

YOUR DAY *in* COURT

A Self-Represented
Litigant's Guide to
the Kentucky Courts



KENTUCKY
**ACCESS TO
JUSTICE**
COMMISSION

Your Day in Court

A Self-Represented Litigant's Guide to the Kentucky Courts

This booklet is being provided by the Kentucky Access to Justice Commission to help you understand what you can expect when you represent yourself in a case in a Kentucky court.

The Kentucky Access to Justice Commission was formed in 2010 by order of Chief Justice of Kentucky John D. Minton Jr. The commission was created to expand access to civil legal aid to low-income Kentuckians. We hope you will find this booklet helpful as you make your way through the Kentucky court system.

Note: This booklet is not intended to be legal advice and is not a substitute for legal representation by an attorney. It is designed for those who are representing themselves and do not have an attorney. You are encouraged to seek the advice of an attorney to answer any specific legal questions you may have.



Kentucky Access to Justice Commission
State Capitol
700 Capital Avenue • Suite 225
Frankfort, Kentucky 40601
502-564-5493

Table of Contents

Before Going to Court	1
Going to the Courtroom	1
What to Wear.....	1
How to Act.....	1
Bringing Others to Court.....	2
Helpful Tips.....	3
Frequently Asked Questions.....	5
Resources.....	8
Common Legal Terms.....	9
Sample Layout of a Kentucky Trial Courtroom.....	15

Before Going to Court

The courts are here to help you in any way that is permissible. However, court personnel are only allowed to help you in certain ways and must be fair to everyone involved in the case. Court personnel may not give legal advice or perform legal research.

Generally, you may not speak to the judge except during a court proceeding. If you need assistance, you should visit your local public library for resources or contact your local legal aid program (see page 8 for addresses).

Going to the Courtroom

At some point during your case, you may need to go in front of the judge. This happens even if you and the other side reach an agreement.

What to Wear

It is important to dress appropriately when appearing in court. New clothes are not necessary. Keep in mind that:

- Everything you wear should be clean and neat in appearance.
- Clothing should not have any written messages or symbols.
- No profanity is permitted on clothing.
- For a list of local rules of conduct for the courts in your county, visit the Kentucky Court of Justice website at kycourts.gov/Pages/localrules.aspx.

How to Act

A court hearing or trial is a formal legal process and everyone is expected to be on their best behavior while in a courtroom.

- Always treat everyone with respect. This includes the judge, attorneys, court staff and even the opposing parties.
- Switch cell phones and other electronic devices to silent mode.
- Once the judge has entered the courtroom, you should not talk, whisper or write notes to anyone.

- If a bailiff is stationed outside of the courtroom, ask if you may enter. Some hearings are closed to the public and only the parties involved may be in the courtroom. The bailiff will call your name when it is your turn to enter the room.
- Food, drinks and chewing gum are not allowed inside the courtroom.
- When it is time for your court matter to be heard, you should speak clearly, politely and loud enough to be heard by the judge and the court recording equipment. All responses must be made out loud, not by nodding or shaking your head.
- If you address the judge directly or answer a question from the judge, always begin or end your answer with “Your Honor,” “Sir” or “Ma’am.” When referring to anyone else, even someone you know well, address him or her as “Mr.,” “Mrs.” or “Ms.”
- Never interrupt when someone else is speaking, especially the judge, even if you feel like what he or she is saying reflects badly on your case or the person may be mistaken in their facts. You will get a turn to speak.
- If you are asked a question that you do not understand, you are allowed to respectfully ask for clarification. If you need a tissue, water or a break, you are allowed to respectfully make a request.
- To learn of rules specific to your county or judge, you may want to speak with your circuit court clerk or visit the Kentucky Court of Justice website at kycourts.gov/Pages/localrules.aspx.

Bringing Others to Court

Most court proceedings are open to the public, but some are not. The judge may tell you that the hearing is closed, private or confidential and others must leave. You may want to check with the circuit court clerk before your proceeding to see if it will be open to the public.

Friends and Witnesses. If the court proceeding is public, you may bring people, and they may stay and watch the proceeding. Please remember, however, that sometimes courtrooms and waiting areas have limited space. Also, if people are there with differing opinions, they should be strongly advised to control their tempers and emotions.

If you bring people who may be called as witnesses, they may have to leave the courtroom until it is their turn to speak. Witnesses are not allowed to discuss the case with anyone while they wait to be called to speak.

Children. You should not bring children to the courthouse, even if the matter being heard involves them, unless you have been ordered by the judge to do so or the child is to be called as a witness. If you cannot avoid bringing your children to the courthouse, then you should bring an adult to watch them while you are inside the courtroom.

Helpful Tips

- Observe a similar court proceeding before your court date, if possible.
- Don't miss your court date. Double check the date, time and location.
- Allow plenty of time to get to court. You will need to park, go through security and find your courtroom.
- Arrive at the courtroom 15 minutes early.
- Before you leave court, make sure you know what will happen next.
- Ask questions if you are unclear of who will prepare the court order.
- Always write down the date, the name of the person you talked with at the courthouse and the information given to you.
- Mail important documents by certified mail and ask for a return receipt so you will have proof that you mailed the document and it was received.
- Keep all documents related to your court matter in one place, such as an envelope, folder or binder.
- When filing documents with the court, always include the case number, the name of the county where you are filing the paperwork, the court level (District, Circuit or Family), the division number for the court and the case name on the document. Always keep a copy of every document for yourself. Do not give away your only copy.
- When you get your copy of any final order or decree, ask for at least one certified copy for your records. In some situations a certified copy may be required to prove that your copy is an authentic copy of the order.

Some situations include transferring an account from one party to the other or changing your name on certain accounts. There will be a charge for the certified copy.

- Court personnel cannot give you any legal advice. You will be best served if you meet with a lawyer to discuss your case in advance, even if the lawyer does not represent you in court.

Frequently Asked Questions

What does pro se mean?

Pro se (pronounced pro say) is a Latin term that means “for oneself.” A person who goes to court without being represented by an attorney is called “self-represented” or “pro se.”

Should I represent myself?

You have a right to represent yourself in all legal cases. That said, self-representation is not always a good idea. Before deciding to represent yourself, you may want to consult an attorney or contact your local legal aid program. Many attorneys offer free or inexpensive initial consultations. Some things to consider before deciding to represent yourself:

- Do you need legal advice?
- Is it unlikely that you will work well with the other party in the case?
- Do you have a complicated case?
- Are you having a difficult time understanding the papers you received from the other party or from the court?
- Do you want to appeal the decision of the court?

If the answer to any of these questions is yes, you should seriously consider consulting an attorney.

Where can I find the legal forms I need?

The Kentucky Court of Justice website offers hundreds of official court forms at kycourts.gov/resources/legalforms. You can also find court forms in the Office of Circuit Court Clerk in your county. However, the circuit court clerk **cannot** assist you with filling out the forms.

The Legal Aid Network of Kentucky provides free interactive forms for some types of cases at kyjustice.org.

All forms used for the courts, whatever their source, must comply with statutes, civil rules and local court rules.

Where do I file my papers?

You file your papers in the Office of Circuit Court Clerk in the county where the court proceeding is to be held.

What does it cost to file?

When you file your action, you will need to pay filing fees. For current filing costs, ask the circuit court clerk of the county in which you plan to file. You may also owe a separate fee to the sheriff or secretary of state to serve/notify the other party.

What if I cannot afford to pay fees and/or costs?

A petition to proceed in forma pauperis is a request to the court to waive filing fees associated with your case because you cannot afford to pay them. You should only make this request to the court if you do not have the money to pay the filing fee. It is a sworn statement to the court and any false or misleading information could be punishable by law. You can find an example of the In Forma Pauperis petition online at kyjustice.org.

How long do I have to start a case?

The law sets a period of time, called the statute of limitations, within which a person must file a lawsuit to pursue a claim. Statutes of limitations vary with the type of claim. You should refer to the laws relating to your claim for information on the exact time limit.

These laws can be found in the Kentucky statutes available on the Kentucky General Assembly website at apps.legislature.ky.gov/law/statutes/.

If you are unsure about bringing your claim within the proper time frame, you should consult a lawyer immediately.

How do I respond to a lawsuit?

If you are being sued, you should consult an attorney. If you choose to represent yourself or if you cannot find an attorney to represent you, you need to file a written response, called an Answer, at the Office of Circuit Court Clerk. If a court date is stated in the summons, you must appear in court on the date stated in the summons.

If you do not file an Answer or appear at the time and place specified on the scheduled date, the judge may enter a default judgment against you for all of

the money or property asked for by the plaintiff. The judge may also require you to pay all court costs. A judgment is an official court order that can be enforced by garnishing your wages and/or seizing and selling your property. In some cases, you may want to file a counterclaim.

How do I make a witness come to court?

You will need to go to the Office of Circuit Court Clerk and get a blank subpoena. A subpoena is a command to appear in court on a certain date, time and place. You will need to fill out the subpoena. The subpoena has to be served (given to the other person) by you, someone over age 18 or the sheriff's office.

Can I have an interpreter?

If you need help with language or sign interpreting in the courtroom, ask for assistance in the Office of Circuit Court Clerk in the county where you will be appearing.

What if I don't have a computer or access to the Internet?

Many public libraries have computers with Internet access that are free for library patrons to use. In some counties, the county law library located in the courthouse or judicial center will have a computer with Internet access that is available for citizen use. It is always a good idea to call the Office of Circuit Court Clerk ahead of time to find out if a county law library computer is available and, if so, what you need to bring to use it.

What if I don't have transportation?

The court cannot provide transportation. However, many communities have public transportation options for citizens. Churches and religious organizations, as well as local community organizations, are also good resources for assistance.

What if I think the judge is wrong?

When a court enters an order or judgment, parties have certain time frames for asking the court to reconsider or to appeal the judgment. These time frames are set by Kentucky court rules and may vary. As with the time frames for filing a case, if you do not act before the time expires you may lose your right to challenge the judge's decision.

Resources

JUDICIAL BRANCH

Judicial Branch Website

kycourts.gov

Judicial Branch at a Glance

kycourts.gov/resources/publicationsresources/Publications/P2KCOJBrochure.pdf

Small Claims Handbook

kycourts.gov/resources/publicationsresources/Publications/P6SmallClaimsHandbookweb.pdf

Guide to Basic Kentucky Probate Procedures

kycourts.gov/resources/publicationsresources/Publications/P88ProbateGuideforProSeLitigants609.pdf

Kentucky Court of Appeals Basic Appellate Practice Handbook

kycourts.gov/resources/publicationsresources/Publications/P56BasicAppellatePracticeHandbook.pdf

Your Day in Court

kycourts.gov/resources/publicationsresources/Publications/yourdayincourt.pdf

How to Obtain a Protective Order

kycourts.gov/resources/publicationsresources/Publications/P123ProtectiveOrderBooklet.pdf

Circuit Court Clerks Directory

kycourts.gov/courts/clerks/Pages/default.aspx

Kentucky Access to Justice Commission

State Capitol
700 Capital Ave., Suite 225
Frankfort, KY 40601
502-564-5493

EXECUTIVE BRANCH

Kentucky Office of Attorney General

502-696-5300 • ag.ky.gov

Veterans Issues

Kentucky Department of Veterans Affairs
800-572-6245 • veterans.ky.gov

LEGISLATIVE BRANCH

Kentucky Revised Statutes

apps.legislature.ky.gov/law/statutes/

STATE

Kentucky Bar Association

502-564-3795 • kybar.org

LEGAL AID SOCIETIES

Legal Aid Network of Kentucky

kyjustice.org

Appalachian Research and Defense Fund

Eastern Region
866-277-5733 • ardfky.org

Kentucky Legal Aid

Western Region
800-782-1924 • klaid.org

Legal Aid of the Bluegrass

Northern/Central Region
800-888-8189 • lablaw.org

Legal Aid Society

Louisville Metro Region
and surrounding counties
800-292-1862 • laslou.org

Common Legal Terms

Action. Also called a case or lawsuit. A civil or criminal proceeding.

Adjudication. A decision or sentence imposed by a judge.

Affidavit. Any written document in which the signer swears under oath before a notary public or someone authorized to take oaths that the statements in the document are true.

Affirmation. Declaring something to be true under the penalty of perjury by a person who will not take an oath for religious or other reasons.

Allegation. A statement claimed as true by a party that must be proved by or supported with evidence in the case.

Answer. A defendant's written response to the plaintiff's initial court filing (the complaint or petition) that is filed with the court. A copy is sent to the plaintiff or plaintiff's attorney.

Appeal. Asking a higher court to review and change the decision or sentence of a trial court because the lower court made an error.

Attachment. Seizing a person's property or assets to hold it to pay or satisfy a judgment. A lien (see definition) may be filed against the property.

Bailiff. Usually a uniformed deputy sheriff or officer in a courthouse to control security.

Brief. A document prepared by a lawyer or party and filed with the court. It usually contains facts and the laws (cases, statutes, regulations, etc.) that support one's position.

Case. A lawsuit, action or right to sue (as in "Do I have a case?") or a written decision in another case that is used as rule or law for similar legal issues.

Circuit Court. A court considered the main trial court that hears civil matters involving more than \$5,000. It decides cases of criminal matters (such as capital offenses and felonies) and civil matters (such as divorce, adoption, termination of parental rights, land disputes, contested wills and personal injury).

Circuit Court Clerk. The elected official who maintains the official court records for Circuit Court and District Court.

Civil. A court proceeding that is not criminal, such as hearings on family disputes, wills, emergency protective orders (EPOs) and domestic violence orders (DVOs).

Complaint. A legal document that tells the court what you want and is served with a summons on the defendant to begin the case.

Contempt of Court. A finding that someone disobeyed a court order. Can also mean disrupting court (being loud or disrespectful).

Count. The different parts of a complaint, each of which is a distinct claim.

Counterclaim. A claim by the opposing party against the person who filed the original suit, usually trying to claim the person who brought the lawsuit is wholly or partially at fault.

Court Costs. Expenses in prosecuting or defending a case in court. Usually do not include attorneys' fees.

Cross-Examination. Questioning by a party or the attorney of a party of a witness for the other side.

Custodial Parent. The parent who has the legal right to determine the primary residence of the child.

Custody. In family law, the right to make decisions about the child. Parents may ask for a custody arrangement that they believe is in the best interest of their child. Legal custody refers to a parent's legal right to take part in important decisions, such as health care and education. Residential custody refers to which parent the child will live with most of the time. Legal custody to both parents is called joint or shared. When only one parent gets legal custody, it's called sole custody.

Damages. In a lawsuit, the harm caused to the one who is injured. It is also the money a party claims or receives as compensation for loss or injury.

Default. To fail to respond or answer to the plaintiff's claims by filing the required court document, such as an Answer.

Defendant. In civil cases, the person against whom a lawsuit is filed. In criminal cases, the person who is arrested and charged with a crime.

Deposition. Testimony of a witness taken, given under oath and outside the courtroom, in response to questions by one of the parties or his/her attorney. It is recorded word for word.

Dismissal. A judge's decision to end the case.

Dismissed Without Prejudice. A judge's decision to end the case, which permits the case to be renewed later. A case cannot be renewed if it is dismissed "with prejudice."

Direct Examination. Questions to a witness by the party who introduced the witness.

District Court. The court of limited jurisdiction that handles juvenile matters, city and county ordinances, misdemeanors, violations, traffic offenses, probate of wills, arraignments, felony probable cause hearings, small claims involving \$2,500 or less, civil cases involving \$5,000 or less, voluntary and involuntary mental commitments, and cases relating to domestic violence and abuse.

Divorce. The legal end of a marriage.

Docket. A list of cases scheduled to be heard in court on a specific day or week.

Docket Number. A unique number assigned to a case by the circuit court clerk. It must be used on all future papers filed in the court case.

Drug Court. A program that allows eligible participants to complete a substance-abuse treatment program supervised by a judge.

Eviction. Legally forcing a tenant out of rented property.

Evidence. Testimony, documents or objects presented at a trial to prove a fact.

Exhibit. Papers, documents or other material objects received by the court and offered as evidence during a trial or hearing. Each piece of evidence is an exhibit.

Ex Parte. Done for, or at the request of, only one side in a case without prior notice to the other side.

Family Court. A court that hears civil cases involving family issues, such as divorce, custody, parental rights, child support and adoption.

Filing. Giving the circuit court clerk legal papers that become part of the case file. Can also refer to a particular document in the court file.

Financial Affidavit. A sworn statement of income, expenses, property (called assets) and debts (called liabilities).

Finding. The court's decision or jury's decision on issues of fact.

Foreclosure. A legal action where a creditor with a claim on property forces a sale of the property to collect a debt. Usually seen when a homeowner falls behind on mortgage payments.

Garnishment. A court order to collect money or property. For example, a garnishment may be issued to an employer to pay part of an employee's wages to someone else to pay a debt or judgment.

Guardian. A person who has the power and duty to take care of the rights and property of another person who is considered incapable of taking care of his or her personal affairs.

Guardian ad Litem. An attorney appointed by the court to represent another who is unable to represent himself/herself in a court case, such as a child, an incarcerated individual or someone who is mentally ill. A GAL may also represent the interest in real estate of persons unborn or unascertainable.

Indigent. Someone without enough money to support either himself/herself or family with the necessities of life and therefore cannot afford to pay certain fees required by the court.

In Forma Pauperis. A party to a lawsuit can get court costs and fees waived by filing a paper that shows they have no money to pay.

Injunctions. Court orders requiring or forbidding a specific act.

Interrogatory. Written questions sent by one party to another as part of discovery. They must be answered in writing under oath within a specified time (usually 30 days).

Judgment. A court decision. Also called a decree or an order.

Jurisdiction. The authority of a court to hear and decide a case. The court must be able to exercise authority over the people involved and over the type of case.

Legal Aid. Legal representatives in certain civil cases provided for free or at a reduced cost for eligible low-income individuals. There is no right to an lawyer in most civil matters. In criminal matters, most defendants have a right to an lawyer and a public advocate or defender is appointed for those who cannot afford an lawyer.

Lien. A charge, hold or claim upon another's property for a debt.

Litigant. A party to a case.

Litigation. A legal contest in court.

Mediation. A way parties can resolve their dispute without going to court. A neutral third party (the mediator) meets with the parties to help them find and agree upon a solution.

Modification. A change to an existing order or judgment. A request to change a prior order is a "motion to modify." It requires some reason for the change, such as when a spouse paying child support asks to modify the amount paid because of a change in circumstances (such as income) since the original order was made.

Motion. A formal request to the court in a case. An oral motion may be made during a hearing or trial, but motions are usually in writing

and filed with the Office of Circuit Court Clerk. Often motions have a “memorandum” filed with them that explains the legal reasons why the court should grant the motion. The person who filed the motion is called the movant or moving party.

Notarize. To have a notary public establish the authenticity of the signature on a legal document by seeing the person sign.

Oath. To swear/affirm to the truth of a statement/document.

Objection. A statement opposing specific testimony or admission of evidence for a legal reason.

Order. A decision by the court usually directing a party to do or not do some act, such as an order to exclude certain evidence.

Overrule. The court’s denial of a motion or objection requested by a party. Can also refer to an appellate court’s decision to overturn or set aside precedent.

Party. A person or legal entity that is named as a plaintiff or defendant on legal papers.

Paternity. A court action to determine the identity of the father of a child.

Perjury. Making false statements under oath. This is a criminal offense.

Petition. A formal request (usually written) to a court that starts a special proceeding. Similar to a complaint.

Plaintiff. The person or entity who sues or starts a civil case, also called the petitioner or the complainant.

Pleadings. Certain documents (such as complaints, answers, motions, memoranda) filed under court rules with the court by the parties in a civil or criminal case.

Probate. The legal process following a person’s death that includes determining the validity of the will and distribution of the deceased person’s property with a will or, if no will, according to state law.

Pro Se. A Latin phrase meaning “for oneself.” Representing oneself in any kind of case.

Protective Order. A court order issued by a judge to protect a person’s family or household member.

Respondent. Another word for defendant. The person or entity that must respond to a lawsuit.

Restitution. Money ordered to be paid by the defendant to reimburse

someone for property loss or harm caused by the defendant's actions. Often a condition of probation.

Restraining Order. A court order directing a person not to do something, such as make contact with another person.

Service. The legal method for giving a copy of the court papers being filed to other parties in a case.

Settlement. An agreement reached between the parties to resolve the dispute.

Small Claims. Civil actions to recover damages or money involving \$2,500 or less. The rules of evidence are relaxed and people often do not have lawyers.

Statute. Laws enacted by the legislature.

Statute of Limitations. A certain amount of time allowed by law for starting a case. The time frames differ by type of case and by state.

Subpoena. A court's order to appear in court to testify as a witness, produce evidence or both. Failure to comply may be punished as contempt of court.

Summons. A legal paper that is used to start a civil case, get jurisdiction over a party and inform the defendant of the lawsuit.

Sustain. To agree with or rule in favor of the party's request.

Temporary Restraining Order. An order that tells one person to stop doing something requested by the party. Shortly after the TRO is issued, a second hearing is held where the person being restrained can tell his or her side and the judge will decide whether or not to make the TRO permanent.

Testimony. Statements made by a witness or party under oath.

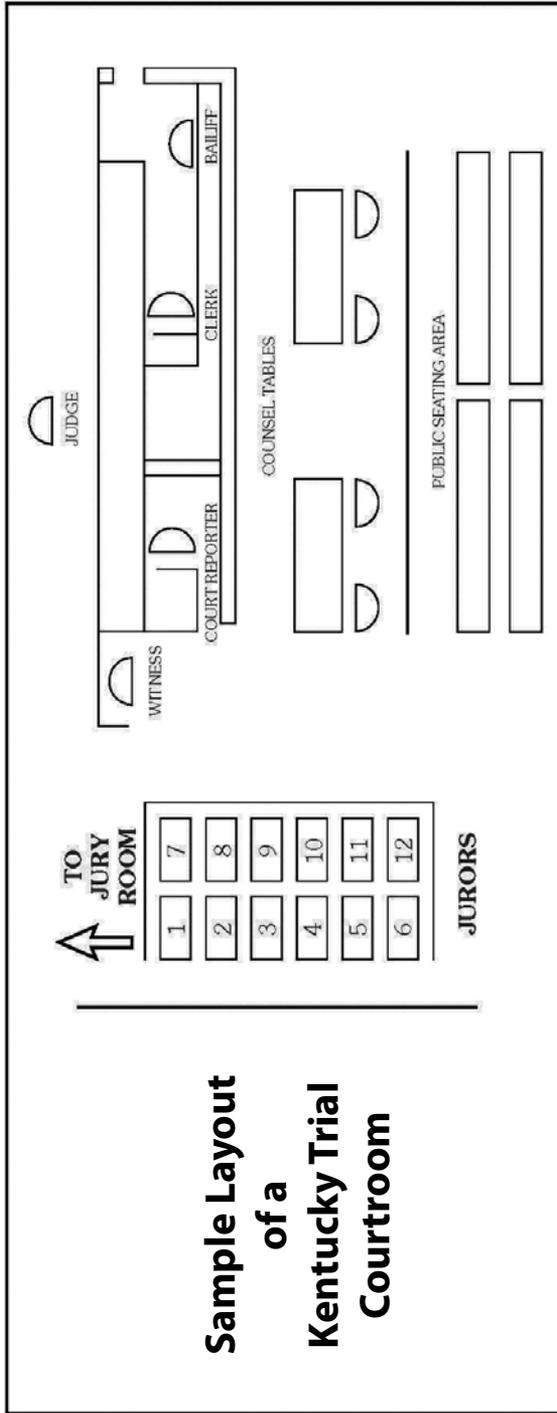
Transcript. The official written record of everything that was said at a court proceeding, hearing or deposition.

Vacate. To cancel or rescind a court order.

Venue. The court location appropriate for the case.

Witness. A person who testifies to what he or she saw, heard or did.

Sample Layout of a Kentucky Trial Courtroom





KENTUCKY
**ACCESS TO
JUSTICE**
COMMISSION



Kentucky Access to Justice Commission
State Capitol
700 Capital Avenue • Suite 225
Frankfort, Kentucky 40601
502-564-5493

P-118, Printed With State Funds, Revised July 2019