

MOTION TO MODIFY ALIMONY

COMMON PLEAS - POST DIVORCE/DISSOLUTION

THESE ARE PACKETS OF LEGAL FORMS AND INSTRUCTIONS FOR USE IN THE STATE OF OHIO COURTS AND THEY ARE INTENDED TO BE A GENERAL GUIDE TO GET THE FORMS FILLED OUT, FILED WITH THE COURT, AND TO GET A REQUEST PROPERLY BEFORE THE JUDGE. THESE ARE NOT INTENDED TO BE A LEGAL ANALYSIS OF A REQUEST OR A STATEMENT AS TO WHETHER OR NOT THE REQUEST WILL BE GRANTED. THESE ARE MERELY TO ASSIST THE USER IN PREPARING AND PRESENTING A REQUEST TO THE COURT.

Type or Print all Forms - If you are downloading the forms from the website, the forms are in PDF and can be typed online and then saved on your computer or flash drive for revision and printing. You can also access these fillable forms on the website - www.seols.org - at the Get Help page

MOTION TO MODIFY OR TERMINATE ALIMONY. This is a motion a person should use who wishes to have his/her obligation to pay alimony as a result of a divorce or separate maintenance action reduced or terminated based on change of circumstances. This would be filed in the same court where the divorce occurred.

This packet has several parts to it. To help you know that you have each part and to help you figure out how they go together, please note the parts and numbers of pages below.

<u>Document Identification</u>	<u># Pages</u>
Instructions for Motion to Modify Alimony and Sample Motion -----	3
Motion to Modify Alimony (blank for you to fill in) -----	2
Request for Service (blank for you to fill in, certified mail is the usual method of service in cases of this type) -----	2
Affidavit of Income and Expenses -----	7
Instructions and sample poverty affidavit -----	2
Poverty Affidavit (blank for you to fill in) -----	1
Instructions for Entry and Sample Entry -----	2
Entry (blank for you and the Judge to complete) -----	1

YOU SHOULD ALWAYS CALL THE CLERK OF COURTS TO FIND OUT HOW MUCH THE COURT COSTS WILL BE SO YOU CAN PAY THE COSTS WHEN YOU FILE IF AT ALL POSSIBLE. YOU SHOULD ALSO ASK IF THERE ARE OTHER LOCAL PAPERS THE COURT WOULD LIKE YOU TO FILE WITH THESE PAPERS

TYPE OR PRINT IN BLUE INK ALL FORMS

**INSTRUCTIONS - MOTION TO MODIFY SPOUSAL SUPPORT - COMMON PLEAS -
TERMINATE OR DECREASE**

MOTION TO MODIFY

1. Fill in the County where your divorce was finalized.
2. Put in the Name of the Plaintiff and the current address.
3. Put in the Name of the Defendant and current address.
4. Put in the Case Number of the divorce action and leave the Judge's line blank.
5. Put in your name and circle whether you want your alimony reduced, terminated or increased.
6. Sign your name and fill in your address and telephone number.
7. Circle and explain why your alimony should be reduced, terminated or increased. If your income has changed, explain why you need the reduction. If your papers say that the alimony terminates when your ex-spouse gets married and that is the reason, be sure and give those facts. If your ex-spouse is working and making as much or more money and that is the reason, be sure and put that in. If your ex-spouse agrees to the reduction, be sure and put that in. If you are requesting your ex-spouse to pay more alimony, be sure and put that in. Put in any information, briefly, which would show why you need this reduction, termination or increase.
8. Sign your name.

REQUEST FOR SERVICE

You will need to fill out a request for service which has been enclosed. Certified mail is the normal method of service.

FINANCIAL AFFIDAVIT OF INCOME

Be sure and complete an affidavit of income, expenses and financial disclosure which has been enclosed.

MAKE FOUR COPIES OF THE MOTION AND 1 COPY OF THE REQUEST FOR SERVICE. MAKE 3 COPIES OF THE AFFIDAVIT OF INCOME.

TAKE THESE DOWN TO THE CLERK'S OFFICE AND ASK THAT THEY BE FILED. YOU SHOULD BE PREPARED TO PAY THE FILING FEE OR FILE A POVERTY AFFIDAVIT WHICH HAS ALSO BEEN ENCLOSED. Remember, a poverty affidavit does not mean you will never be ordered to pay costs, it just means the Court will decide who pays later.

When you go to Court, be sure and tell the Court all of your circumstances. You should take with you proof of your income so that you can show the Court that you are only receiving the amount you have put on your motion. For example, if you are on SSI and receive only \$530/mo., you should get the Social Security Administration to give you a written verification of that amount or if you are employed, you can ask your employer for a written verification of your wages or you could bring in your pay stubs. WHEN YOU TAKE YOUR VERIFICATIONS WITH YOU, MAKE SURE YOU SHOW THE VERIFICATIONS TO THE COURT SO THAT THE COURT KNOWS YOU ARE TELLING THE TRUTH ABOUT YOUR INCOME.

After the case is over, the Court will make a ruling. A generic entry is enclosed for you to give to the Court after the ruling so the Court can write the ruling down.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

Plaintiff,

Case No. _____

Judge _____

vs.

MOTION TO MODIFY SPOUSAL SUPPORT

Defendant.

Now comes _____ and moves this Court to modify its previous Order and reduce/terminate/increase alimony/spousal support for the reasons set forth below.

NAME

ADDRESS

CITY, STATE & ZIP CODE

TELEPHONE NUMBER

MEMORANDUM

The undersigned should have his/her alimony obligation reduced or terminated or increased for the following reasons: _____

For the foregoing reasons, the undersigned requests that this Court's prior Order
be modified.

NAME

IN THE COURT OF COMMON PLEAS

Division
COUNTY, OHIO

IN THE MATTER OF:

A Minor

Name : Case No. _____

Street Address : Judge _____

City, State and Zip Code :
Plaintiff/Petitioner : Magistrate _____

vs./and :

Name :
Street Address :
City, State and Zip Code :
Defendant/Petitioner :

Instructions: This form is used when you want to request documents to be served on the other party. You must indicate the requested method of service by marking the appropriate box.

REQUEST FOR SERVICE

TO THE CLERK OF COURT:

Please serve the following documents on the following parties as I have indicated below:

- Defendant/Petitioner at the address shown above.
 - Certified Mail, Return Receipt Requested
 - Issuance to Sheriff of _____ County, Ohio for Personal or Residence service
 - Other (specify) _____

Form 28

Plaintiff/Petitioner at the address shown above.

Certified Mail, Return Receipt Requested

Issuance to Sheriff of _____ County, Ohio for Personal or Residence service

Other (specify) _____

_____ County Child Support Enforcement Agency (provide address below):

Certified Mail, Return Receipt Requested

Issuance to Sheriff of _____ County, Ohio for Personal or Residence service

Other (specify) _____

Other (address): _____

Certified Mail, Return Receipt Requested

Issuance to Sheriff of _____ County, Ohio for Personal or Residence service

Other (specify) _____

SPECIAL INSTRUCTIONS TO SHERIFF:

Your Signature

Affidavit 1

**COURT OF COMMON PLEAS
COUNTY, OHIO**

Plaintiff/Petitioner		Case No.
v./and		Judge
Defendant/Petitioner		Magistrate

Instructions: Check local court rules to determine when this form must be filed. This affidavit is used to make complete disclosure of income, expenses and money owed. It is used to determine child and spousal support amounts. Do not leave any category blank. Write "none" where appropriate. If you do not know exact figures for any item, give your best estimate, and put "EST." **If you need more space, add additional pages.**

AFFIDAVIT OF INCOME AND EXPENSES

Affidavit of _____
(Print Your Name)

Date of marriage _____ Date of separation _____

SECTION I - INCOME

	<u>Husband</u>	<u>Wife</u>
Employed	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Employer		
Payroll address		
Payroll city, state, zip		
Scheduled paychecks per year	<input type="checkbox"/> 12 <input type="checkbox"/> 24 <input type="checkbox"/> 26 <input type="checkbox"/> 52	<input type="checkbox"/> 12 <input type="checkbox"/> 24 <input type="checkbox"/> 26 <input type="checkbox"/> 52

A. YEARLY INCOME, OVERTIME, COMMISSIONS AND BONUSES FOR PAST THREE YEARS

	<u>Husband</u>	<u>Wife</u>
Base yearly income	\$ _____ 3 years ago	\$ _____ 20 _____
	\$ _____ 2 years ago	\$ _____ 20 _____
	\$ _____ Last year	\$ _____ 20 _____
Yearly overtime, commissions and/or bonuses	\$ _____ 3 years ago	\$ _____ 20 _____
	\$ _____ 2 years ago	\$ _____ 20 _____
	\$ _____ Last year	\$ _____ 20 _____

Affidavit 1

B. COMPUTATION OF CURRENT INCOME

	<u>Husband</u>	<u>Wife</u>
Base yearly income	\$ _____	\$ _____
Average yearly overtime, commissions and/or bonuses over last 3 years (from part A)	\$ _____	\$ _____
Unemployment compensation	\$ _____	\$ _____
Disability benefits		
<input type="checkbox"/> Workers' Compensation		
<input type="checkbox"/> Social Security		
<input type="checkbox"/> Other: _____	\$ _____	\$ _____
Retirement benefits		
<input type="checkbox"/> Social Security		
<input type="checkbox"/> Other: _____	\$ _____	\$ _____
Spousal support received	\$ _____	\$ _____
Interest and dividend income (source)		
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Other income (type and source)		
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
TOTAL YEARLY INCOME	\$ _____	\$ _____
Supplemental Security Income (SSI) or public assistance	\$ _____	\$ _____
Court-ordered child support that you receive for minor and/or dependent child(ren) not of the marriage or relationship	\$ _____	\$ _____

Affidavit 1

SECTION II – CHILDREN AND HOUSEHOLD RESIDENTS

Minor and/or dependent child(ren) who are adopted or born of this marriage or relationship:

Name	Date of birth	Living with
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

In addition to the above children there is/are in your household:

_____ adult(s)
_____ other minor and/or dependent child(ren).

SECTION III – EXPENSES

List monthly expenses below for your present household.

A. MONTHLY HOUSING EXPENSES

Rent or first mortgage (including taxes and insurance)	\$	_____
Real estate taxes (if not included above)	\$	_____
Real estate/homeowner's insurance (if not included above)	\$	_____
Second mortgage/equity line of credit	\$	_____
Utilities		
o Electric	\$	_____
o Gas, fuel oil, propane	\$	_____
o Water and sewer	\$	_____
o Telephone	\$	_____
o Trash collection	\$	_____
o Cable/satellite television	\$	_____
Cleaning, maintenance, repair	\$	_____
Lawn service, snow removal	\$	_____
Other: _____	\$	_____
	\$	_____
TOTAL MONTHLY :		\$ _____

Affidavit 1

B. OTHER MONTHLY LIVING EXPENSES

Food		
○ Groceries (including food, paper, cleaning products, toiletries, other)	\$	_____
○ Restaurant	\$	_____
Transportation		
○ Vehicle loans, leases	\$	_____
○ Vehicle maintenance (oil, repair, license)	\$	_____
○ Gasoline	\$	_____
○ Parking, public transportation	\$	_____
Clothing		
○ Clothes (other than children's)	\$	_____
○ Dry cleaning, laundry	\$	_____
Personal grooming		
○ Hair, nail care	\$	_____
○ Other	\$	_____
Cell phone	\$	_____
Internet (if not included elsewhere)	\$	_____
Other	\$	_____
	TOTAL MONTHLY	\$ _____

C. MONTHLY CHILD-RELATED EXPENSES

(for children of the marriage or relationship)

Work/education-related child care	\$	_____
Other child care	\$	_____
Unusual parenting time travel	\$	_____
Special and unusual needs of child(ren) (not included elsewhere)	\$	_____
Clothing	\$	_____
School supplies	\$	_____
Child(ren)'s allowances	\$	_____
Extracurricular activities, lessons	\$	_____
School lunches	\$	_____
Other	\$	_____
	TOTAL MONTHLY	\$ _____

Affidavit 1

D. INSURANCE PREMIUMS

Life	\$	_____
Auto	\$	_____
Health	\$	_____
Disability	\$	_____
Renters/personal property (if not included in part A above)	\$	_____
Other _____	\$	_____
TOTAL MONTHLY		\$ _____

E. MONTHLY EDUCATION EXPENSES

Tuition		_____
o Self	\$	_____
o Child(ren)	\$	_____
Books, fees, other	\$	_____
College loan repayment	\$	_____
Other _____	\$	_____
	\$	_____
TOTAL MONTHLY:		\$ _____

F. MONTHLY HEALTH CARE EXPENSES (not covered by insurance)

Physicians	\$	_____
Dentists	\$	_____
Optometrists/opticians	\$	_____
Prescriptions	\$	_____
Other _____	\$	_____
	\$	_____
TOTAL MONTHLY:		\$ _____

G. MISCELLANEOUS MONTHLY EXPENSES

Extraordinary obligations for other minor/handicapped child(ren) (not stepchildren)	\$	_____
Child support for children who were not born of this marriage or relationship and were not adopted of this marriage	\$	_____
Spousal support paid to former spouse(s)	\$	_____
Subscriptions, books	\$	_____
Entertainment	\$	_____

Affidavit 1

Charitable contributions	\$	
Memberships (associations, clubs)	\$	
Travel, vacations	\$	
Pets	\$	
Gifts	\$	
Bankruptcy payments	\$	
Attorney fees	\$	
Required deductions from wages (excluding taxes, Social Security and Medicare) (type) _____	\$	
Additional taxes paid (not deducted from wages) (type) _____	\$	
Other _____	\$	
	\$	
TOTAL MONTHLY:	\$	

H. MONTHLY INSTALLMENT PAYMENTS
 (Do not repeat expenses already listed.)
 Examples: car, credit card, rent-to-own, cash advance payments

To whom paid	Purpose	Balance due	Monthly payment
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		TOTAL MONTHLY:	\$

GRAND TOTAL MONTHLY EXPENSES (Sum of A through H): \$ _____

Affidavit 1

OATH

(Do not sign until notary is present.)

I, (print name) _____, swear or affirm that I have read this document and, to the best of my knowledge and belief, the facts and information stated in this document are true, accurate and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

Your Signature

Sworn before me and signed in my presence this ____ day of _____, _____.

Notary Public
My Commission Expires:

INSTRUCTIONS FOR POVERTY AFFIDAVIT – COMMON PLEAS

- **PRINT OR TYPE** -

1. Fill in the name of the county where the action is.
2. Fill in the name of the Plaintiff.
3. Fill in the name of the Defendant.
4. Fill in the Case Number of the action.
5. Fill in your name.
6. Sign your name ONLY IN FRONT OF A NOTARY IF THE affidavit is correct.

MAKE 2 COPIES AND TAKE WITH THE MOTION TO THE COURT

PLEASE NOTE: FILING WITH A POVERTY AFFIDAVIT DOES NOT MEAN YOU DO NOT HAVE TO PAY COURT COSTS. IT ONLY MEANS THAT YOU DO NOT HAVE TO PAY IT IN ADVANCE. THE COURT WILL DETERMINE WHO IS TO PAY COURT COSTS AT THE TIME OF THE HEARING.

IN THE COURT OF COMMON PLEAS

- 1 - Name of County, OHIO

- 2 - Name of Plaintiff ,

Plaintiff,
vs.

Case No. - 4 - Case Number

- 3 - Name of Defendant ,

Defendant.

AFFIDAVIT OF INABILITY
TO PREPAY COURT COSTS.

I, - 5 - Fill in your name , being first duly cautioned and sworn, depose and state:

1. That I am a party in interest in the above-captioned action; that I have a meritorious cause of action but am unable to give security or a cash deposit to secure costs.
2. That I am unable to afford the hiring of an attorney to represent me in this matter.
3. That I own no liquid assets or property of any substantial value to prepay court costs.

- 6 - Sign Only In Front of Notary

Sworn to and subscribed in my presence this _____ day of _____,
20_____.

NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS

_____, OHIO

Plaintiff,

Case No. _____

vs.

Defendant.

**AFFIDAVIT OF INABILITY
TO PREPAY COURT COSTS**

I, _____, being first duly cautioned and sworn, depose and state:

1. That I am a party in interest in the above-captioned action; that I have a meritorious cause of action but am unable to give security or a cash deposit to secure costs.
2. That I am unable to afford the hiring of an attorney to represent me in this matter.
3. That I own no liquid assets or property of any substantial value to prepay court costs.

Sworn to and subscribed in my presence this _____ day of _____,
20_____.

NOTARY PUBLIC

AT THE END OF YOUR HEARING
INSTRUCTIONS FOR THE GENERIC ENTRY

Attached is an entry with blanks for the Court to fill out at the conclusion of your hearing. Whenever there is a motion filed, the Court makes a decision and that decision must be written down and filed with the Court.

You should fill out the top part of the entry just as you have filled out the top part of your other papers. Leave the rest blank.

At the end of the hearing, the Court will rule on your motion. You should then ask the Court if the Court would like your entry so that the ruling can be written down. You can then give it to the Court, the Court can fill it out, and it will be filed. **BE SURE AND ASK FOR COPIES OF THE ENTRY FOR YOURSELF SO YOU WILL KNOW WHAT THE COURT ORDERED.**

IN THE COURT OF COMMON PLEAS

- Fill In County - COUNTY, OHIO

- Fill In Name of Plaintiff- .

Plaintiff,

Case No. **- Fill In Case # -**

Judge **- Fill In name of Judge-**

vs.

- Fill In Name of Defendant-

Defendant.

ENTRY ON MOTION

This matter came on to be heard on **- Fill In Your Name -** 's Motion for

- Fill In Name Of Your Motion - .

Upon consideration of the record and the motion, the Court HEREBY ORDERS:

- Leave These Lines Blank -

- Leave Blank -
JUDGE

SUBMITTED BY:

- Sign Your Name -

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

_____,

Case No. _____

Plaintiffs,

Judge _____

vs.

_____,

ENTRY ON MOTION

Defendant.

This matter came on to be heard on _____'s Motion for

_____.

Upon consideration of the record and the motion, the Court HEREBY ORDERS:

JUDGE

SUBMITTED BY:

Preparing Your Case

If you do decide to represent yourself, you need to manage all aspects of your case.

- ✓ **Familiarize yourself with the local court rules.** Rules and procedures vary slightly from court to court, and you need to know the rules that apply in the court that will hear your case. **Obtain a copy of the local rules from your court.**
- ✓ **Make sure your filings and documents conform to local standards.** Generic forms and sample filings are available in books and on the internet. However, these generic documents may not conform to the standards of the court that will hear your case. To make sure that your documents will be accepted, ask your court for forms and sample filings.
- ✓ **Respond to all inquiries on time.** During trial preparations, you may receive inquiries from the court or the opposing party. For example, the opposing party may be entitled to “discovery”—to learn about evidence or testimony you plan to introduce (you may be entitled to the same). If you fail to respond to such inquiries, you may limit your ability to present your case.
- ✓ **Rules about admissible evidence are complicated.** There are many possible reasons that evidence or testimony you think is relevant and important may not be admissible in court. Since questions about what evidence is admissible are legal questions that are often contested, neither court staff nor the judge may answer them ahead of time. This can be frustrating for non-attorneys: if your case will involve contested evidence, consider again whether you need an attorney.
- ✓ **Make sure evidence you plan to use will be acceptable and available in court.** If your case will involve evidence—documents, pictures, cost estimates, receipts, or other items—you must prepare it for court use. In particular, you must
 - ♦ bring at least three copies of all documents (for the court, for the opposing party, and for yourself); and

- ♦ be able to verify that documents are what you say they are or contain accurate information.

- ✓ **Make sure any witnesses are prepared and available in court.** If your case will involve testimony from witnesses, you need to work with them before you and they appear in court. Make sure your witnesses know what you will ask, and instruct them to answer truthfully. And remember that your witnesses must be
 - ♦ present at your trial (they may not, for example, prepare written statements or appear by telephone); and
 - ♦ prepared to answer questions from the opposing party or his or her attorney.

When you decide to represent yourself, you take on full responsibility for your case. You need to handle legal questions as well as deadlines, documents, evidence, witnesses, and any other issues that may come up. Even a seemingly simple case can demand a lot of your time and attention.

In the Courtroom

At the trial or hearing itself, you need to present your case in its strongest way. Here are some simple tips:

- ✓ **Make a good impression.** Dress appropriately. Arrive on time with all your materials.
- ✓ **Respect the court.** Stand when the judge enters or leaves the courtroom and when you speak to the judge. Address the judge as “Your Honor.”
- ✓ **Respect the opposing party.** Never argue with the opposing party in front of the judge. Use respectful terms of address.
- ✓ **Speak clearly and succinctly.** Be prepared to state your case in a few sentences. Listen carefully and answer questions directly.
- ✓ **Be prepared.** Courts are very busy. You want to present your case in the strongest way, but you also want to help the proceedings move efficiently. The better prepared you are, the better the case will go.

The Role of the Judge

Your case will be heard and decided by a judge (or a magistrate). Keep in mind that the role of the judge is to be an impartial referee in the dispute between you and the opposing party. Among other things, this means that

- ✓ **The judge may not help you present your case.** Helping you—by pointing out possible mistakes or by letting you know what you need to do next—would be unfair to the opposing party. When you represent yourself, you take on the full responsibility of presenting your case.
- ✓ **The judge may not speak with you about your case when the opposing party is not present.** This is true even if the issue you want to speak with the judge about seems like a simple procedural question. Again, such communications would be unfair to the opposing party.
- ✓ **The judge will decide the case on the basis of the facts presented in court and the applicable law.** The judge may only consider the facts as they are presented in court, through evidence and testimony. You need to make sure that all facts supporting your case are properly presented. The judge also needs to follow the laws that apply. Sometimes the law dictates which facts the judge may and may not consider. You need to make sure that you present the facts that the law requires or permits.

Legal Advice

It is always a good idea to consult with an attorney and be represented by an attorney in court.

- ✓ The law is complex. Attorneys are trained professionals who understand the law and how it relates to your case.
- ✓ Even matters that initially look simple may raise complicated issues.
- ✓ Your interests will be best protected by a legal professional.

Attorneys can be expensive, but consider this:

- ✓ What might you lose if your case goes badly? Paying for an attorney may be a good investment.
- ✓ Meet with several attorneys to discuss your case and their fees—don't let one consultation make up your mind.
- ✓ You may qualify for legal aid or help from legal clinics or other programs—be sure to investigate the resources in your community.

Ohio courts and judges will provide a fair hearing for your case whether or not you are represented by an attorney, and it is your right to represent yourself if you so choose.

When you bring a case to court without the help of an attorney, you are taking on a complex task that is normally done by highly trained professionals. You may do yourself a disservice.

For help with finding an attorney, you might turn to your local bar association. Your local bar association is:

Asking Court Staff

Court staff may not give legal advice. You may have questions that court staff are not permitted to answer.

- ✗ **Court staff may not**
 - ✗ provide you with legal research;
 - ✗ tell you what sorts of claims to file or what to put on forms;
 - ✗ tell you what to say in court;
 - ✗ give an opinion about how a judge is likely to decide your case;
 - ✗ give you information that they would not give to the opposing party;
 - ✗ tell you about a judge's decision before it is issued by the judge.
- ✓ **Court staff may**
 - ✓ answer questions about how the court works;
 - ✓ explain terms used in the court process;
 - ✓ give you information from your case file;
 - ✓ provide you with court forms and sample filings and documents.

Court staff are there to help those who use the court. They can usually tell you *how* to do things, but **may not** advise you about *what* you ought to do. Please be courteous to staff and respect the limits on what they may do for you.



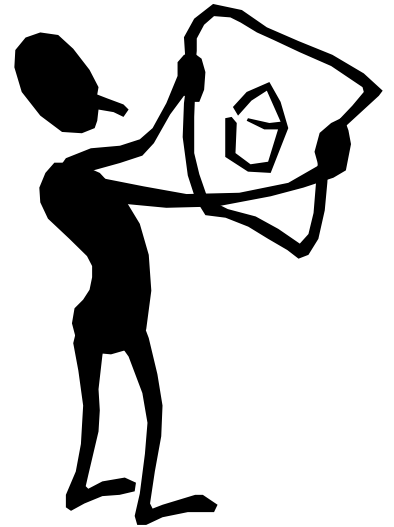
REPRESENTING YOURSELF IN COURT

A CITIZENS GUIDE



Representing Yourself in Court?

How to Use Photographs,
Letters, Business Records,
and Other Evidence to Help
Prove Your Case



What is Evidence?

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

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

For example:

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

Why Use Evidence?

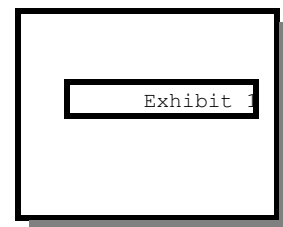
- ① Evidence is more **believable and trustworthy** than what a person says. For example, in a domestic violence case, if you say that your ex-boyfriend has left you threatening messages but he testifies that this is an absolute lie, the judge may not know whom to believe. However, if you submit a tape recording of one of these messages the judge will be more likely to believe you.
- ② Evidence may make something **easier to understand**. “A picture is worth a thousand words.” Some things are hard to explain in words, while a drawing or photograph is descriptive and clear.

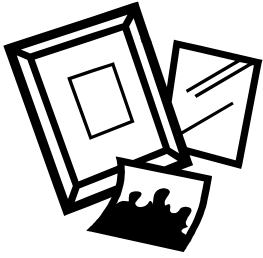
How Do I Present Evidence to the Court?

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

Steps to Follow to Admit Evidence

- Before you ever go to court, think about the evidence you want to use to prove your case. Mark each piece of evidence with an exhibit number (attach a sticker labeled “Exhibit 1,” “Exhibit 2,” etc.)
- Bring these marked Exhibits with you to court. When you want to show the court one of the exhibits, do the following things:
 - ① Show the exhibit to the other party or the other party's attorney.
 - ② Then “lay the foundation” for the evidence. To do this, you must show that the evidence is relevant to your case and authentic (not a forgery). Depending upon what you want the court to consider, follow the rules listed in this pamphlet for “laying the foundation” - explaining why and how the exhibit is connected to your case.
 - ③ Either you or your witness must testify about the exhibit.
 - ④ Ask the court to admit the exhibit into evidence. The other party or attorney may object to the exhibit for some reason. Try to answer these objections as best you can. If you can't, let the judge decide.
 - ⑤ If there are no objections from the other party, or the judge has ruled in your favor, ask the court to “admit the Exhibit into evidence.”





Laying the Foundation for Photographs

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

TIP

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

Foundation for Letters

1. Explain why the letter is connected to your case. For example:
“This is the letter that I received from my ex-boyfriend shortly before he beat me up.”
2. Explain when and how you got the letter. For example:
“This letter was shoved under the door to my apartment some time before 6 p.m. on Wednesday, January 2, 2001. I found it on the floor when I came home from work that day.”
3. Prove that the signature is that of a party to the case. Ways to prove this:
 - **Explain to the court: that you are familiar with the other party’s signature, how you came to know that person’s signature, and that it is your opinion that the signature on the letter is the other party’s signature.**



- **Call a witness who is familiar with the party’s signature, and ask the witness:**
“Do you know the other party in this case? Are you familiar with the party’s signature? How?”

Then show them the letter and ask “Is this the other party’s signature?”

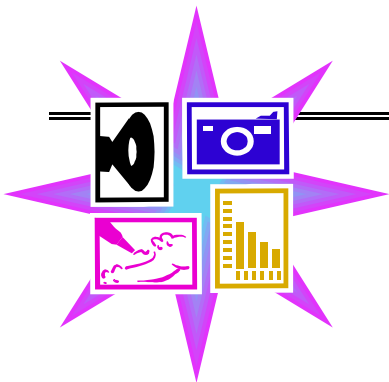
- **Call the person who signed the letter.**
Show the witness the document, and ask the witness if that is his or her signature. (Only do this if you think they will admit to it).

4. Explain that the letter is in the same condition now as when you received it. (“The letter was kept in a safe place and nothing has been changed since I received it.”)

TIPS

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

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



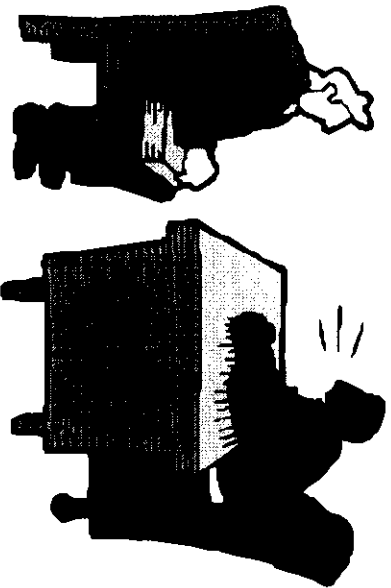
Laying the Foundation for Documents and Records From Businesses

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

TIP

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

How to Handle Witnesses When You Are Representing Yourself



When Should I Bring a Witness to Court?

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

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

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



What If My Witnesses Can't Come to the Hearing?

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

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



Who Should I Bring as a Witness?

→ People who know you and your reputation in the community.

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

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



How Do I Prepare My Witnesses?

→ Think about what is the most valuable thing each witness could say on your behalf.

→ Write down a few questions that will help the witness get the idea across.

→ Practice with your witness ahead of time, so you know what answers will be given.





What Should I Do With My Witnesses at the Court Hearing?

- Start by asking the witness their name and address.
- If your witness is a professional, you should ask what their job is, what their educational degrees are, and how long they have been doing their job.
- Then ask specific questions about what information they have about your case.

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

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

Examples to use:

- How would you describe my husband's condition when he dropped the children off at your house?
- What did my husband do when he would pick the children up from day care?

~ ~ ~

What About the Other Side's Witnesses?

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

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

Examples to use:

- Was my husband ever drunk when he dropped the children off at your house?
- Didn't my husband yell and swear at the children when he came to pick them up from day care?

~ ~ ~

Rules To Follow When Questioning Witnesses

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

~ ~ ~

Samples of Questions to Ask My Witnesses

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

Prepared by:

NAPIL Equal Justice Fellow
Ohio State Legal Services Association
September 2000

In addition to the forms in this packet, you may find additional forms and informational pamphlets to help you on the internet at the following website:

www.ohiolegalhelp.org

Click on “Statewide Forms and Information”

Locate and click on the legal area that you would like to review – use the “search this site” box if you are not sure which area to review

You can also search this website to learn how to access the local legal services program for your area