

HOW TO FILE FOR CUSTODY



Disclaimer

Neither the staff in the Center nor the staff in any Court office will be able to give you legal advice or help you fill out/complete the forms. The information in the packets is not to be a substitute for professional legal advice. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. If you want to obtain the services of an attorney but do not know whom to contact, you may call the Lawyer Referral service at 393-0737.

CUSTODY PACKET

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I. INTRODUCTION

A custody action is a way to legally obtain primary or partial physical custody of your children. **It is recommended that you at least speak to an attorney so you can find out your rights.**

COURT-STAFFED OFFICES IN THE COURTHOUSE ARE NOT PERMITTED TO GIVE YOU LEGAL ADVICE.

If you decide to represent yourself in the custody action (known as “pro se”), it will take a lot of time, and cause you difficulty, confusion, and frustration. You **MUST** follow the Rules and Procedures, both state and county, as are required for attorneys. The Court will not allow you to skip any procedure because you “**did not know how or when**” to do something in your custody action. This packet is not to be a substitute for professional legal advice tailored to a specific fact situation.

Also, the Judges and Conference Officers WILL NOT be available to you to provide advice or guide you through the proceedings. You are NOT ALLOWED to contact Judges or Conference Officers except for filing official paperwork or appearing in court proceedings.

If you feel you need an attorney, you may contact the **LANCASTER BAR ASSOCIATION, 28 EAST ORANGE STREET, LANCASTER, PENNSYLVANIA, 17602. Telephone: 717/393-0737.**

II. DEFINITIONS

- “Action”** All proceedings for custody, partial custody or visitation, and proceedings for contempt and modification of prior Orders of any Court.
- “Caption”** The heading on a pleading which sets forth the name of the Court, the number of the action, the name of the pleading, and the names of all of the parties.
- “Complaint”** A formal pleading, filed in the Prothonotary's office, in the paragraph format and with all contents as required by the Pennsylvania Rules of Civil Procedure for pleadings requesting primary physical custody, or a schedule of partial physical custody or visitation, to begin a custody action when there is no pre-existing custody Order.
- “Continuance”** A request to change the date of a Conference, Pretrial Conference, or Hearing to another date.
- “Custody”** The legal right to keep, control, guard, care for and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody.”
- “Custody Conference”**
A Conference, facilitated by a Custody Conference Officer, where the parties to an action mediate and/or narrow the issues in the custody action to facilitate the conciliation process and to encourage frank, open and meaningful exchanges between the parties and their respective counsel. Statements made by the parties at the Custody Conference shall not be admissible as evidence at a later Custody Hearing. The Custody Conference Officer shall not be a witness for or against any party.
- “Custody Conference Officer”**
A member of the Lancaster County Bar or other appropriate person appointed by the Court to conciliate custody cases filed with the Court and recommend to the Court Interim or Temporary Custody Orders.
- “Defendant”** The person being sued.
- “Ex Parte”** In order to preserve fairness in all proceedings, no one party or his/her lawyer may contact the Court or the Conference Officer about issues in the case without the other party's participation. This includes by telephone, mail, fax, e-mail, or in person.
- “Home County”**
The county in which the child has resided preceding the time involved for at least the past 6 consecutive months, and in a case of a child less than 6 months old, the county in which the child lived from birth.

- “Jurisdiction”** The authority of the court to act regarding particular parties and the subject of litigation.
- “Legal Custody”** The legal right to make major decisions affecting the best interests of a minor child, including, but not limited to, medical, religious, and educational decisions.
- “Minor/Child”** An individual under the age of 18 years, including children by birth or adoption.
- “Order”** A formal written document, signed by a judge, directing schedules, procedures, arrangements and decision-making authority during the course of and at the conclusion of custody litigation.
- “Partial Physical Custody”** The right to take possession of a child away from the custodial parent for a certain period of time.
- “Party”** A named Plaintiff or Defendant in the action.
- “Petition”** A formal pleading, filed in the Prothonotary’s office, in the paragraph format and with all contents as required by the related section of the Pennsylvania Rules of Civil Procedure for the particular type of petition: to modify an existing Custody Order, or to cite contempt (disobedience) of an existing Custody Order, or for “special relief.” (See page 14). Petitions for special relief which also request immediate court intervention must be presented in Family Business Court in accordance with all procedures required by those proceedings. (See page 15).
- “Physical Custody”** Actual physical possession and control of a child.
- “Plaintiff”** The person filing the case.
- “Pre-Trial Conference”** A Conference with the Judge and the parties’ counsel, or the party if unrepresented, where the issues that will be presented at a Hearing are clearly enumerated and any special requests for witnesses are discussed.
- “Pro Se”** For one’s own behalf or appearing for oneself.
- “Registered Mail”** Either registered mail or certified mail.

“Service” (meaning service of process) -- The formal delivery, to the other party, in the manner directed by the Pennsylvania Rules of Civil Procedure, of legal documents related to an action before the court, including original process (initial complaint, petition, etc.), and later pleadings filed in that action, as well as notices of petitions about to be filed. Because the date of service has legal significance in an action before the court, proof of the date of service of each such document on the other party must be filed by the party who performed the service, whether for original process or for later pleadings in the case.

“Shared Custody” Shared legal or shared physical custody or both of a child in such a way as to assure the child a frequent and continuing contact, including physical access to both parents.

“Standing” A legally recognized right to participate as a party in a custody action. This is determined by legal principles and not by the level of sincerity or amount of good faith of an interested person.

“Venue” The county in which the child has lived for the past 6 months immediately preceding the filing of the action.

“Verification” A written statement of fact by the signer, supported by oath or affirmation or made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

“Visitation” The right to visit a child, but does not include the right to remove the child from the custodial person’s control.

III. FREQUENTLY ASKED QUESTIONS/PROCEDURES

- **WHEN SHOULD I FILE FOR CUSTODY?**

If you are *the custodial parent (the child resides primarily with you)*, you should file for custody if :

- you are afraid that the other parent may take the child out of the area without your permission and not return;
- the other parent consistently does not pick up the child or return the child at the times that were verbally agreed upon and you want a court order to be able to enforce those times; and/or
- you need legal verification for school enrollment, health insurance benefits, Social Security or welfare benefits, etc.

If you are the *noncustodial parent*, you should file for custody if:

- the custodial parent is withholding the child from you or is not giving you as much time as you would like to have;
- you want the child to live primarily with you; and/or
- you are not having any input in the major decisions affecting the child such as educational, medical or religious issues.

- **ARE THERE SITUATIONS WHEN IT MAY BE BETTER *NOT* TO FILE?**

If you and the other parent of the child have an agreement between the two of you which is working well and the children are happy, there is no reason to get the court involved. Sometimes getting the court involved can create bad feelings when there were none before.

If you are the custodial parent and the other parent is not involved in your child's life(and you like it that way), filing for custody could create a forced partial custody schedule which you might not like.

Whether to begin a custody action can be a fact sensitive decision. If you have questions about your specific situation, you should consult an attorney.

- **WHO MAY FILE FOR CUSTODY?**

A parent may file even if the child has never lived with him/her. Grandparents may file if they have standing under any of the following Sections of Pennsylvania custody law: 23 Pa.C.S.A. §§5311, 5312, or 5313. A third party wishing to seek custody or visitation should consult an attorney as the law is complex in that area. As used in this information packet, “parent” or “other parent” also could apply to such other parties **if** they have standing to file.

- **HOW MUCH DOES IT COST TO FILE?**

The current fee (as of 2006) is \$197.00. This is the filing fee and is subject to change. It is to be paid (by money order, cashier’s check or cash) at the time that the custody complaint is filed at the Prothonotary’s Office on the second floor of the Lancaster County Courthouse. The money order or cashier’s check should be made payable to **The Lancaster County Prothonotary** which is the filing office for civil actions. **No personal checks are accepted.**

If you fit the financial requirement for low income families, you can get the filing fee waived. To see if you qualify, you must contact Mid Penn Legal Services (717-299-0971).

- **ARE THERE ANY OTHER COSTS INVOLVED?**

Yes. The court requires that every party who is named in the caption attend a custody education seminar designated by the court. The identification of the seminar shall be attached to the custody complaint in the form of a brochure and registration form. This form can be obtained at the District Court Administration Office or at the Court Self Help Center, or access to the form can be obtained on the [Family Services Website: www.fslancaster.org](http://www.fslancaster.org)

- **WHAT TO FILE?**

The custody complaint (form 1) with a scheduling order on the top (form 2) and a registration form for the seminar (currently known as the Focus on Children seminar) brochure and application (separate form from this packet) shall be filed with the Office of the Prothonotary. Please bring an original and an extra copy for every party in the action. A civil cover sheet (form 3) and a Court Administration cover sheet (form 7) are also required. Do not forget the money order for the current filing fee. Also bring a self addressed stamped 9x12 envelope with enough postage to cover the cost of mailing **all** of the copies to you.

- **WHERE TO FILE?**

A custody complaint should usually be filed in the county where the child has resided for the last six (6) months. In situations where that circumstance may not be easily determined, an attorney should be consulted.

- **WHAT HAPPENS AFTER I FILE THE COMPLAINT?**

The Prothonotary's Office will keep the original copy of the complaint and scheduling order.

After the complaint is filed in the Office of the Prothonotary, the paperwork is forwarded by the Prothonotary's Office to the office of Court Administration to have a custody conciliation conference scheduled, the first stage of a custody action.

Copies of the custody complaint will be returned to you with a date and time for a custody conference which typically will be held within *six* weeks after the filing date. It is your responsibility to make sure the other parent or party is given notice of the time and place of the conference. Service of the Complaint must be made by either personal service (form 4a or 4b) or certified mail (form 5) in accordance with Pa. R.C.P. 1930.4.

- **DO I HAVE TO BRING ANYTHING TO THE CONFERENCE?**

Yes. You must bring to the conference proof that you completed the court-approved custody education seminar. Also bring to the conference the service Affidavit and the return receipt card signed by the other party which shows that the complaint and order scheduling the conference was received by all other parties named in the caption.

**NOTE: WITHOUT PROOF OF SERVICE,
THE CONFERENCE MAY NOT BE HELD.**

- **WHO RUNS THE CONCILIATION CONFERENCE?**

The conference is conducted by an attorney who has been appointed by the court to act as a Custody Conference Officer (CCO). His or her job is to help the parents or parties work out a custody schedule which is agreeable to all. The conference officers cannot take sides, nor can they look at evidence you wish to present such as character references, letters from doctors or counselors, etc.

The custody conference officer MAY NOT be contacted by any party or by anyone on a party's behalf outside of the conference for any reason.

- **WHAT IS THE APPROPRIATE CONDUCT AND DRESS AT THE CONFERENCE?**

The Conference Officer controls the conference and decides who talks first and whether the statement is relevant to furthering a custody agreement. Dress as if you were working in a business office - shorts are not permitted. Do not chew gum. Do not interrupt the Conference Officer or the other party. Each party will have an opportunity to speak. Remember to control your emotions and your remarks. If there are angry outbursts or inappropriate language, the offending party may be ejected and the conference may continue.

- **WHAT IS THE PROCEDURE AT THE CONFERENCE?**

The conference officer will first ask the party who filed the complaint what he or she wants to see happen. Then the other party will have a chance to respond. It is good to have worked out what you want to say ahead of time. If an agreement can be reached, you will each leave the conference with a handwritten summary of the agreement which will be typed up within ten days, signed by a family law judge and mailed to you. If the parties cannot agree, the Conference Officer may make a recommendation for a custody schedule and either schedule a follow-up conference or schedule the case for a hearing before a judge. You will receive a handwritten copy of the recommendation when you leave as well. If recommended, a hearing typically is scheduled several months after the conference.

- **WHO MAY COME TO THE CONFERENCE?**

Only the parties on the caption of the complaint are allowed at the conference. Each party may bring an attorney. No other relatives, friends, etc. are allowed in the conference room. Children are permitted in the conference only if there is a specific court order allowing them to attend. Children must not be left unattended in the courthouse, so please make day care provisions for them elsewhere.

- **WHAT IF I AM UNABLE TO ATTEND THE CONFERENCE ON THE DAY IT IS SCHEDULED?**

There are only certain conditions that allow for continuances. Work is not considered an adequate reason for a continuance. To request a continuance, you must first get permission from the other party. If there is an agreement, then the continuance form (form 6) must be signed by both parties and submitted to Court Administration. A motion cover sheet (form 7) must also accompany the form. If the request is *submitted less than* ten days before the conference, you will owe another \$88.00. If there is no agreement to the continuance, you must petition the court to get permission. (See Special Relief procedures below.)

- **WHAT HAPPENS IF A HEARING IS SCHEDULED?**

If no agreement is reached at the conference and the conference officer recommends a hearing, the date for the hearing will appear in the court order which results from the conference.

NOTE: ALL PARTIES MUST ATTEND THE EDUCATION SEMINAR AND PROVIDE PROOF OF SAME TO THE COURT BEFORE AN ORDER MAY BE ENTERED.

There are four family law judges who hear custody cases. Custody cases are not heard before a jury. Two custody cases are scheduled for each hearing date - one at 9 a.m. and one at 10 a.m. If you are scheduled for the 10 a.m. slot, your case could get continued to another date if the 9 a.m. case goes forward. If the 9 a.m. case settles, your case will go forward. You must be prepared to present your case even if the 9 a.m. case settles at the last minute.

Pretrial Conference

The judge may request a pretrial conference. This is a meeting of the parties (if there are no attorneys) and the judge on another date in advance of the hearing to see what the issues are and whether there can be a resolution without going to a hearing. A Pretrial Memorandum must be given to the judge and the other party 72 hours prior to the pretrial conference. (See Form 8.)

Rules of Conduct

If you are not represented by an attorney, you are considered a “*pro se litigant.*” Even though you are unrepresented, the court will hold pro se litigants to the same standards of conduct in the courtroom. The parties will be bound by the *Pennsylvania Rules of Civil Procedure* and the *Pennsylvania Code of Evidence*. The *Code of Evidence* sets standards for objections to what is being said by a witness, what constitutes relevant testimony, what exhibits can be admitted, etc. If you were the party who filed the complaint, you will present your case first. You will testify in your own behalf and present witnesses to help prove why the court should grant the relief you want. The other party will be able to cross examine or question you and your witnesses. The judge may also have questions.

The bailiff will tell you where you should sit. After the hearing has started, you may not leave the table without permission from the judge. Each party acting as an attorney must stand when addressing the judge (unless you are testifying on the witness stand) and must refer to the other party and witnesses as Ms. or Mr. This is a formal setting. The judge is always addressed as “Your Honor.”

Attire

As noted above, this is a formal setting. You should dress in business attire. Shorts, flip flops, tank top tee shirts, mini skirts, jeans, etc. are not appropriate.

Witnesses

It is your responsibility to give your witnesses notice of the time and date for the hearing. Please check the Pennsylvania Rules of Civil Procedure regarding subpoenas for the witnesses, if necessary. A subpoena is a court order directing a witness to come to the hearing. The statutory witness fee and mileage payment must accompany the subpoena.

Children at the hearing

Judges usually do not interview children who are under six years of age. You may ask the judge ahead of time (such as at the pretrial conference) if the children should be brought to the hearing.

The judge usually speaks with the children in his/her chambers after the testimony has ended for the day. It is boring for the children to spend the day in the hallway of the courthouse waiting. Usually, the parents should arrange to pick the children up over the lunch break (from around noon to 1:30 p.m.) and bring them back to the courthouse. Children may not be left unattended in the hallway and the parties must be in the courtroom during the hearing. That means it is necessary to bring another responsible adult to watch them.

Need for more time

If the hearing is not completed in one day, another day of testimony will be scheduled at a later time. Even when testimony has been completed, you will usually not get a ruling from the judge on that day. The judge may ask for proposed custody arrangements which outline the custody schedule you request. Then he or she will take time to deliberate. This time varies based upon the complexity of the case and the judge's current work load.

- **WHAT IF I AM UNABLE TO ATTEND THE HEARING ON THE DATE IT IS SCHEDULED?**

Because of the large number of Family Court cases, if you continue your hearing, it would be months, not weeks, until a new hearing date can be scheduled. The parties are expected to make every reasonable effort to arrange their schedules so they can be available for a hearing on the important issue of their child's custody. However, as with the continuance for the custody conference, if there is some dire reason why the hearing needs to be continued, you first must get permission from the other side. If you have permission, you must have both parties sign

the continuance form (form 6), and fill out the Court Administration Cover Sheet (form 7). If there is no agreement, you must petition the court with an attached proposed continuance Order (form 9). *(See Special Relief procedures below.)*

- **WHAT IF I DO NOT AGREE WITH THE JUDGE’S DECISION?**

You may file an appeal to the judge’s decision with the Superior Court within thirty (30) days of the date of the court order. Pennsylvania Rules of Appellate Procedure apply and must be followed exactly. Due to the complexity of this procedure it is recommended that you consult an attorney. Taking an appeal also involves paying to have the transcript of the entire hearing prepared from the court reporter’s stenographic notes.

- **HOW DO I CHANGE A CUSTODY ORDER AFTER IT IS ENTERED?**

If you and the other parent *agree* to do so, you are free to follow a different schedule at any time, but it will not be a court Order unless an uncontested modification is filed. If the other parent does *not agree* to a change but you want to change the Order, you must file a modification petition which is similar to the original custody complaint (form 10). You must attach a copy of the current custody order as an exhibit to the petition. Just as in “filing” an original custody complaint, a civil cover sheet (form 3) and a Court Administration cover sheet (form 7) are required.

- **IS THERE A FEE FOR THE MODIFICATION?**

Yes, the fee currently is \$88.00. *This cost is non-refundable.*

- **THE OTHER PARENT NEVER SPENDS TIME WITH MY CHILD(REN), MAY I TERMINATE HIS PARENTAL RIGHTS?**

Parental rights cannot be terminated unless : 1) there is a stepparent who is willing to adopt the child and the uninvolved biological parent signs a consent to the adoption; or 2) after a hearing, the court has determined that the other biological parent has abandoned the child such that his rights can be terminated without his consent. This is a separate procedure in dependency court. It is not a custody procedure.

- **MAY I KEEP THE OTHER PARENT FROM SEEING MY CHILD(REN) BECAUSE THAT PARENT DOES NOT PAY CHILD SUPPORT?**

No. The non-payment of child support does not allow a parent to disobey a court order for custody. The court believes that it is in the child’s best interest to have a relationship with both parents. Instead, child support issues should be pursued through the Lancaster County Office of Domestic Relations Enforcement Office (717-299-8141).

- **CAN CUSTODY EVER AFFECT SUPPORT ?**

Yes. If the noncustodial parent can show that he or she regularly has the child in excess of a threshold amount of time over the course of the year, the support amount may be adjusted. The threshold amount of time is established by the State Support Guidelines.

- **MY CHILD IS 12 YEARS OLD. MAY SHE DECIDE WHERE SHE WANTS TO LIVE?**

Yes, if the parents agree to accept her choice without further litigation. But if the parents go to a hearing despite knowing the child's preference, there is no magic age in Pennsylvania when the child gets to make the decision as to where she will live. The court looks at all of the factors involving the best interest of the child and the child's preference can be a factor. The weight of that preference will depend upon the age, maturity, intelligence and reasoning of the child.

- **WHEN IT IS TIME FOR MY CHILD TO VISIT THE *OTHER PARENT*, HE DOES NOT WANT TO GO. DO I HAVE TO SEND HIM?**

If there is a court order scheduling your child to visit with the other parent at a certain time, the schedule should be followed or you can be held in contempt of the court order. You should be encouraging your child to spend time with the other parent unless there is a reasonable fear for the child's physical safety. However, you may have to justify your refusal at a later contempt proceeding or you may need to file a pleading to modify the custody order if your concerns continue.

IV. SPECIAL RELIEF

CAN I GET THE COURT TO RULE ON PARTICULAR DISAGREEMENTS I HAVE WITH THE OTHER PARENT ABOUT MY CHILD(REN) BEFORE MY CASE GETS TO THE STAGE OF THE CONCILIATION CONFERENCE OR THE COURT HEARING?

For some kinds of disagreements, yes. For others, no, because they are matters for parents to decide, not the court system. The procedures discussed earlier in this packet describe how to handle a case when the parents disagree about *physical* custody, meaning where the children will live primarily and the schedule of custodial contact for the other parent. However, in Pennsylvania, the other kind of custody involved in any custody case is *legal* custody, meaning the right to share in decision making about important matters affecting the child. In most cases except where a parent is found incapable of participating in such decisions, *legal* custody is shared by the parents regardless of where a child resides.

Examples of legal custody issues are whether a child will attend public or some type of private school, who will be the child's doctor or dentist, what religion, if any, will the child learn, whether a teenager may have a part time job or go on a trip, whether a child will play in organized sports, take music lessons, etc. All of these legal custody issues are for the parents, not the court, to decide, and therefore are called "co-parenting issues," meaning the parents, even though separated, should discuss them and must be responsible enough to do so in a civil, respectful manner. "Informing" the other parent about a decision you made alone (except for medical emergencies) is not a "discussion" and instead is a violation of the shared legal custody process required by Pennsylvania custody law.

BUT WHAT KINDS OF DISPUTES WILL THE COURT BECOME INVOLVED IN UNTIL MY CUSTODY CASE IS DECIDED?

This is called "special relief" (see Pennsylvania Rule of Civil Procedure 1915.13). Examples of special relief are:

- requesting the court to grant a continuance of a custody conference or hearing when the other party does not agree;
- requesting that an expert, such as a licensed psychologist (paid for by the parties, not the court system), become involved in the case by performing an evaluation of both parents, and sometimes other adult household members, preparing a report, and testifying at the hearing (see Pennsylvania Rule of Civil Procedure 1915.8);
- if no custody is in effect at the time you file your custody action, requesting a temporary custody arrangement until the first phase of a custody action, which is the conciliation conference (**CAUTION:** If you request such a temporary Order, there is no guarantee that the resulting Order will be the custody arrangement you requested if the court is convinced by the other parent that a different temporary Order is more appropriate.); and

- requesting that the other parent follow the provision of a temporary custody Order, such as honoring any agreed upon vacation schedule, etc.

HOW DO I MAKE REQUESTS FOR THESE TYPES OF “SPECIAL RELIEF”?

To preserve fairness between the parties by ensuring that each party knows what the court is taking into consideration when deciding requests for special relief, such requests must be prepared as a formal pleading, similar to a custody complaint, with the full caption at the top, signature verification at the end, and the relief you are requesting in numbered paragraphs in the body of the petition.

MAY I JUST MAIL IN A SPECIAL RELIEF PETITION OR STOP BY A JUDGE’S CHAMBERS TO PRESENT AND DISCUSS MY REQUEST FOR A TEMPORARY CUSTODY ORDER, OR TO HAVE A CUSTODY EVALUATION ORDERED, ETC.?

NO. All requests for special relief, including Orders for temporary custody until the first custody conciliation conference, must be presented in Family Business Court at 9:00 a.m. Consult with the Court Administration Office to learn which judge is assigned to your case and what day of the week that judge holds Family Business Court. The Lancaster County Court of Common Pleas has adopted the concept of “One Judge/One Family” for assignment of family court cases, meaning that the same judge addresses all family court actions involving the same parties, whenever filed.

When you have determined the assigned judge and courtroom and the day of the week that judge holds 9:00 a.m. Family Business Court, you must send the other parent a complete copy of the formal petition you intend to present, including the relief you are requesting and a cover letter informing the other parent of the courtroom, date and time when you will be presenting your petition to the judge. This advance copy of your intended presentation must be served on the other party to allow that person to receive the notice at least **TWO WEEKDAYS BEFORE YOU PRESENT YOUR REQUEST TO THE COURT.**

For instance, if your assigned judge holds Family Business Court on Tuesday mornings, the other party must have received a copy of your petition by Thursday evening, either by first class mail or by personal service. (**CAUTION:** One day mail delivery, even within the county, is no longer a certainty. Therefore, for the other party to have received your notice in time, you may have to mail it several days in advance.) You also may satisfy the two day notice of an intended Family Business Court presentation by personally handing the other party a copy of what you intend to present in court, but only if the custody action has begun earlier by a separate initial pleading served in accordance with Pennsylvania Rule of Civil Procedure 1930.4. This is because, per Pa. R.C.P. 76, you may not personally serve the other party yourself with original process, the complaint or petition beginning the action. Therefore, if a request for special relief is

included in the document that is the original process in the action, that initial pleading must be served by mail or by another “competent adult” in accordance with the above cited procedural rule.

On the day you present your request for “special relief,” you must bring the same number of copies of your petition as for any pleading: an original which stays with the Prothonotary and a copy for every other party in the case, including yourself. If the petition is granted, all copies will be filed in the Prothonotary’s office and returned to you by mail for your service of the filed copies of your petition and any Order on all parties in the case by first class mail. There may be additional filing fees required to process your special relief petition and requested Order. Check with the Prothonotary’s office to determine whether filing fees for those pleadings are required.

COMMUNICATION WITH THE COURT

IF I HAVE QUESTIONS ABOUT HOW TO PRESENT MY CASE, WHAT MY RIGHTS ARE, OR A PROBLEM WITH THE OTHER PARENT WHILE MY CASE IS PROCEEDING THROUGH THE COURT SYSTEM, MAY I WRITE OR CALL THE JUDGE ASSIGNED TO MY CASE FOR MORE INSTRUCTIONS ABOUT WHAT TO DO, OR AT LEAST TO LET THE JUDGE KNOW THE PROBLEMS I AM EXPERIENCING IN GETTING THE OTHER PARENT TO COOPERATE?

NO. Attempts to communicate with the court without the other party present to know what you are telling the judge is called ex parte (without the other person) communication. This kind of one-sided effort to contact a judge is strictly prohibited. In addition, the judge’s staff may not have this kind of communication. Even if you do not intend to discuss the facts of your case and limit your contact to requesting instructions about how to proceed, that may be considered legal advice, which neither a judge, the judge’s staff, nor any other court related office may give you. If you do not understand what steps to take or how a custody action proceeds after reading this packet, you should consult an attorney.

The court’s authority to act is not exercised in response to letters or telephone calls, but only in response to formal pleadings and evidence presented in official proceedings. The permissible method of communicating with the court about your case is by filing formal pleadings, served on the other party, as discussed above, or in an actual court proceeding where the other party is present to hear what you are relating to the judge or conference officer, who serves as the court’s representative at custody conferences.

The only exception to these restrictions is when the court or its staff *requests* you to provide information to assist the court in handling your case. Examples of such court requests are:

- responding to a request by the other party for a continuance;
- furnishing school schedules or vacation plans;
- providing a list of suggested counselors or other experts; or
- submitting proposed custody schedules/arrangements.

Just as with any pleading you file, complete copies of any information you provide the court, even if requested by the court, must be provided at the same time to the other party.

V. FORMS

#	FORM
1.	CUSTODY COMPLAINT
2.	SCHEDULING ORDER
3.	CIVIL COVER SHEET
4(a)	AFFIDAVIT OF SERVICE
4(b)	ACCEPTANCE OF SERVICE
5.	AFFIDAVIT OF SERVICE AND SIGNATURE
6.	CONTINUANCE FORM
7.	COURT ADMINISTRATION COVER SHEET
8.	PRETRIAL MEMORANDUM
9.	ORDER TO RESCHEDULE HEARING
10.	PETITION FOR MODIFICATION OF CUSTODY ORDER

NOTE: PLEASE SEE LOCAL RULE NO. 205.2(a) PHYSICAL CHARACTERISTICS OF LEGAL PAPERS

VI. RULES

- State Rules pertaining to custody can be found in the Pennsylvania Rules of Court beginning at Rule No. 1915.1 through 1915.25.
- County Rules pertaining to custody can be found in the Lancaster County Local Rules specifically Rules beginning at No. 1915.1.
- Procedures pertaining to presentation in Family Business Court are currently in an “Administrative Order” dated August 27, 2004.
- A copy of the Pennsylvania and local Lancaster County Rules of Court and applicable Administrative Orders can be found at the Lancaster County Law Library.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
:
:
:
:

No. CI-

COMPLAINT FOR (CUSTODY)(PARTIAL CUSTODY)(VISITATION)

1. The Plaintiff is _____ (name), residing at _____
(address)
_____.

2. The Defendant is _____ (name), residing at

(address)
_____.

3. Plaintiff seeks (custody)(partial physical custody)(visitation) of the following
child/ren:

<u>Name</u>	<u>Present Residence</u>	<u>Age</u>
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The child/ren (was)(was not) born out of wedlock.

The child/ren (is)(are) presently in the custody of _____ (name) who resides
at _____ (address).

During the past five (5) years, the child/ren (has)(have) resided with the following

persons and at the following addresses:

(List all Persons)	(List all Addresses)	(Dates)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The mother of the child/ren is _____, currently residing at _____ (mother's address). She is (married)(divorced)(single).

The father of the child/ren is _____, currently residing at _____ (father's address). He is married. (married)(divorced)(single).

4. The relationship of the Plaintiff to the child/ren is that of _____.

The Plaintiff currently resides with the following persons:

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. The relationship of the Defendant to the child/ren is that of _____.

The Defendant currently resides with the following persons:

Name Relationship

_____	_____
_____	_____
_____	_____
_____	_____

6. Plaintiff (has)(has not) participated as a party or witness, or in another capacity, in other litigation concerning the custody of the child/ren in this or another court. The court, term and number, and its relationship to this action is _____

_____.

Plaintiff (has)(has no) information of a custody proceeding concerning the child/ren pending in a court of this Commonwealth. The court, term and number, and its relationship to this action is: _____

_____.

Plaintiff (knows)(does not know) of a person not a party to the proceedings who has physical custody of the child/ren or claims to have custody or visitation rights with respect to the child/ren. The name and address of such person is: _____

_____.

7. The best interest and permanent welfare of the child/ren will be served by granting the relief requested because (set forth facts showing that the granting of the relief requested will be in the best interest and permanent welfare of the child/ren).

_____.

8. Each parent whose parental rights to the child/ren have not been terminated and the person who has physical custody of the child/ren have been named as parties to this action. ALL other persons, named below, who are known to have or claim a right to custody or visitation of the child/ren have been given notice of the pendency of this action and the right to intervene:

<u>Name</u>	<u>Address</u>	<u>Basis of claim</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

WHEREFORE, Plaintiff requests the Court to grant (him)(her) (partial)(primary) physical custody of the child/ren.

By: _____
 _____ (Plaintiff/Defendant)
 _____ (Address)
 _____ (Address)
 _____ (Telephone No.)

Dated: _____

VERIFICATION

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATE

Plaintiff/Defendant

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
: No. CI-
:
:

ORDER OF COURT

You, _____ (Plaintiff/Defendant), have been sued in Court to (obtain) (modify) custody, partial custody or visitation of the following child/children:

1. **You are Ordered** to appear in person at 50 North Duke Street, Lancaster County Courthouse, Lancaster, Pennsylvania, on the ____ day of _____, 20__, at ____ o'clock ____m. for a conciliation conference to be held in Conference Room No. ____ before _____, Custody Conference Officer.

2. **Pending the custody conference:**
(court selects option)

No temporary Order is requested.

The Court issues no temporary Order.

_____ The custody Order _____ (date and reference No.) remains in effect.

With the following revisions (if applicable):

_____ The court enters the following Temporary Order:

3. Required Education Seminar:

(a) All parties named in the caption of the case MUST participate in the custody education seminar approved by the Court at the time the custody action was filed.

(b) Unless specifically directed by Order of Court, no children shall be present at either the custody education seminar or the conciliation conference. For those cases in which the Court directs the party to bring a child or children to the conference, the supervision requirements of Local Rule 1915.5(b) C apply.

(c) Attendance at the custody education seminar will be verified by a certificate which must be presented to the Conference Officer at the beginning of the conciliation conference.

(d) A brochure and registration form identifying the seminar and giving the dates, times and location of the seminar is attached. The registration form and fee MUST be returned promptly to assure timely attendance. All parties must attend the required seminar even if the seminar information was omitted from the attached complaint or petition.

(e) If a brochure and registration form are not attached, call the District Court Administrator at 717/299-8041 or access the Form on the County website which is www.co.lancaster.pa.us/courts.

(f) If you fail to attend the custody education seminar without being excused by Order of Court, you WILL be subject to contempt proceedings.

4. If you fail to appear as provided by this Order, an Order for custody, partial custody or visitation may be entered against you or the Court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LANCASTER BAR ASSOCIATION
LAWYER REFERRAL SERVICE
28 EAST ORANGE STREET
LANCASTER, PA 17602
TELEPHONE: 717 393-0737

AMERICANS WITH DISABILITIES
ACT OF 1990

The Court of Common Pleas of Lancaster County is required by law to comply with the Americans with Disabilities Act of 1990. For information about the accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA
PROTHONOTARY
CIVIL COVER SHEET

*Note: CAO SCHEDULING COVER SHEET MUST BE ATTACHED,
IF AN EVENT NEEDS TO BE SCHEDULED.*

PLEASE TYPE OR PRINT LEGIBLY ALL INFORMATION REQUESTED.
PLEASE LIST NAMES, ADDRESSES AND SOCIAL SECURITY NUMBERS
OF ADDITIONAL PARTIES ON A SEPARATE SHEET.

DO NOT STAPLE THE COVER SHEET TO THE PLEADING

ZIP CODES ARE REQUIRED & INFORMATION MUST MATCH PLEADING

CASE ID:

PLAINTIFF'S NAME

VS

DEFENDANT 'S NAME

ADDRESS:

ADDRESS:

TELEPHONE #:

TELEPHONE #:

TYPE OF ACTION:

Jury Trial Demanded: Yes No **Arbitration:** Yes No

Name of Firm and Filing Attorney OR Filing Party, Address, Telephone Number, AOPC Number

Firm:

Filing Attorney/ Party:

AOPC #

Address:

City:

State:

Zip Code:

Telephone Number:

E-mail:

Fax Number:

Signature:

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	No. CI-
	:	
_____	:	
Defendant	:	

AFFIDAVIT OF SERVICE

I, _____, hereby depose and say that on this date, I personally served the above-captioned Defendant, with a Custody Complaint and Order for conference, by personally handing the same to him/her.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. CS. §4904 relating to unsworn falsification to authorities.

Dated: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	No. CI-
	:	
_____	:	
Defendant	:	

ACCEPTANCE OF SERVICE

I, _____, Defendant in the above-captioned action depose and say that on this date, I hereby accept service of the Custody Complaint and Order of conference.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. CS. §4904 relating to unsworn falsification to authorities.

Dated: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant
: : : : :
: : : : :
: : : : :
: : : : :

No. CI-

UNCONTESTED MOTION FOR CONTINUANCE AND WAIVER OF
CUSTODY CASE TIME REQUIREMENTS

Motion is hereby made to continue the above-captioned case scheduled on Date: _____
(date) Time: _____ (time), , Officer/Judge: _____ (name), for a
_____ (Conference or hearing), for reason(s) as follows:
_____ (state reason).

Signature of applying Counsel of Pro Se _____ Date

Signature of opposing Counsel or Pro Se _____ Date

By signature of both parties, this is a waiver of the time requirements of PA Rule of Civil Procedure 1915.4 for

- _____ Initial conciliation conference
- _____ Start of hearing
- _____ Completion of hearing

ORDER

AND NOW, this ___ day of _____, 20___, the Motion if granted. The custody
_____ conference or _____ hearing is rescheduled to Date: _____, 20___,
Time: _____, Place: _____, Officer/Judge: _____.
_____.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:

:

:

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No. CI-

CUSTODY PRETRIAL MEMORANDUM

Submitted by _____ (Plaintiff or Defendant).

- 1. A concise statement of the custody question at issue and proposal resolution.**

- 2. A list of any contempt issue.**

- 3. A list of fact and expert witnesses and their addresses and a concise statement of their proposed testimony.**

- 4. A list of Exhibits;**

- 5. A list of deposition transcripts to be used in lieu of testimony and a statement of all known objections.**

Name _____

CI-

6. A statement of stipulations sought.

7. A statement of requests such as a special time for a witness, courtroom needs, etc.

By: _____

_____ (Plaintiff/Defendant)

_____ (Address)

_____ (Address)

_____ (Telephone No.)

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
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No. CI-

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, a true and correct copy of the foregoing Custody Pretrial Memorandum was served by first class mail to the following:

_____ (Plaintiff/Defendant)

_____ (Address)

_____ (Address)

By: _____
_____ (Plaintiff/Defendant)
_____ (Address)
_____ (Address)
_____ (Telephone No.)

Dated: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs.

Defendant

:
:
:
:
:
:

No. CI-

ORDER

AND NOW, this ____ day of _____, 20____, the Court Orders and Directs that the custody hearing presently scheduled for _____ (date), is hereby rescheduled to _____, 20____, at _____ o'clock ____m. in Courtroom No. ____ of the Lancaster County Courthouse, 50 North Duke Street, Lancaster, Pennsylvania.

Petitioner waives the time requirements of Pa. R.C.P. 1915.4.

BY THE COURT:

J.

cc: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
: No. CI-
:
:

PETITION FOR MODIFICATION OF A PARTIAL CUSTODY/OR
VISITATION ORDER

1. The Petition of _____ respectfully represents that on _____, _____, an Order of Court was entered for (partial custody)(visitation), a true and correct copy of which is attached.

2. The Order should be modified because:

_____.

WHEREFORE, Plaintiff requests that the Court modify the existing Order for (partial)(primary) physical custody of the child/ren because it will be in the best interest of the children.

By: _____

_____ (Plaintiff/Defendant)

_____ (Address)

_____ (Address)

_____ (Telephone No.)

Dated: _____

Name _____

CI-

VERIFICATION

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATE

Plaintiff/Defendant

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
: No. CI-
:
:

ORDER OF COURT

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2. **Pending the custody conference:**
(court selects option)

- No temporary Order is requested.
- The Court issues no temporary Order.
- The custody Order _____ (date and reference No.) remains in effect.

With the following revisions (if applicable):

_____ The court enters the following Temporary Order:

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BY THE COURT:

J.