



## ASHLAND COUNTY COURT OF COMMON PLEAS

Probate and Juvenile Division

Karen DeSanto Kellogg, Judge

142 West Second St., Ashland, Ohio 44805

Phone: 419-282-4205 Fax: 419-281-5699

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# ACTING AS YOUR OWN ATTORNEY IN COURT

## Common Questions and Answers

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<b>Legal Terms to Know:</b>	<p><b>Burden of Proof:</b> In every court case, one or both parties has a burden of proving something. In all juvenile court cases, for instance, the person asking the Court to order something must prove that what they are asking the Court to order is in the best interests of the child. There are three (3) different levels of burden of proof: (1) beyond a reasonable doubt (delinquency, unruly, traffic cases); (2) clear and convincing evidence (abuse/neglect/ dependency cases); and (3) a preponderance of the evidence (civil cases). If you are filing and prosecuting a case, you must know what you have to prove and the level of proof required.</p> <p><b>Evidence:</b> Evidence is anything you use to prove your case. The testimony of you and your witnesses is one form of evidence. Evidence may also include physical things, such as photographs, emails, texts, records, etc.</p> <p><b>Rules of Evidence:</b> Ohio has specific rules of evidence that the Court must use when deciding what is admissible in Court. If you decide to represent yourself, you must be aware of these rules and how they affect the evidence you wish to present.</p> <p><b>Foundation for Evidence:</b> Stated simply, a foundation for a piece of evidence is information establishing that the evidence is authentic. Different types of evidence have different foundation requirements. It is your obligation to know what the foundation requirements are for the evidence you will seek to use in your case.</p>
<b>Why is evidence important?</b>	<p>Courts are required to make their decisions based upon evidence. If you file a court case and do not present any evidence, the Court will have to dismiss your case because it has no evidence for its decision.</p>

<p><b>I have a piece of physical evidence (a photo, report, text, email, etc) that I want to show the Judge or Magistrate. Can I just hand copies to the Court?</b></p>	<p>No - the Judge or Magistrate cannot accept your physical evidence until you have it: (1) properly marked as an Exhibit; (2) shown the exhibit to the opposing party or the opposing party's attorney; (3) laid a proper foundation establishing its authenticity; and (4) established its relevancy to the case through testimony. Once you have met those three (3) requirements, you can ask that your exhibit be "admitted." The Judge or Magistrate will ask the opposing party if they object to admission of the exhibit and then decide if the exhibit is admitted. The exhibit will only be considered by the Judge or Magistrate if it is admitted as evidence.</p>
<p><b>Can I have people testify in support of my case?</b></p>	<p>Yes. Witnesses can be very helpful in a hearing. You may make arrangements for a witness to appear at a hearing voluntarily, or you may ask the Court to issue a subpoena to the witness to appear at a hearing. Subpoena forms are available on the Court's website at: <a href="http://acjuvenileprobate.com/forms.php">acjuvenileprobate.com/forms.php</a>. There is a cost to having a subpoena served and the Court may require you to make an additional court cost deposit for subpoenas.</p>
<p><b>Does a witness have to come to Court or can I have the witness send a letter to the Court?</b></p>	<p>Witnesses must participate in the hearing and testify under oath. If the hearing is scheduled in person at the Courthouse, the Court expects the witness will appear at the Courthouse to testify. If the hearing is scheduled for a Zoom video conference, you may give the witness the meeting id and passcode to join the hearing. <b>The witness may not ever send a letter to the Court because that would be an improper ex parte communication with the Court.</b></p>
<p><b>When my witness comes to Court, who will ask the witness questions?</b></p>	<p>You are responsible for asking your witnesses questions. The Court will not ask questions for you. Each side (your and the opposing party) will have two chances to ask the witness questions and then the witness will be excused.</p>
<p><b>What is a "leading question" and when can one be asked?</b></p>	<p>A "leading question" is a question which calls for a "Yes" or "No" answer. You cannot ask leading questions of any witness you call on direct examination. Leading questions may only be used on cross examination of a witness.</p>

<p><b>If I come to Court and I do not have my witnesses and evidence ready, can I ask the Court for a continuance of the hearing?</b></p>	<p>You can ask, but it is highly unlikely that the Court would grant a continuance. The Court sets its evidentiary hearings enough time in advance to let the parties be prepared.</p>
<p><b>Can I call the child to testify as a witness?</b></p>	<p>If the child witnessed something which is relevant, it may be necessary to call the child to testify. However, generally, parents want the child to testify about the child's wishes and desires regarding custody or parenting time. The Court has authority to interview a child in a confidential setting about the child's wishes and desires. For that reason, you should think about asking the Court to conduct an in camera interview of the child, rather than bringing the child to Court to testify about the child's wishes or desires.</p>