

# A the ALERT



The Legal Aid Society  
of Cleveland  
Since 1905

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## Preparing to Represent Yourself in Court

By Lauren Gilbride and Kari White

Many people go to court without a lawyer, also called appearing "pro se." It can be a scary process, but preparing for the court hearing and knowing what to expect can reduce stress and allow you to better present the facts and issues in your case. If you are representing yourself in court, the following steps will help you prepare.

### 1) **Know where your courtroom is located.**

Once you receive your court date, take a trip and find your courtroom. This will help you plan travel time, parking or bus routes, plus give you an idea of the layout of the building so that you can easily find your way to court on the day of your hearing. Always make sure to leave plenty of travel time for unexpected issues. If you are not in your courtroom at the time your case is called it can be dismissed or move forward without you.

### 2) **Present yourself as a business person at your hearing.**

Although you are not a lawyer, you are representing yourself and you want to look and act the part. You do not need to buy new clothing, but make sure to dress professionally. Also, make sure all devices, such as cell phones, are turned off. Court officials may take these items if they ring during a hearing. In addition, you should only bring into the courtroom people needed for your case. Others can distract you during the hearing and may cause disruption. You should address the judge as "Your Honor." Although you may disagree with the opposing party, do not interrupt or argue with anyone in court. You will be given time to speak and present your case.



### 3) **Prepare the evidence you will use in your case.**

Not all evidence is allowed to be used to support your case. At the hearing, the judge or magistrate may tell you that you cannot present certain evidence. Don't get frustrated if you are told this and continue moving forward with your case. For any papers you plan to use as evidence, make sure to have copies for you, the opposing party and the court. The court and the opposing party will keep their copies. You should also talk with your potential witnesses to prepare them and let them know they may have to answer questions from the opposing party or attorney and the judge. Remind your witnesses to dress appropriately and turn off all devices before entering the courtroom.

Following these steps can help you feel prepared, avoid unexpected surprises the day of your hearing, and present your case clearly to the court.

# The Legal System Basics

By Jacob Whiten

The American legal system is based on federal laws, which cover the entire country, and state laws, which only cover a particular state. Federal and state systems handle both civil and criminal cases. Federal courts handle civil issues like bankruptcy, while state courts handle civil issues like evictions and divorce.

A civil case typically starts when one person, the plaintiff, claims that another person, the defendant, harmed the plaintiff by doing something against the law or by not doing something they were legally required to do. Criminal cases begin when a person is accused of a crime, or "indicted." Unlike in civil cases, the government brings criminal cases through the county prosecutor's office. The victim is not a party to the case.

There are many kinds of state courts, including municipal courts and common pleas courts, where cases usually start. Municipal courts hear less serious criminal cases and civil claims for less than \$15,000. Common pleas courts primarily hear felonies and civil cases worth more than \$15,000. If a party loses at trial, she can take her case to the court of appeals. The loser on appeal can ask the Ohio Supreme Court to hear the case. All courts can only hear cases within their jurisdiction, which is generally

the geographic area where the court is located (for example Cleveland Municipal Court hears cases that occur in Cleveland.)

The Clerk of Courts is the person who keeps the records for the court. The Clerk receives documents for filing and collects court fees. People who have to go to court and cannot afford to pay filing fees can often file a "poverty affidavit." A "poverty affidavit" is a sworn statement that you have a low income and cannot afford the fees. Once you file the affidavit and a judge approves it, your filing fees will be reduced or waived in that case. See <http://lasclev.org/selfhelp-povertyaffidavit/> for more information.

Some problems must be addressed through an administrative proceeding before going to court. Benefits provided by the state, such as unemployment compensation, food stamps, and Medicaid, are part of the administrative law system. When an agency like the Ohio Department of Job and Family Services makes a negative decision about a person's benefits, the person must be notified and given an opportunity to request a hearing by a certain deadline. At the hearing, a person is allowed to bring an attorney or other representative to help explain why the agency's decision was wrong. After all available administrative proceedings have been used unsuccessfully, a person can take their issue to court.

## Common Legal Terms

By Kristen Simpson

- **Answer:** A document filed by the defendant with the court responding to the plaintiff's complaint.
- **Civil Action:** A lawsuit filed with a court to demand a legal solution to a private dispute.
- **Complaint:** The first document filed by the plaintiff in a case. It describes what the plaintiff claims the defendant did wrong that caused the plaintiff some harm.
- **Court Docket:** An official court record of what has happened in a legal case. The docket is a public record and can often be viewed online from the court's website.
- **Default Judgment:** A judgment granted by the court for failure to file a pleading by a specific deadline or a failure to appear in court when required.
- **Defendant:** The person being sued in the lawsuit and who the plaintiff claims did something wrong.
- **Magistrate:** A court official appointed by a judge with authority to administer and enforce the law in a case.
- **Motion:** A written request asking the court to take some form of action (for example, to dismiss a complaint).
- **Plaintiff:** The person or company who files the lawsuit with the court.
- **Pleadings:** Written documents filed by the plaintiff or defendant that give information to the court about the dispute.
- **Poverty Affidavit:** A written, sworn statement that you have a low income and do not have enough money to pay court filing fees.
- **Pro Se:** A person who does not have an attorney representing them in their case and who appears in court by himself or herself.
- **Summons:** A court order requiring a person to appear or respond in writing to the complaint. Failure to appear in a civil case can result in a default judgment; failure to appear in a criminal case can result in being arrested.

<sup>1</sup><http://www.acba.org/Public/For-Media/Legal-definitions.asp> at page 1.

<sup>2</sup><http://www.acba.org/Public/For-Media/Legal-definitions.asp> at page 3.

<sup>3</sup><http://www.acba.org/Public/For-Media/Legal-definitions.asp> at page 7.

<sup>4</sup>[https://www.ohiobar.org/General%20Resources/LawandYou/TLAY\\_Glossary.pdf](https://www.ohiobar.org/General%20Resources/LawandYou/TLAY_Glossary.pdf) at page 9.

<sup>5</sup><http://clevelandmunicipalcourt.org/judicial-services/magistrates>

<sup>6</sup>[https://www.ohiobar.org/General%20Resources/LawandYou/TLAY\\_Glossary.pdf](https://www.ohiobar.org/General%20Resources/LawandYou/TLAY_Glossary.pdf) at page 21.

<sup>7</sup><http://www.acba.org/Public/For-Media/Legal-definitions.asp> at page 18.

<sup>8</sup><http://lasclev.org/selfhelp-povertyaffidavit/>

<sup>9</sup>"Pro Se." West's Encyclopedia of American Law, edition 2. 2008. The Gale Group 22 Jul. 2014

<http://legal-dictionary.thefreedictionary.com/Pro+Se>

# Preparing for a Housing Case on Your Own

By Jessica M. Weymouth, Senior Staff Attorney, Cleveland Housing Court

**What is Housing Court?** In Ohio, three courts have divisions that specialize in housing-related issues: Cleveland, Toledo, and Franklin County. These courts were created to allow judges to develop expertise in these areas of law and use a problem-solving approach to cases. In other cities, the municipal court typically hears cases related to housing issues.

**What types of cases are heard in Housing Court?** The courts hear civil and criminal cases related to real property. The civil cases include landlord tenant matters, like evictions, rent deposits, and actions to compel repairs. The criminal cases involve the failure to maintain property, and include building, housing, health, fire, and zoning code violations.

**What should you know about going to Housing Court on your own?** You are not required to have an attorney to appear in Housing Court (unless you are appearing on behalf of a company you own). If you are in Court on a criminal case you may be entitled to a court-appointed attorney. Ask the Judge about your right to counsel when you appear for a criminal case.

- **Read your court papers carefully!** They will tell you when and where you are to appear and whether you need to file anything in writing with the Court.
- **Look at the Court's website.** Most websites post basic information, including local rules, and have a list of "frequently asked questions."

- **Read the rules.** A court's local rules tell you how individual courts handle cases. Also, all parties must follow the Ohio Rules of Civil Procedure, whether they are represented by an attorney or not.
- **Evictions are summary proceedings.** This means that cases move quickly, and usually are heard and decided at the first hearing. In Cleveland, if you are ordered to move, you may have as few as seven days to do so! If you have special circumstances you would like the Court to consider, bring related paperwork to the hearing.
- **Consider mediation.** The Cleveland Housing Court now offers community mediation, in which court staff meet with landlords and tenants in their neighborhoods to try and resolve problems and avoid future lawsuits. For more information, please contact the Court at 216.664.4295. In other communities, check with the municipal court to find out if mediation is available.

**Questions? Many organizations offer help to tenants. Call 2-1-1 for resources in your community.** In Cleveland, see a Housing Specialist for information about court procedure and landlord-tenant law, Monday through Friday, from 8:00AM - 3:30PM, on the 13th floor of the Justice Center. The Specialists are not attorneys, and cannot represent you, but can answer general questions.

## Self-Help Tools

The Legal Aid Society of Cleveland recently created a self-help section on its website to begin providing tools to people who must go to court on their own without the help of an attorney. The tools currently available can help people with the following:

- Completing a poverty affidavit to request a waiver of court filing fees [<http://laslev.org/selfhelp-povertyaffidavit/>]
- Sealing a criminal record [<http://laslev.org/selfhelp-sealingrecord/>]
- Completing health care directives (living will and health care power of attorney)[ <http://laslev.org/selfhelp-poa-livingwill/>]
- Accessing the Cuyahoga County Child Support Portal for information about child support orders

Keep checking the Cleveland Legal Aid website for more self-help tools in the coming months. If you have questions, attend one of Legal Aid's free brief advice clinics. You can find a list of upcoming clinic dates and locations here: <http://laslev.org/events/category/brief-advice-clinics>



# When You Have a Right to an Attorney

By Cullen Sweeney, Cuyahoga County  
Assistant Public Defender

Most people end up in court because they have to go, not because they want to be there; either they are being charged with a crime or they cannot resolve a dispute. When going to court, the assistance of a good lawyer makes a big difference. Unfortunately, many people cannot afford to hire a lawyer. In certain types of cases, you have the right to ask the court to “appoint” or assign a lawyer who you do not have to pay to represent you.

## **CRIMINAL CASES**

In criminal cases, you have a right to a lawyer whenever you might receive any amount of jail or prison time. This generally means you have a right to a lawyer in every felony case and most misdemeanor cases, including traffic offenses, with the exception of minor misdemeanors. You will not usually have a lawyer appointed until the first time you appear before the judge; but, you do not have to speak to police without a lawyer present. You also generally have a right to a lawyer on your first appeal or at a hearing where you may be sent to jail for violating your probation or parole.

## **JUVENILE COURT CASES**

Both parents and children have the right to lawyers in juvenile court proceedings. When a child is charged with committing a crime, he

or she has a right to a lawyer. When Children and Family Services removes or attempts to take custody of children, the parents have the right to a lawyer and the children may also have a right to their own lawyer (in addition to a guardian ad litem).

## **CHILD SUPPORT CASES**

A parent who may go to jail for failing to pay child support has a right to counsel at the “show cause” or “contempt” hearing. A parent is not, however, entitled to a lawyer when determining the amount of the child support payments.

## **OTHER CIVIL CASES**

In a few other circumstances—generally where your liberty is at stake, you also have a right to a lawyer. If you are the subject of a guardianship or a civil commitment, you like have a right to appointed counsel.

In most other civil cases, such as evictions or if you are sued by a creditor, you do not have a right to a court-appointed lawyer. You can hire a lawyer to represent you, or apply for free legal assistance through the Legal Aid Society of Cleveland, which may be able to help in some cases. Call 1.888.817.3777 to apply for assistance.

# What Is Mediation?

By Abigail Staudt and Hazel Remesch

Mediation is a way for people to solve a legal problem without going to trial. Mediation usually occurs after a court case is filed. But, it can also happen before a court case begins.

At mediation, the parties have an opportunity to tell their side of the story. The mediator helps reach an agreement that is acceptable to both parties. A settlement agreement states what each party will do in order to resolve their dispute.

Both parties must attend the mediation. Parties do not need a lawyer to go to mediation. If an agreement is reached, the terms are put in writing and both parties sign it. The parties are required to follow the agreement. When a court case is already filed, if any party violates the settlement agreement, the other party may request a hearing from the court.

When preparing for mediation, parties should collect and bring to the mediation any papers related to their dispute. What each party says during mediation is confidential and cannot be used in court against each other. However, the mediator may be required to report issues of child abuse, elder abuse and the admission of a crime.

If the parties cannot reach an agreement at mediation, the case can be filed in court or if already filed, it will be sent back to the court for a trial where a judge or jury decides the outcome.

The Cleveland Housing Court offers mediation for the benefit of both landlords and tenants. Most commonly in eviction cases, the parties agree on a date for the tenant to voluntarily move out. Landlords benefit by knowing a tenant will move and tenants avoid having an eviction judgment. To schedule mediation at Cleveland Housing Court, contact the mediation coordinator at 216.664.4926 or see a Housing Court Specialist on the 13th floor of the Justice Center.

Mediation can also be an option to resolve disagreements about child custody. See Legal Aid’s brochure, *Custody Mediation: What You Should Know In Advance*, available at <http://lasclev.org/custodymediationbrochure/>.

Mediation is available to help resolve other types of problems through the Cleveland Mediation Center. See <http://clevelandmediation.org/programs/community-disputes/> for more information.



# Representing Yourself in Family Matters

by Davida Dodson and  
Tonya Whitsett



It is always best to have an attorney help you in court, but if you find you must represent yourself, here are some suggestions about representing yourself in family matters. Two courts handle family law issues: Juvenile and Domestic Relations. Start by reading the court's website because some courts post forms and instructions. For example, the Cuyahoga County Common Pleas Court, Domestic Relations Division, has a complete packet with instructions and forms on how to file a divorce and your divorce decree forms (for example, [www.domestic.cuyahogacounty.us/en-us/](http://www.domestic.cuyahogacounty.us/en-us/)). If you visit the clerk's office, remember that clerks are not permitted to give legal advice.

If you seek a specific outcome, start by filing a complaint or motion. The other party must receive a copy of the documents that you file with a court. This is called "service." You can ask the clerk of courts to "serve" the other party by completing a "service instruction" form. You will need a complete address for the other party. Failure to provide an accurate address for the other party will postpone your hearing. The clerk will send you notice of the date, time, and location for your hearing. Remember to notify the scheduler of any changes to your address or phone number. Mark your calendar for deadlines and hearings in your case.

The court expects you to be ready for your hearing. Keep your papers organized with paper clips or folders. Bring to court whatever proof you have that supports your case. For example, to prove your income for child support, you should have recent paystubs, w-2s and tax returns. Include three (3) copies of all documents that you plan to present to the court: one copy for the judge, another for the other party, and the third copy for yourself. Also, have copies of any documents that were filed by you and the other side. You can refer back to these papers as necessary. Invite witnesses that can help you prove your case. The court will expect you to present testimony by asking questions during the hearing. Make sure you know what your witnesses will say when deciding who should testify.

When a case concerns children, courts will not permit your children to come into the court room, so it will be important to plan for child care ahead of time.

When it is time to present your case, stand and follow the directions of the judge or magistrate. Make sure to dress appropriately. Explain what you would like the court to do for you and your family. Most importantly, point out why this action is needed and how it will serve you or the best interest of your children.



Volunteer Lawyers Program  
[vlp]

} **free**  
LEGAL ADVICE

**2014 Brief Advice and  
Referral Clinics Civil Matters Only  
(Not Criminal)**

*Legal Aid provides services in the areas of consumer rights, disability, domestic violence, education, employment, family law, health, housing, foreclosure, immigration, public benefits, utilities, and tax.*

First-come, first-served. Bring important papers with you! Questions? Call 216-687-1900 or visit [www.lasclev.org](http://www.lasclev.org) for updated clinic listing.

**WEEK OF SEPTEMBER 8**  
**12:00 – 2:00 PM**  
El Centro Lorain  
2800 Pearl Avenue, Lorain  
*Part of United Way of  
Greater Lorain County's  
Week of Caring*

**SATURDAY, SEPTEMBER 13, 2014**  
**9:30 – 11:00 AM**  
Cleveland Public Library –  
Glenville Branch  
11900 St. Clair Avenue, Cleveland

**SATURDAY, SEPTEMBER 27, 2014**  
**9:30 – 11:00 AM**  
Spanish American Committee  
4407 Lorain Avenue, Cleveland

**SATURDAY, OCTOBER 18, 2014**  
**9:30 – 11:00 AM**  
Cleveland Public Library –  
Lorain Branch  
8216 Lorain Avenue, Cleveland

**SATURDAY, OCTOBER 25, 2014**  
**9:30 – 11:00 AM**  
Fatima Family Center  
6600 Lexington Avenue, Cleveland

**SATURDAY, NOVEMBER 8, 2014**  
**9:30 – 11:00 AM**  
Cleveland Public Library –  
Langston Hughes Branch  
10200 Superior Avenue, Cleveland

\*Attorneys available for brief advice and referral only. Clinic attorneys do NOT represent you. If you need legal representation you may be referred to The Legal Aid Society of Cleveland or another service provider.



The  
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of Cleveland  
*Since 1905*

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RETURN SERVICE REQUESTED

Legal Aid has improved its intake system to better serve the Northeast Ohio community.  
Please share this information with your constituents:

**If you need legal assistance,  
you can contact Legal Aid any weekday for help.**

New intakes are processed via phone:  
888-817-3777 (toll-free)

Monday, Wednesday, Friday: 9 a.m. – 4 p.m.  
Tuesday, Thursday: 9 a.m. – 2 p.m.

If you prefer an in-person intake application, those are handled:  
Tuesday, Thursday: 9 a.m. – 1 p.m.

at any of our four Northeast Ohio offices (Cleveland, Elyria, Jefferson & Painesville).

**Visit [www.lasclev.org](http://www.lasclev.org) for more information!**



*Legal Aid sometimes invites community members to give their opinion on different topics during a focus group. If you might like to participate in a focus group in the future, please send an email with your name and contact information to [focusgroup@lasclev.org](mailto:focusgroup@lasclev.org).*

***This newsletter is meant to give you general information and not to give you specific legal advice. This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation or if you have questions.***

*If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that anyone can communicate with us in his or her dominant and/or preferable language.*

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