

SELF-REPRESENTATION RESOURCES

To the self-represented litigant;

The following information and materials will hopefully assist you as you decide whether it is in your best interest to represent yourself during court proceedings.

Many important factors must be considered in your decision. The information and materials included here will allow you to consider fully the risks and responsibilities in represent yourself in court.

One of the most common misconceptions citizens have is that court staff will be able to assist you as you proceed through the court process.

Please be reminded that court staff/personnel are prohibited by law from giving legal advice.

K.S.A. 20-3133. Clerks and deputies of district court; prohibited conduct. It shall be unlawful for clerks of the district court or any of their deputies to write any petition or answer or other pleadings in any proceedings, or perform any service as an attorney or counselor at law in any cases or cases pending in the court in which they are either clerk or deputy, or be interested in any profits or emoluments arising out of any practice in the courts of which they are either clerk or deputy, except costs.

Legal advise can mean anything from advising you what forms you need, to answering questions about how to fill them out, what information is required on them or predicting any outcome.

Court personnel also have ethical obligations as employees of the court to provide fair and equal treatment to all citizens and cannot provide special or favored treatment to one party over the other.

When seeking assistance from court staff citizens do not fully understand that although staff may know the answers to your questions, it would be either illegal or unethical to provide you the answers to your questions.

COURT STAFF WILL STRIVE TO PROVIDE YOU THE BEST ASSISTANCE POSSIBLE, BUT MAY NOT BE ABLE TO ANSWER ALL YOUR QUESTIONS.

It is strongly encouraged that you read carefully all the material(s) and complete the “Should I Represent Myself in Court? Risks and Responsibilities of the Self-Represented Litigant” assessment before proceeding.

RESOURCES: Cover letter, Copy of Administrative Order No. 232, Should I Represent Myself in Court? and Glossary of legal terms.

www.leavenworthcounty.org The First Judicial District Court

www.judicialcouncil.org


IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order No. 232

In re: Services by Court Clerks and Staff to the Self-Represented Litigant

As recommended by the Self-Representation Study Committee appointed by this Court to study and make recommendations regarding self-represented litigants, the Clerks of the District Court are directed to conspicuously post the attached notice describing services court clerks and staff may provide to self-represented litigants. A copy of the notice shall be provided to any person on request.

BY ORDER OF THE COURT this 17th day of JANUARY, 2009.


Robert E. Davis
Chief Justice

Guidelines for Kansas Court Clerks and Court Staff

Staff MAY	Staff MAY NOT
<p>Encourage self-represented litigants to be informed about their legal rights to consult with an attorney for legal advice.</p> <p>Encourage self-represented litigants to consult with an attorney for legal advice.</p> <p>Provide information about:</p> <ul style="list-style-type: none"> ▪ Pro bono legal services; ▪ Low-cost legal services; ▪ Lawyer referral services; ▪ List of local attorneys provided by the local bar association. 	<p>Provide legal advice, including but not limited to:</p> <ul style="list-style-type: none"> ▪ Recommending a specific course of action; ▪ Performing legal research for litigants; ▪ Interpreting how the law would apply to a specific situation; ▪ Predicting the outcome of a particular strategy or action; ▪ Computing deadlines specified by statute or court rule.
<p>Provide location(s) of all appropriate court-approved forms and written instructions.</p> <p>Provide docketed case information.</p> <p>Provide reasonable accommodations required by the Americans with Disabilities Act.</p>	<p>Recommend any specific course of action, including but not limited to:</p> <ul style="list-style-type: none"> ▪ Whether to file a pleading; ▪ The specific content or phrasing for a pleading; ▪ The types of claims or arguments to assert in pleadings or objections to pleadings; ▪ Whether to settle or appeal.
<p>Provide locations for court-approved, written definitions of commonly used terms.</p>	<p>Assist in completing any forms or advise on how a particular term or definition applies to a specific situation.</p>
<p>Provide general information about courtroom location, other agencies' locations in the building and in-house facilities.</p>	<p>Interpret statutes or rules or advise whether a particular statute or rule applies in a specific situation.</p> <p>Provide information kept confidential by statute or court rule.</p> <p>Recommend or advise concerning rules of evidence, witnesses, objections, or rulings.</p>

SHOULD I REPRESENT MYSELF IN COURT?

RISKS AND RESPONSIBILITIES OF THE SELF REPRESENTED LITIGANT

The following questions and your answers may help you decide if you can successfully represent yourself in court or if it might be in your best interest to seek the services of a licensed attorney. If you choose to represent yourself you should understand there are risks and responsibilities involved.

Each question below is worth between 1 – 5 points. Answer each question as truthfully as possible. At the end, you will tally your points. The final score can provide you guidance as you decide to represent yourself or to consult an attorney.

1. Are you generally on time for appointments, meetings and deadlines?

YES This is good. The court expects people to be on time for hearings and to file any
3 pts. paperwork in compliance with deadlines.

NO This will not help in your attempt to represent yourself. The court operates on a
0 pts. tight schedule. The court expects litigants to be present, and on time. If you are not a good time manager, a lawyer may be able to do the job better for you than you could do yourself.

2. Can you make it to court during the day?

YES This is an advantage. This is necessary to file paperwork and attend hearings.
3 pts.

NO If you are unavailable for court during the business day, you might reconsider
0 pts. representing yourself, and hiring an attorney may be best.

3. Do you complete and file your own tax returns?

YES This can be a valuable experience. Court forms, like tax forms are complicated.
3 pts.

NO You may find court forms, like tax forms too complex and time consuming to
0 pts. complete. A lawyer is trained and experienced in completing court documents.

4. Do you normally solve problems by doing your own research?

YES You may feel comfortable doing needed research, as you must learn the laws
2 pts. and rules applicable to your case.

NO This may cause you a problem as research is essential to be successful in court
0 pts. without attorney representation.

5. Are you at ease speaking in front of others?

YES Speaking in front of people is required of self representation.
3 pts.

NO You may want to rethink self representation. There may be a number of people
0 pts. sitting in the courtroom, so if this bothers you, hiring a lawyer may be best.

6. Do you get angry under stress?

YES The whole courtroom process is stressful, more so if you become angry, and may not result in the outcome you want. Having a lawyer may reduce your stress.
0 pts.

NO Handling stress, staying calm and in control makes the process easier.
1 pt.

7. Are you frustrated with what you believe to be unfair?

YES Attorneys can help you understand the process, rules and procedures that must be followed.
0 pts.

NO This will help you accept and abide by the essential rules the court process must follow.
1 pt.

8. Can you make decisions and stick to them?

YES A decision made by you is binding.
1 pt.

NO This may be a problem, as once you decide something, it can be very hard to change. An attorney can help you make the right decision the first time.
0 pts.

9. Does your case involve risks of loss of your property, your home, a pension or other assets important to you?

YES When money is involved, the outcome is very important. An attorney may help prevent mistakes having a huge effect on your finances or property.
0 pts.

NO A case involving money may have a big impact on you. The risk may be minimized and/or loss may not be as severe when represented by an attorney.
5 pts.

10. Do you know that you can be represented by an attorney for just this matter?

YES

NO

11. Is your child(ren's) lives going to be affected by the outcome of this dispute?

YES When children are involved, the outcome is too important to take chances.
0 pts. A lawyer may prevent mistakes during the process that could affect the future of your child(ren).

NO If no child(ren) will be affected by the outcome, the risk in representing yourself may less, but still important.
5 pts.

12. Have you ever been to a trial?

YES This could be beneficial in representing yourself, how to act in court, and what procedures to follow.
2 pts.

NO You may not understand how a real trial runs and what it takes to represent yourself. TV shows do not accurately represent the courtroom process. It may be best to get an attorney to represent you and/or your courtroom appearance.
0 pts.

13. Have you read any self help books?

YES Materials regarding court processes may help in representing yourself.
1 pt.

NO Hiring an attorney that knows the procedures and skills needed may ease your
0 pts. confusion.

14. Do you ask questions when you are confused by something?

YES This is a major part of representing yourself to properly complete things and
2 pts. move your case along.

NO Not asking questions may be difficult when representing yourself. However not
0 pts. all of your questions can be answered by Clerk's office staff. An attorney would
be best in answering your questions.

15 .Are you able to listen carefully while others talk?

YES This is vital for courtroom proceedings, as listening for lengthy periods of time
3 pts. may be required.

NO There is always someone talking in the courtroom. Lawyers are trained to listen
0 pts. carefully to not miss important things said in the courtroom.

16. Do you dress neatly for important occasions?

YES Courtroom attire is important as your appearance may affect your credibility.
1 pt.

NO You may not be taken seriously, or respected if your dress and overall
0 pts. appearance is inappropriate. Lawyers are trained and experienced in courtroom
attire.

17. Do you keep all of your important papers/documents organized in your files?

YES Being organized. keeping papers and files orderly will help when representing
3 pts. yourself, and your ability to recall what has occurred in your case.

NO You may risk throwing away important paper(s) needed for court. Hiring an
0 pts. attorney may keep things better preserved and organized for you.

18. Do you read instructions carefully?

YES Attention to detail is very important throughout your case.
3 pts.

NO If you don't, you may ignore something very important. An attorney can make
0 pts. sure important details are not overlooked.

19. Have you given careful thought to what you want to accomplish by asking the court to resolve your dispute?

YES Solutions to your dispute may be limited under the law. Having reasonable
4 pts. expectations of the outcome may be a better position to be in toward your goal.

NO If you're unsure about what you want to accomplish in court, or lack a
0 pts. reasonable understanding about options under the law, you may be frustrated
and disappointed. An attorney would advise you about what to expect.

20. Do you know that you can be represented by an attorney for just this matter?

YES
1 pt.

NO
0 pt.

TOTAL POINTS _____ This scoring system is not scientifically based, but merely a gauge for consideration of self-representation in a court case. The following are only generalizations of the qualification on this exercise in the ranges indicated below.

36-45 pts. This range would suggest either the case may lend itself to self representation, or a person possess habits, skills and attitudes making them a good candidate for self representation.

16-35 pts. This range would suggest the case may be difficult, and/or the person may not possess qualities to handle the case successfully, and may want to hire an attorney for assistance.

0-5 pts. This range suggests a person lacks many habits and attitudes required for self representation, and should strongly consider hiring an attorney.

GLOSSARY

Not intended as profound legal definitions, but general, everyday meaning of terms.

ACKNOWLEDGMENT – A statement of acceptance of responsibility.

ACTION – Case, cause, suite or controversy disputed or contested before a court of justice.

ADMISSIBLE EVIDENCE – Evidence that can be legally and properly introduced in a civil or criminal trial.

AFFIDAVIT – A written statement of facts confirmed by the oath of the party making it before a notary or officer having authority to administer oaths.

AFFIDAVIT OF SERVICE – A sworn statement that the one making the statement served some document on another person at a time and place stated.

ALLEGATION – A statement of the issues in a written document which a person is prepared to prove in court.

ALTERNATE DISPUTE RESOLUTION/MEDIATION – Settling a dispute without a full, formal trial.

AMENDMENT – A written change in pleading or document filed in a case.

ANSWER – A written response to allegations stated in a petition/complaint.

APPEAL – A written request made after trial, asking another court (usually court of appeals) to decide whether the trial was conducted properly.

APPEARANCE – A personal appearance or written notification submitting to jurisdiction of the court.

ATTORNEY AT LAW – An advocate, counsel, or official agent employed to prepare, manage and try cases in court.

BENCH TRIAL – (Trial to the Court) A trial without a jury in which a judge decides the case.

BENCH WARRANT – An order issued by a judge for a person's arrest.

BURDEN OF PROOF – The necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between parties in a lawsuit.

CHANGE OF VENUE – Moving a case or trial to another location for trial.

CIVIL COURT – Courts dealing with issues of private rights. Includes personal injury, car wrecks, medical malpractice, ownership of property, contract rights, etc.

CIVIL PROCEDURE – The rules and process a civil case is tried, appealed, including preparation for trial, rules of evidence and trial conduct.

COMPLAINT/PETITION – A written legal document to initiate a civil lawsuit, identifying facts, and action the court is asked to take.

CONTEMPT OF COURT – Willful disobedience of a judge's order or command.

CONTRACT – A legally enforceable agreement between two or more parties either orally or in writing.

COUNTERCLAIM – A pleading in which a defendant in a civil action asserts a claim for relief against the person who originally brought the action.

CLERK OF THE COURT – An appointed officer to oversee administrative and nonjudicial activities.

CROSS-CLAIM – A written claim by co-defendants or co-plaintiffs against each other.

CROSS-EXAMINATION – The questioning of a witness produced by the other side.

DECREE – An order of the court. A final decree is one that fully and finally disposes of the litigation.

DEFAULT – A failure to respond to a lawsuit within the specified time.

DEFAULT JUDGMENT – Judgment against a litigant to fails to appear in court or respond.

DEFENDANT – A person being sued.

DEFENSE – a claim of certain facts or legal rules which a defendant claims prevent him from being held liable in a civil action.

DISCOVERY – When two parties exchange information to try and agree on facts avoiding surprises at trial.

DISMISSAL – Type of termination of a lawsuit.

DOCKET – A list of cases to be heard by a court or a log containing brief entries of court proceedings.

DOMESTIC COURT or FAMILY LAW COURT – Courts dealing with divorce, custody and paternity issues.

ENTRY OF APPEARANCE – Usually a document acknowledging the appearance of a person in a lawsuit.

EVIDENCE – Testimony presented or documents used to persuade decision for one side or the other

FINDING – Formal conclusion by judge on issues of fact.

HEARING – An in court presentation to the judge where the people involved in a case tell the facts and the law so the judge can make a decision.

INTERROGATORIES – Questions sent to other parties. Must be answered and returned to attorney requesting, usually within 30 days

JUDGMENT – The final disposition of a lawsuit.

JOURNAL ENTRY/ORDER – Any paper the judge signs.

JURISDICTION – Rules of law that say when the court has right to take action on a matter or make a decision on an issue.

LITIGANT – Party to a lawsuit.

MOTION – Oral or written request made by a litigant for action before, during or after a trial.

NOTICE – Formal notification to the party that has been sued in a civil case of the fact that the lawsuit has been filed.

NUNC PRO TUNC- An order to corrects a previous order.

OATH – Written or oral pledge by a person to keep a promise or speak the truth.

OBJECTION – The process by which one party takes exception to some statement or procedure. An objection is either sustained (allowed) or overruled by the judge.

PARENTING TIME – The right of a parent to visit or spent time with his or her children following separation or divorce.

PETITION – A written legal document to initiate a civil lawsuit, identifying facts, and action the court is asked to take.

PLAINTIFF/PETITIONER – The person initiating the lawsuit.

PLEADINGS – Written statements of fact and law filed by litigants in a lawsuit.

PRE-TRIAL CONFERENCE – A meeting between the parties to determine agreements, facts in disputes, and possibility of settling the case by agreement.

PRO BONO – Lawyers representing clients without a fee.

PRO SE – A latin term meaning “on one’s own behalf”; In courts, it refers to persons who present their own cases without lawyers.

REQUEST FOR ADMISSIONS – Statements of facts sent to the other party for an agreement or disagreement. If not denied, these facts are said to be true in trial. Usually must be answered and returned within 10 days.

RESPONDENT – The party against whom a motion or petition is filed.

RESTRAINING ORDER – An order telling the defendant not to do something until a hearing on the issue being filed can occur.

RETURN – The act of an officer delivering back to the court a document with brief description of date, time, type of service.

RULES OF EVIDENCE – Standards governing whether evidence in a case is admissible.

SETTLEMENT – An agreement made between the parties. In written form and signed by both parties, then signed by the judge.

STAY – A court order halting a judicial proceeding.

SUBPOENA – A written court order compelling a witness to appear and testify.

SUMMARY JUDGMENT – A court decision made on evidence presented without a trial.

SUMMONS – A written notice to a party of a lawsuit.

SUSTAIN – A court ruling upholding an objection or a motion.

TIME TO PLEAD – The period of time allowed to file a pleading in a case.

TRANSCRIPT – A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral deposition.

VACATE – To set aside. To vacate a judgment is to set aside that judgment.

VENUE – the proper geographical area (county, city or district) in which a court with jurisdiction over the subject matter may hear a case.

WITH PREJUDICE – Plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

WITHOUT PREJUDICE – May be the subject of a new lawsuit.

WITNESS – A person testifying to who, when, where and what was experienced.

WRIT – A written judicial order directing a person to do something.