receive any decision from the court if you had a bench trial (no jury). But a jury verdict will be announced as soon as the jury makes a decision.
- Keep all of your paperwork.
- If the court awards you money (in a judgment), and the defendant doesn't pay it, you must file additional paperwork (Writ of Execution) to try to collect the money awarded to you.

### **What if I am dissatisfied with the judge's ruling or jury's verdict?**

- There are procedures that must be followed if you disagree with a judge's ruling or a jury's verdict and seek to have it reversed, or undone. Sometimes this involves filing papers with the Clerk's Office and sometimes it requires appealing the case to a higher court. You must follow these procedures to preserve your rights. Often, the judge or Clerk of Court will explain what type of filing is necessary. If you have questions, ask the judge or contact your local District Court Administrator.
- Either side in a civil case can appeal both the ruling and the amount of damages (e.g. the amount of money awarded) to a higher court. Note that you cannot appeal the court's decision simply because you are not satisfied with it. You can only appeal if the judge had made a legal error. An example of a legal error would be if the judge incorrectly refused to admit an important document into evidence.
- Be careful. Make sure you object to rulings that you believe are wrong. For example, if opposing counsel attempts to submit a document into evidence that you believe is inadmissible, you must immediately raise an objection. If you fail to do so, you may lose your right to appeal the judge's decision to admit the document.
- Be mindful of deadlines! There are always deadlines for filing notices of appeal. Rarely is there any opportunity to file an appeal after the deadline has passed.

### **What if something makes me suspect bias or unethical behavior on the part of the judge or an attorney?**

- The judicial discipline process addresses unethical or improper conduct by a judge. More information about the judicial discipline process can be found on our website.

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- Disagreement with a judge's decision or ruling CANNOT form the basis for a complaint against the judge with the [Judicial Conduct Board](#). Instead, you will have to present a motion or file an appeal as described above.
- If you are concerned that an attorney involved in the litigation has acted unethically or improperly, the Supreme Court of Pennsylvania oversees the attorney discipline process through the [Disciplinary Board](#).
- To learn how to file a complaint against an attorney, [click here](#).
- To learn how to file a complaint against a judge or a court employee, click [here](#).