IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION, GEAUGA COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet

Preparing For Your hearing

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Form numbers that are referenced in this Information Sheet and are preceded by “GC JF” are available on the Court’s website. Form numbers that are preceded by “GC Juv” are available at the Help Center, but most of those forms are included in the **Pro Se Litigation Packages that our on the Court’s website.**

Background

This Information Sheet is intended to assist a self-represented party to prepare for an evidentiary hearing in Juvenile Court in Geauga County, Ohio. Hearings are complicated. While this Information Sheet is intended to make the process and the hearing more understandable, we cannot make it less complicated. Generally, a hearings in Juvenile Court does not involve a jury.[1] Instead, the Judge decides what facts are proven by the competent evidence presented by the parties and then applies the applicable law to render a decision. The more that you understand about the applicable law, including the Ohio Rules of Civil Procedure, the Ohio Rules of Juvenile Procedure, the Local Rules of Juvenile Court, and the Ohio Rules of Evidence, the better your chances of obtaining the court decision that you seek.[2]

Using Legal Counsel

While there are good reasons why persons may choose not to hire an attorney to represent them, including financial considerations, you should consider whether you need an attorney.

You may need an attorney if:

[1] Juv.R. 27(A)(3) (Ohio Rules of Juvenile Procedure)
[2] See Information Sheet “Law of Ohio.”

- Your case is complicated or may become complicated (but the problem is that you may not realize the complexity until it is too late).
- You need some legal advice (the Help Center cannot give you legal advice).
- You need to discuss strategies for your case.
- You want an attorney-client relationship or you need confidentiality with an advisor.
- You are concerned that your opponent will not play fair or that your opponent has an attorney.
- You are too close to the case, too emotional, and you will have a difficult time thinking logically and objectively, or acting in a civil and polite manner.

You may not need an attorney if

- Your case is straight forward and all parties agree with the outcome you desire.
- You understand all options and can make informed choices about your case.
- You are willing to learn and have the time needed to understand the applicable law and the rules of procedure.
- You have the time required to prepare your case for a hearing in a timely manner.
- You are capable of following instructions and working on you own.

Risks of Representing Yourself

- You are unable to follow all the procedural requirements in a timely manner that are required to bring your case before the Judge, and as a result, the Judge dismisses your case.
- You fail to fully understand the law (including procedural rules and rules of evidence) that applies to your case, including applicable statutes, case decisions, and administrative code provisions.
- At the hearing, you fail to meet all technical requirements that are necessary to prove the facts, which support your case.

Consider Options to a hearing.

The Court allows a couple of alternatives to resolving disputes regarding the allocation of parental rights and responsibilities. To be successful, it requires the parties to have an open mind and be willing to compromise.

Shared Parenting Plan. If the parties can agree on the fundamental issues regarding their minor children and how they will participate and cooperate in rearing their children, then they can prepare and sign a Shared Parenting Plan and present it to the Court for approval. The Court's Resource Center or Help Center can assist you with the preparation of a Shared Parenting Plan that deals with most of the issues to agree upon, including the issues of custody, parenting time, and child support.

Note. See GC Juv 003 for a sample Shared Parenting Plan as an example.

Mediation. The Judge may allow parties to resolve their disputes, without a hearing, through a confidential process called mediation. The Court's Resource Center offers a mediation process. During mediation, the parties are assisted by a neutral person, called the mediator, who will listen to both parties, assist them to identify and resolve all issues, in order to reach a mutually beneficial agreement, keeping in mind the best interest of the minor children. The parties need not hire an attorney for the mediation process. However, an attorney certainly could be helpful to prepare you for the mediation, and following the mediation, to assist you to determine whether you will accept the mediation recommendation or proceed with a hearing.

For mediation to be successful, you should act in a polite, civil, and unemotional manner throughout the process. You cannot allow the other party to provoke you. Try to have an open mind to the position of the other party, remembering that in most cases it is in the best interest of a child to have a significant relationship with both parents.

In preparation for a mediation, you might consider reviewing the Shared Parenting Plan template on the Court's website. That template will assist you in listing all of the issues that should be resolved in the mediation process.

If the parties cannot agree upon all issues, then the mediator will send the case to the Judge for a hearing. Unlike mediation, the Judge will decide all issues to be resolved rather than the parties by mutual agreement. It is very possible that the outcome of the hearing will not satisfy either party. For this reason, parties are encouraged to try to reach a mutually acceptable agreement through mediation, which can ultimately lead to a mutually agreed Shared Parenting Plan.

Tips for Representing Yourself

If you decide to proceed without being represented by an attorney, you should consider the following:

- Research the law that is applicable to your case. The Court's website has links that are helpful for you to research the law on the Internet. Additionally, the Help Center has various Information Sheets that may assist you. Those Information Sheets contain footnotes that specifically reference applicable law. You might consider a limited consultation with an attorney just to make sure you are on the right track. Consider asking the attorney to assist you by providing "limited scope representation."[3]

- Read all of the Information Sheets that are applicable to your case.

- Keep track of all deadlines, especially deadlines for filing documents with the Court, and providing service of notice of such filings to all other parties to your case. The failure to do so could result in the Court dismissing your case.[4]

- Consider attending hearings of other cases, especially if an attorney is presenting the case. This will give you some idea of what is expected, including how witnesses are examined, how documents are presented to the Judge, and how parties behave in the courtroom.

- Have copies of and review all documents filed with the Court in your case
    - All documents filed by you,
    - All documents filed by all other parties to your case, and
    - Organized those documents in a three-ring binder, which is referred to as a trial notebook and explained at the end of this Information Sheet.

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[3] The Ohio Bar Association has additional information at **https://www.ohiobar.org/member-tools-benefits/practice-resources/practice-library-search/practice-library/lsr/limited-scope-representation-resources/**
[4] See Information Sheet "Service and Subpoena."

Preparation of Evidence

The essential facts that you must prove to the Judge in order to obtain the result that you desire should be set forth in the complaint or motion that you filed with the Court. For example, you may have filed a motion asking the Judge to modify the parenting time order previously issued by the Judge. In your motion, you probably stated something like – "The change of parenting time for the minor child is in the best interest of the minor children, . . ." You need to ask yourself how you are going to convince the Judge that your allegation is a true statement – that, in fact, an order modifying parenting time is in the best interest of the minor children. Certainly, you can testify to events that you observed, which support the truth of your allegation. You cannot testify to what other persons told you about their observations. That is called Hearsay Testimony, which is explained in the Information Sheet - "Conduct During a hearing." However, you can arrange to have those persons, who have first-hand information, testify to prove the facts that you intend to prove to the Judge.

Identify and Prepare Witnesses. You should identify the persons who can testify on your behalf. They should be persons who have first-hand knowledge of events that support your case.[5] First-hand knowledge results only from what a person actually perceived through his or her five senses – that is, sight, hearing, taste, smell, feel. Think about what are the facts that you intend to prove based upon what the witness will tell the Court. For example, if the fact you intend to prove to the Judge is that it is in the best interest of the minor children that you be named the Residential Parent, then you would select persons who are familiar with how you care for your minor children, and perhaps how the other party cares for the children. Such persons could be neighbors, school employees, or case workers. A witness could be a family member, but keep in mind that the Judge may consider the testimony of a family member as less reliable than that of an unrelated person. In each case, the witness should not have a reputation for being untruthful. At the hearing, the other side will be allowed to cross-examine your witness.

You should interview your witness and keep notes of what the witness can testify to in support of your position. Those notes will assist you later when you prepare questions you intend to ask the witness at the hearing.

While generally your witness can not state an opinion to the Judge, and will be limited to simply stating facts that the witness personally observed, you can have a witness state an opinion if that person is capable of giving the Court an expert opinion.[6] Be sure that the expert witness is qualified to give an expert opinion.

You are responsible to be sure that your witness will in fact appear at the Court on the hearing day. Of course, you should give your witnesses as much advance notice as possible. If one or more of your witnesses do not appear, then the Judge is not likely to give you a continuance. However, there is a process to force your witnesses to appear at the hearing. That process is called a "Subpoena." Please review the Information Sheet titled "Service and Subpoena" and contact the Help Center or the Clerk of Courts regarding the issuance and service of a Subpoena, which essentially is a court order requiring the witness to appear at the Court.[7]

[5] See generally Ohio Rules of Juvenile Procedure -Article VI "Witness."

[6] See generally Ohio Rules of Evidence -Article VII "Opinions and Expert Testimony."

[7] See the Information Sheet – "Service and Subpoena."

Consider whether there will be a need for an interpreter at the hearing for you or for any witness. If so, discuss that need with the juvenile clerks office or the Help Center as soon as possible.

Documents. Think about whether you want to show any documents to the Judge – for example a letter, an email, a report, a photograph, a video recording.[8] You need to think about how you can "authenticate" the document at the hearing.[9] One way to authenticate documents is to do so before the hearing by using the discovery process – see below.

Be sure to have at least four copies of each document you intend to introduce into evidence when you go to the hearing - one for you, one for the Judge, one for the other party, and one more just in case (such as a guardian ad litem). Each party in the case who is at the hearing needs to receive a copy before you introduce it into evidence.

Again, you might consider a limited consultation with an attorney to review the documents you intend to present to the Judge and discuss with the attorney how you will authenticate and present the documents at the hearing.

Discovery.[10]

Essentially, Discovery is a process before the hearing that allows you to obtain information from the other parties in the case, and sometimes obtain admissions to certain relevant facts, or the approval of certain documents. The primary purpose of Discovery is to find out what evidence the other party has and what that party intends to present to the Judge. Discovery allows you to assess the strength of the other party's case if there is a hearing. Effective Discovery can simplify what you need to prove at the hearing. Essentially, there are four types of discovery methods:

- Deposition
- Interrogatories
- Request to Produce Documents
- Request for Admissions

If you intend to utilize any of these discovery methods, you should consider a limited consultation with an attorney to assist you to decide what Discovery methods you should use, and how to use each method. If you decide to take the deposition of a witness, especially an expert witness, it is highly recommended you consider having an attorney assist you with the deposition. Finally, be aware that if you or the other party engages in the Discovery process, then it will probably result in a delay of a hearing date.

Deposition.[11] Conducting a deposition of the other party or his or her witnesses is where you get to ask the witness questions, under oath.[12] A deposition is the costliest form of discovery because you need to arrange for a court reporter to be present at the deposition. The court reporter will administer an oath to the witness and will create a record of everything said during the deposition. The record is called a transcript. If the witness is unavailable at the hearing,

[8] See generally Ohio Rules of Evidence -Article X "Contents of Writing, Recordings, and Photographs."

[9] See generally Ohio Rules of Evidence -Article IX "Authentication and Identification." Also, see the Information Sheet "Conduct During a hearing."

[10] See generally Ohio Rules of Civil Procedure -Article V "Discovery," and Juv.R. 24 and 25 (Ohio Rules of Juvenile Procedure).

[11] See Civ.R. 30,31, and 32 (Ohio Rules of Civil Procedure)

[12] You might even consider deposing one of your own witnesses if that witness is unavailable for the hearing

then the Judge may permit the transcript of the witness to be read during the hearing and accepted as evidence. Also, you need to arrange for the place where the deposition will be conducted. You could consider conducting the deposition at the office of the court reporter. In any event, you should consider using Interrogatories (explained next) before conducting a deposition. The other party will attend the deposition of any witness and will cross-examine that person (the "deponent").

Interrogatories.[13] You may deliver Interrogatories, or rather written questions, to another party. That party must answer the questions in writing and sign those written answers under oath. The answers must be returned within the time period that you specify, but you must give the other party at least 28 days to respond. Generally, you cannot submit more than 40 interrogatories without the consent of the Court.[14] While the use of Interrogatories is significantly less expensive than a deposition, they are limited in the number of questions you can ask, and are limited to other parties to the lawsuit, while a deposition can be taken of any person, including the other party's witnesses. If you intend to take the deposition of another party, sometimes it is helpful to first submit some Interrogatories to the party that you intend to depose. An example of an Interrogatory is "Please identify each person you have talked to concerning this matter and provide the address and phone number of each such person." Again, you should consider having an attorney assist you with the drafting of Interrogatories.

Production of Documents.[15] Another discovery technique is a request to produce documents. While you can use a deposition to identify documents in the possession of the other party that may contain relevant evidence, you may use a written request to produce documents. That request could include emails, a diary, a travel log, an employment record, and insurance policy, or a letter. As with all discovery, the documents requested must have some relevance to the subject matter of the case.[16] Similar to Interrogatories, you must give the other party at least 28 days to respond.

Request for Admissions.[17] Finally, you may deliver a written request to the other party, requesting that the other party admit the truth of certain facts. An example might be – "Admit that on March 8, 2017 between 2 p.m. and 5 p.m. you took our child, John Smith, to the ABC Tavern, located at 123 Main Street, Chardon, Ohio." Another could be – "Admit that while at the ABC Tavern, as noted in the previous request, you drank at least four beers." A Request for Admissions is usually delivered to the other side toward the end of the discovery process, after information has been gathered by witnesses and perhaps the other party. Similar to Interrogatories, you must give the other side at least 28 days to respond.

Social History, Physical Examination, Mental Examination.[18] Additionally, if your case involves the allocation of parental rights and responsibilities of minor children, you may request that the Judge cause an investigation to be made as to the character, health, family relations, past conduct, present living conditions, earning ability, and financial worth of the parties to the action. The report of the investigation shall be confidential, but shall be made available to the parties or their attorney upon written request not less than three days before the hearing. The Court may tax as costs all or any part of the expenses of each investigation.

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[13] See Civ. R. 33 (Ohio Rules of Civil Procedure)

[14] For an example of how to formulate Interrogatories, see *Bender's Forms of Discovery* (Matthew-Bender), which is located at the Geauga County Law Library.

[15] Civ.R. 34 (Ohio Rules of Civil Procedure).

[16] Civ.R. 26(B) (Ohio Rules of Civil Procedure).

[17] Civ.R. 36 (Ohio Rules of Civil Procedure).

[18] Juv.R. 32 (Rules of Juvenile Procedure) and R.C. 3109.04(C).

Note: If you want a copy of the report, then consider using and filing with the Court form GC Juv 005 (Request of Investigative Report).

Some Final Thoughts.

- Think about whether the evidence that you intend to give to the Judge at the hearing is admissible under the Ohio Rules of Evidence. Be careful about Hearsay evidence. With a few exceptions, neither you, nor any witness that you intend to call to give testimony, can state to the Judge what the witness heard from another person. Witnesses must testify based upon what they know from first-hand experience, and generally they cannot give their opinion.

- Make sure all of your witnesses are prepared and ready, willing, and able to appear at Court on the hearing day. If you have any concern, arrange for a subpoena to be served, which requires a witness to attend.[19] Make sure witnesses understand the questions you will ask, and that you know what will be the answer. Be sure you instruct all witnesses to testify truthfully. If your witness knows a fact that could be harmful to your case, then consider, during your questions, having that witness explain what he or she knows about you that could be harmful rather than have the other party elicit that information on cross-examination. Again, review the Information Sheet titled "Service and Subpoena."

- Think about and write down an opening statement that you will state to the Judge at the appropriate time (usually at the beginning of the hearing), stating the facts that you intend to prove, and the witnesses and documents you intend to present to the Judge.

- Think about and write down a closing argument that you will state to the Judge at the appropriate time (usually at the end of the hearing), telling the Judge how the evidence proves your key allegations of fact that support your request for the court order that you are seeking.[20]

- Prepare a trial notebook. The trial notebook could be a three-ring binder, and should contain:

    - A copy of all documents filed with the court by all parties

    - A copy of all documents you intend to introduce into evidence (you should have at least four copies of all such documents). Consider marking each document before the hearing with a label placed at the top or bottom of the documents in a blank area, perhaps labeled as "Mother's Exhibit A," and so on.

    - Have a copy of the answers you received in response to Interrogatories, a Production of Documents, and a Request for Admissions, and a copy of any Deposition.

    - For each witness you intend to call, have a summary of what the witness will state, and have a list of the specific questions that you will ask the witness.

    - Have a series of questions that you intend to ask of the other party and his or her witnesses.

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[19] See Information Sheet "Service and Subpoena."

[20] See Information Sheet "Conduct During a hearing," for more information about an Opening Statement and Closing Argument.

- A copy or outline of your Opening Statement.
- A copy or outline of your Closing Argument.

- Consider reviewing your trial notebook with an attorney and seek assistance from the attorney to prepare you for the hearing.

- Consider filing a Motion with the Court requesting that the Court order a Preliminary Conference to consider such matters that will promote a fair and expeditious hearing, especially if there has been Discovery and the Discovery process appears to be completed. Such a hearing may give the parties an opportunity to exchange expert reports, if any, exchange a Witness List and an Exhibit List, and examine and authenticate documents that the parties intend to introduce into evidence at the hearing.[21]

Note: If you want the Judge to schedule a Preliminary Conference, then consider using and filing with the Court form GC Juv 012 (Motion for Preliminary Conference), and serve a copy of that Request upon all other parties – See Information Sheet titled "Service and Subpoena."

Note: If you must prepare and file a Witness List, then consider using GC Juv 013 (Witness List), and serve a copy of that List upon all other parties – See Information Sheet titled "Service and Subpoena."

Note: If you must prepare and file an Exhibit List, then consider using GC Juv 014 (Exhibit List), and serve a copy of that List upon all other parties – See Information Sheet titled "Service and Subpoena."

LEGAL PRACTICE IN THE JUVENILE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY JUVENILE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

[21] Juv.R. 21 (Ohio Rules of Juvenile Procedure)