

Going Solo: Representing Yourself in the West Virginia Courts



A Companion Guide to the
Going Solo Video



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Supreme Court of Appeals of West Virginia.





MAKE AN INFORMED CHOICE

The Supreme Court of Appeals of West Virginia hopes that the *Going Solo* guide and accompanying video will give you a better idea of how the court system works. If you ever do need to go to court – to settle a dispute with a business or a neighbor, to get a divorce, or to collect child support – you will know the basic steps.

Many people hire lawyers to take their cases to court. It's a good idea. A lawyer has training and experience, and knows how the system works. Even if you end up representing yourself in court, it's good to start by talking to a lawyer about your problem. Find out if your case is a simple matter or one that could get complicated. Ask what it would cost to hire a lawyer to handle it for you.

You can decide whether to hire a lawyer or you can do it on your own. You also need to understand the risks you're taking if you go to court without a lawyer. Some cases work fine with a "do-it yourself" approach. Some don't. Keep in mind that some cases are better left to a trained professional — if you can possibly afford it.

Not everyone can afford a lawyer. And others may decide to take their chances and go it alone. Going solo in the courthouse can be pretty scary, especially if everything you know about the law you learned from watching television. Going to court isn't as simple as it seems on TV. That is why the Task Force on Self-Represented Litigants of the Supreme Court of Appeals of West Virginia made this guide to accompany the video *Going Solo: Representing Yourself in the West Virginia Courts*.

In this guide you will learn how the West Virginia court system works. You will learn the process — step by step. Take this booklet home and read it. It could save you time and headaches later. Ask to watch the video that goes along with this brochure.

Remember that this is a guide meant to give you helpful information, not legal advice. Just be smart. Decide what is best for you.

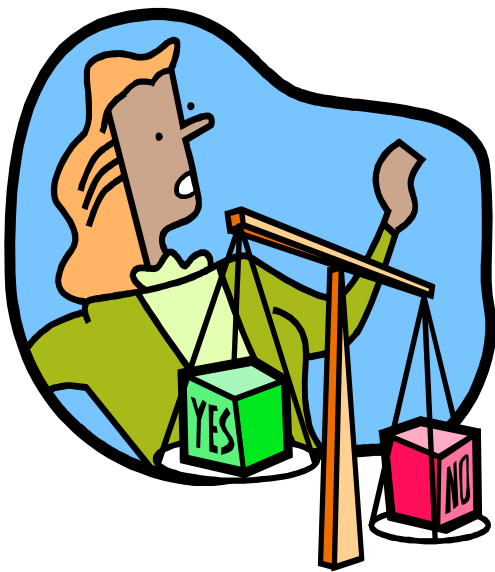


MAKING THE DECISION

(Words in red are listed in the Legal Terms on pages 18 and 19.)

Can I go to court without a lawyer?

Yes. The Supreme Court of Appeals of West Virginia says that you have the right to represent yourself in state courts. In fact, many people in West Virginia do go to court without a **lawyer**. Some people can't afford to hire a lawyer. Others decide that they would rather handle their legal problem on their own.



Should I go to court without a lawyer?

That is your decision to make. This guide and the video, *Going Solo: Representing Yourself in the West Virginia Courts*, were developed to help you make that decision. Some cases are fairly simple and can be handled without a lawyer. Others involve complicated procedures and legal issues that require the experience and training of a lawyer. If it is possible, you should talk to a lawyer about your case. Whether you decide to hire a lawyer or to go to court on your own, it helps to know how the court system works.

Can I get help with my case if I need it?

Yes. There is a list of services on page 16 of this guide that may help you. You might want to take a moment now, before you begin your case, to find out where you can get information or advice.

What if I need extra help because of a disability or language barrier?

Everyone has a right to come to court and participate in the legal system. This includes people who use wheelchairs, people with hearing and vision problems, and people who don't speak English. If you or anyone participating in your case needs special arrangements, first

“Can I get help because of a disability?”

contact the **court clerk** where you filed the case. Ask the court clerk for the name of the **access coordinator** in your county. The access coordinator should be able to help arrange what you need — things like a courtroom that is wheelchair-accessible, a sign language interpreter, or a translator. It is

important to contact the access coordinator as soon as possible, so they have time to make arrangements. If you have trouble getting arrangements made, you may call the Administrative Office of the Supreme Court of Appeals of West Virginia at 304-558-0145.

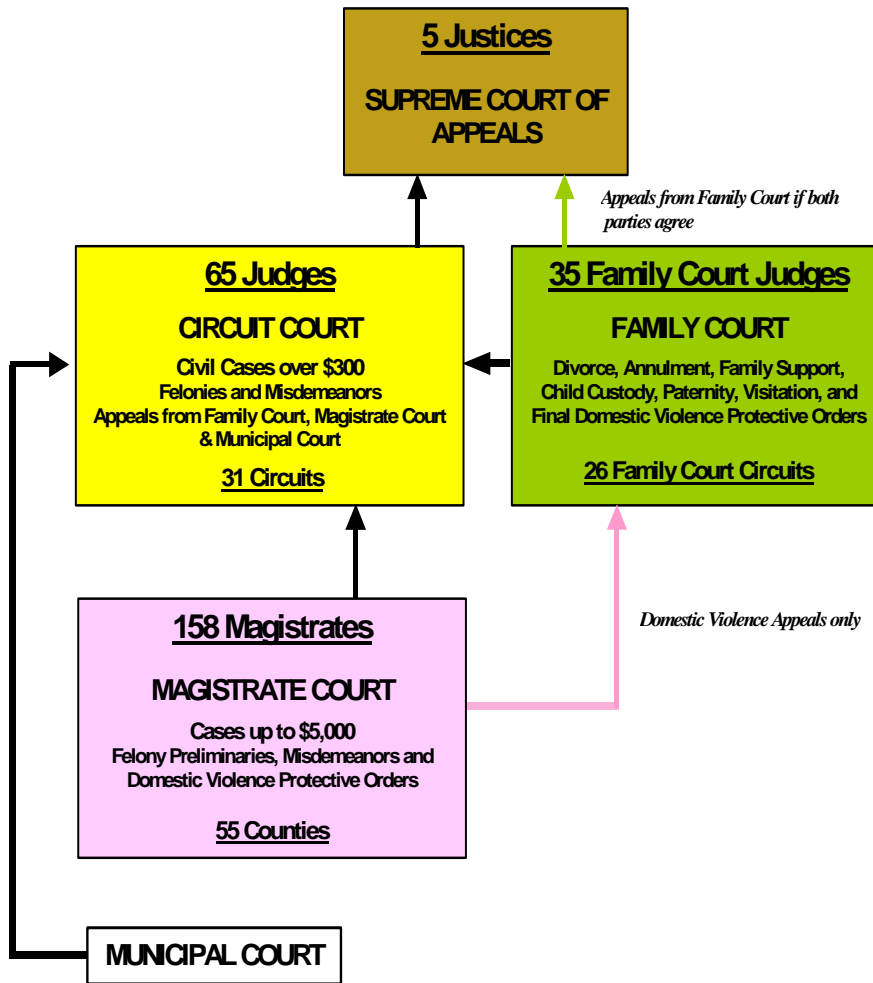
Is there a way to solve my problem without going to court?

It's possible. You may be able to resolve your dispute through a process called **mediation** without filing a lawsuit. Mediation gives people a chance to sit down with a neutral **mediator** in an informal setting to try to work out their conflicts. A mediator is a trained problem-solver who will help the parties reach an **agreement**. Mediators usually charge a fee for their services, but mediation could save you time and money in the long run. Unlike a judge, a mediator will not make decisions for you, but can help you and the other party think of possible solutions.



West Virginia Courts

How the court system is set up in West Virginia



The lowest level courts are the **magistrate courts**, which deal with civil cases of \$5,000 or less.

This is where most court cases take place, such as landlord-tenant cases and traffic violations.

Magistrates also issue emergency domestic violence protective orders, arrest and search warrants.

Circuit courts are trial courts that deal with civil cases over \$300, felonies and misdemeanors.

Circuit courts receive appeals from magistrate, family and municipal courts, but not workers' compensation appeals.

Circuit courts also hear mental health and

juvenile matters. **Family courts** deal with cases involving divorce, annulment, paternity, family support, child custody, visitation, and issues involving parental responsibility. Family courts also hear domestic violence cases. The **Supreme Court of Appeals** is West Virginia's highest court. If you lose a case in the circuit court or family court, you can appeal to the Supreme Court of Appeals.

Do I file my case where I live?

It depends. You must decide which county or state is right for your case. This is called finding the right **venue**. The case is usually filed where you live or where the action took place. Laws are different in every state. Where you file your case could affect the outcome, especially in divorce and child custody cases.

How do I know which court is right for me?

This will depend on the type of case and the amount of money involved. If it is a family law matter, like divorce, child support or custody, your case belongs in family court. If it is another kind of civil case, you will need to go to magistrate court if the amount of money involved is \$5,000 or less. If it is more than \$5,000, then you need to go to circuit court. If it's in between \$300 and \$5,000, you have the choice to file the case in either magistrate or circuit court.

BASIC STEPS IN A LAWSUIT

1. File the complaint. The person starting the case is called the **petitioner** or **plaintiff**. The plaintiff files a written statement about the dispute, the **complaint**, with the magistrate or circuit court clerk. The circuit court clerk also handles all family court filings. The complaint explains what the plaintiff is claiming happened and what **remedy** the plaintiff is asking from the court. After the complaint is filed, the complaint must be delivered to the other party in the case.



2. File the answer. The person being sued is either called the **defendant** or the **respondent**. The defendant or respondent files a written response to the complaint with the court clerk and sends the response to the other party. This is called an **answer**.

3. Prepare the case. Both parties have time to gather **evidence** to prove their cases. Evidence could include papers, photographs, or the **testimony** of **witnesses**.

4. The judge or magistrate holds a hearing. A **hearing** is when both parties appear before the **judge** or **magistrate** to present evidence to prove their case.

5. The judge or magistrate makes a decision. The judge or magistrate may give you a decision at the end of the hearing, but the judge or magistrate always enters a court **order** after the hearing, even if you were told the decision at the hearing.

FILING THE LAWSUIT

How do I file my lawsuit? Is there a form I can use?



A lawsuit begins with the filing of a written complaint in the court clerk's office. The office of the circuit court clerk may have some forms for the circuit court and has many forms for family court cases. The magistrate court clerk has forms for cases filed in magistrate court. You can go to the clerk's office, tell them what your case is about, and they will give you the forms to fill out in your type of case.

Do I have to pay to file a lawsuit?

Yes. The court will charge a fee to file your case. In family court cases, there is also a charge for the forms. But you may not have to pay those fees if you meet low-income guidelines. This is called a **fee waiver**. If you think you might qualify, ask the clerk to give you the **Fee Waiver Forms** to see if you are eligible to have the fees waived. The Fee Waiver Forms are also available on the Supreme Court's Web site at <http://www.state.wv.us/wvsca>, or ask your county circuit or magistrate court clerk.

How do I make sure I've done everything right?

Take it one step at a time and don't be afraid to ask for help. The courthouse staff can't give you legal advice about your specific case, but they will answer your questions about how the court system works. If you decide that there is too much at stake or your case is too difficult to handle on your own, you always can contact a lawyer.

In the video that goes along with this guide, we met **Angela** and **Bob**. Let's review how they got their lawsuits or cases filed in the court.

CASE I – DIVORCE

Angela wanted to get a divorce because her husband left her. She went to the clerk of the circuit court to get a **Divorce Packet**, which contains all the forms she needs to fill out to file for divorce. There is a charge for the Divorce Packet, but Angela filled out a Fee Waiver Form. Her income satisfied the guidelines, so there was no charge for the forms or the filing fee. The clerk explained that she needed to read the instructions carefully before starting to fill out the forms. The clerk suggested that Angela practice in pencil before making a final copy.

CASE II – RENT CLAIM

Bob was sued by his landlord. The landlord filed a complaint stating that Bob had not paid his rent. The landlord asked the court to force Bob to move out. Bob received a copy of the complaint and a **summons** telling him how long he had to respond. Bob went to the magistrate court clerk and was told that he needed to file an answer. If Bob did not file an answer by the deadline, his landlord could have asked the court to rule against Bob right away. This is called a **default judgment**.

The clerk gave him a form and he filled it out. He checked the box that said he “denied the matters set forth” in the complaint and in the space provided he explained what happened in this way:

“A pipe broke in my basement. The landlord told my wife that we should get a plumber to fix it, pay him and deduct it from the rent, so we did. The plumber cost more than the rent. That’s why the landlord didn’t get a check from us last month.”

When the pipe broke in Bob’s basement, it also damaged a rug. Bob decided to ask the court for a remedy, or in other words, to order his landlord to pay him for the damaged rug. He checked the box on the form that he was asserting a **counterclaim** and explained what happened to the rug and how much the landlord should pay him for it.

If I have trouble reading, is there someone who can help me with the forms?

Yes, you can ask someone in the clerk's office to help you, or contact your local library. The West Virginia Literacy Program also provides volunteer readers (see page 16). You also can take the forms home and get a friend to read them to you.

How do I notify the other party that I have filed a complaint against them?

Whenever you file a lawsuit, including a divorce, you have to arrange to have the complaint delivered to the other party and provide the court with proof of how, when, and where the other party received the papers. This is called **service of process**. There are several ways that you can legally serve someone. The most common methods are listed below.

Personal Service: The papers are hand-delivered to the other party. This is often done by the sheriff's office. You give the sheriff's office the papers and they will send a deputy out to the other party's home or place of work. Personal service can also be done by any credible person over the age of 18 who is not involved in the case. A **Certificate of Delivery** form proving that the person received the papers must be filled out and filed at the clerk's office.



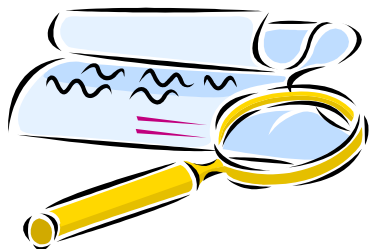
Restricted Delivery: The clerk sends the complaint by certified mail. Only the person being sued can sign for the papers.

Acceptance of Service: If the other party is willing to accept the papers, you give the other party a copy, get a signed receipt form, and then the person who served the paper must file that form with the court clerk.

Service by Publication: This method is used only if the person you're suing lives out of state or you don't know how to locate them. Putting an ad in the newspaper usually does it, but it can be a little tricky. **Note:** The instructions for how to serve someone by publication are in the Divorce Packet or you can ask the clerk to explain it to you. This method of service cannot be used in all divorce cases and could affect your ability to collect alimony and child support.

Do I serve the papers the same way when filing an answer?

You can serve an answer by mailing it to the party who sued you. Along with your answer, you will need to file a **Certificate of Service** with the court clerk stating the name, address of the other party or the other party's lawyer, and the date on which the answer was mailed. You or your lawyer must also sign the Certificate of Service.



PREPARING FOR THE HEARING

My papers have been filed and served. What do I do to get ready for my hearing?

Now is the time to prepare your case. You need to gather the evidence that will help prove your case to the judge. The evidence could be papers, like receipts or bills, which you bring to court with you. You can also use witnesses to tell the court what they know about your case. Let's look at how Angela and Bob prepared for their hearings.

CASE I – DIVORCE

Angela was given a Divorce Packet by the circuit clerk. There are specific things that Angela needs to do before the hearing. Outlined in the Divorce Packet, they include:

- Filling out a **Financial Statement** to help the judge make decisions about dividing property and providing **child support** and setting **spousal support**. The family court will need copies of financial records, like income tax statements, pay check stubs, the monthly bills, deeds to property, bank accounts, and pension plans.
- Filling out a **Parenting Plan**. A parenting plan is like a schedule. It lists when the child(ren) will be with each parent and who will make decisions about the child(ren). It is best if both parents can agree on the parenting plan.
- Attending parent education classes.



When Angela filed for divorce, her case was assigned to a family court judge. Each judge has a **case coordinator**. The case coordinator may want to meet with both parties before the hearing to make sure that they have completed all the necessary paper work. If Angela has questions about the procedures in her case, she can call the case coordinator.

CASE II – RENT CLAIM

Bob needs to figure out what evidence he needs to prove his case. The kinds of evidence he should consider are:

- The receipt from the plumber or a copy of his cancelled check. The plumber’s testimony might also be helpful. He could testify that he did the repair and can identify the bill.
- Testimony from Bob’s wife. She can testify that the landlord told her to hire a plumber and deduct the cost from their rent.
- A receipt showing what Bob paid for the rug. If Bob uses receipts or checks as evidence, he should make sure that he has **three** copies — one for the court, one for the landlord, and one to keep for his own records.

If his wife or the plumber is going to testify, he needs to write out his questions and go over them with each witness before the hearing. If the plumber does not want to come to court, he can get a **subpoena** forcing the plumber to come to court. The clerk’s office can tell him how to serve the plumber with a subpoena. But Bob should be careful — a witness who doesn’t want to testify may hurt his case more than help it.



Can I find out what the other party is going to say and bring to the hearing?

It is possible to find out what evidence the other party is going to present through a process called **discovery**, where you “discover” information from others. In civil cases, you have the right to get information about witnesses and copies of documents before the hearing. There are complicated **court rules** about what you can get through discovery and strict time limits apply. If you need to use discovery, you may want to talk to a lawyer.

Can I try to settle my case before the hearing?

Absolutely. Many cases settle out of court without a hearing. For example, in Case II, **Bob's** case might be just a simple misunderstanding and could be settled with a phone call to his landlord or the landlord's lawyer. He might also want to use a mediator to help Bob and his landlord reach a **settlement** or an **agreement**.

In **Angela's** case, Case I, it will be better for everyone if they can agree on the parenting plan before the hearing. If the parents can't agree on how the children will be cared for, and how the parents will share their parenting responsibilities, the family court judge will probably appoint a mediator. The mediator will sit down with both parents in an informal setting and help them resolve some or all of their differences in caring for the children. The Supreme Court of Appeals of West Virginia has a list of approved mediators used in family court. These mediators charge a fee for their services, unless both parents have received a fee waiver.

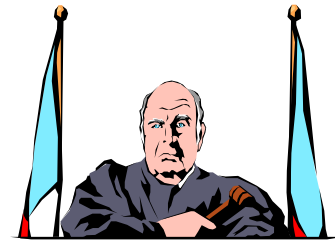
THE HEARING

How do I get a hearing? Will the court just schedule one?

Ask the court clerk where your case was filed whether you need to request a hearing or if the court will schedule one on its own. In most magistrate and family court cases, the court will send both parties a **Notice of Hearing** telling them when and where the hearing will take place. In circuit court cases, the hearing will be scheduled only upon request. In that case, it's up to you to contact the secretary of the judge assigned to your case to request that a hearing be scheduled. Then, you must send out a notice to the other party telling them the time and date of the hearing.

I've never been to court. What should I expect?

Each court is a little different. Some courts use formal rooms like the ones you see on television. But some hearings, especially family court hearings, may be held in a smaller courtroom or the judge's office. In general, the following is what you can expect to see at your hearing.



Magistrate Court	Family Court	Circuit Court
<ul style="list-style-type: none"> • Magistrate sits up front • May be less formal than other courtrooms • Public and witnesses sit behind the parties 	<ul style="list-style-type: none"> • Small private courtrooms • Public not allowed • Judge in robe on bench or at a desk • Hearing recorded with a video monitor 	<ul style="list-style-type: none"> • More formal • Judge in robe on bench • Court reporter records or tapes hearing ▪ Court Clerk keeps track of the official file

What will happen at the hearing?

That will also depend on the kind of court and the judge. The chart below describes what you can usually expect to happen in each of these kinds of courtrooms.

<p>Magistrate Court: The magistrate will probably start off by asking you to tell the court what your case is about. It will be up to you to question your witnesses and present your evidence. The magistrate will probably ask questions and each party has the right to question each other's witnesses.</p>
<p>Family Court: In some family courts, the case coordinator will meet with both parties before the hearing and tell them what to expect. Some family court judges ask the questions, while others will expect you to take the lead and present your case.</p>
<p>Circuit Court: There are strict rules for presenting evidence and questioning witnesses in circuit court. You should know that the other party involved is more likely to be represented by a lawyer.</p>

When will the judge decide my case?

The judge or magistrate may make a decision at the hearing. But often the judge or magistrate will take additional time to consider the evidence and the law before deciding a case. Once the judge or magistrate decides your case, the judge or magistrate will issue an **order** explaining the decision. The court clerk will mail you a copy of the order.



when representing yourself in court

1. Make a good impression.

2. Be respectful.

3. Know what to ask.

4. Arrive early.

5. Tell your story.

6. Come prepared.

7. Use a lawyer if you need help.

If you dress nicely, it tells the judge that you respect the courtroom and care about your case.

Be respectful to everyone in court, including the other party – and don't argue with the judge. Try to stay calm.

You can ask court officials for information about the process and what type of information to put on the forms. But remember, court employees can't tell you what words to write on the forms or what to say at the hearing.

Most judges like to start on time. But some cases take longer than expected, so be prepared to wait.

Tell the judge in a few brief sentences what your case is about and how you plan to prove the facts of your case. Lawyers call this an **opening statement**.

Bring at least **three copies** of any evidence you plan to use. Write out the questions you plan to ask and go over them with your witnesses before the hearing.

Most important of all, you can **use a lawyer if you need help**. You may start this case on your own, but later realize that you need the help of a good attorney.

PLACES WHERE YOU CAN GET HELP

West Virginia State Bar

The Lawyer Referral Service
at the State Bar will refer you to a lawyer
who will discuss your situation with you
for up to one-half hour for only \$10!
1-304-558-7991 or www.wvbar.org

Lawyer Information Service Hotline

Call and talk to a lawyer for free!
On Tuesdays between 6 - 8 p.m. **1-800-642-3617**

Supreme Court of Appeals of West Virginia

Main Number: **1-304-558-0145**
Home Web page: <http://www.state.wv.us/wvsca/>

The Supreme Court's online **Self-Help Center** offers the same information that is available in this booklet and more: including downloadable court forms, a video that accompanies this booklet, and links to the various courts in West Virginia.

<http://www.state.wv.us/wvsca/ProSe/cover2.htm>

The Court also provides a **Help Line** where you can hear information and receive additional assistance.
1-304-558 - WV CT (9828)
1-304-4219 TTY (for the hearing impaired)

Family Court Mediation Services

An approved list of mediators can be obtained through Family Court Services at the Supreme Court of Appeals or on the Web site. **1-304-558-0145**
<http://www.state.wv.us/wvsca/familyct/mediator.htm>

The Court's **State Law Library** located at the State Capitol in Charleston has books for research, computers to use, and law librarians that can help you. **1-304-558-2607** or
<http://www.state.wv.us/wvsca/library/menu.htm>

The following **county courthouses** also have a **law library staff** that can assist you with additional information on codes, laws, and procedures:

Ohio	Harrison	Cabell
Wood	Raleigh	Berkeley

The West Virginia Library Commission

Public libraries throughout West Virginia may have computers, forms, books, and other helpful information that will help you. **1-800-642-9021**

The West Virginia Literacy Programs have one-on-one tutor reading help at various schools and public libraries to improve reading skills or has difficulty reading and needs help filling out forms.

1-800-642-9021 Adult Services Consultant
1-800-642-2670 Adult Learning Programs

Legal Aid of West Virginia provides legal services in certain kinds of cases if your income meets certain income guidelines. **1-800-642-8279**

Senior Legal Aid Services provides free legal assistance to seniors, 60 and older.

1-800-229-5068 or **1-304-296-2746**
<http://www.seniorlegalaid.com/>

Attorney General's Office Consumer Hotline

Call for advice in consumer rip-off cases.
1-800-368-8808

The Internet has many good sources of information, but be careful. Laws and procedures vary from state to state. Not all of the information you find on the Web will apply in West Virginia.

Keywords: Pro se or self-represented litigants, legal information, pro bono (free legal advice).

The **WV Coalition on Domestic Violence** can assist you in locating local programs and facilities.
1-304-9653552 or call **1-800-799-SAFE (8233)**

You can also go to a **Legal Research Center** at one of ten locations or access the information at <http://www.wvlrc.org/>.

LEGAL RESEARCH CENTERS

of West Virginia



LEGAL RESEARCH CENTERS of West Virginia

FREE

access to legal information at public and circuit court libraries

- ◆ Receive assistance from a trained librarian
- ◆ Write a letter
- ◆ Fill out forms
- ◆ Print a document
- ◆ Search the Internet and legal database

Online and printed instructions at each Legal Research Center will help walk you through the process step by step...

Get additional information from the State Law Library at the Supreme Court of Appeals
304-558-2607

Raleigh County Public Library
221 N. Kanawha Street
Beckley
(304) 255-0511

Wood County Law Library
2 Government Square
Parkersburg
(304) 424-1743

Supreme Court Law Library
1900 Kanawha Blvd., E.
Charleston
(304) 558-2607

Berkeley County Public Library
101 West King Street
Martinsburg
(304) 267-8933

Clarksburg-Harrison Public Library
404 West Pike Street
Clarksburg
(304) 627-2236

Hampshire County Public Library
153 West Main Street
Romney
(304) 822-3185

Cabell County Law Library
750 Fifth Avenue
Huntington
(304) 526-8611

Ohio County Law Library
1500 Chapline Street
Wheeling
(304) 234-3780

Pocahontas County McClintic Public Library
500 Eighth Avenue
Marlinton
(304) 799-6000

McDowell County Public Library
90 Howard Street
Welch
(304) 436-3070

or log on at www.WVLRC.org



State Justice Institute

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and



the West Virginia Library Commission.



NOTES:

LEGAL

Action - a judicial proceeding whose purpose is to obtain relief from a court of law; a lawsuit.

Access Coordinator - a person who arranges for things such as a wheelchair-accessible courtroom, a sign language interpreter or a translator.

Affidavit of Indigency - see “Fee Waiver Forms.”

Agreement - an oral or written promise to do something.

Answer - the defendant’s or respondent’s written response to the claims in the complaint.

Appeal - request to a higher court for a different judgment.

Case Coordinator – a contact person who oversees the family court judge’s case files.

Certificate of Delivery – a form that shows the opposing party was given the complaint or answer in a timely and proper manner.

Certificate of Service – a form filed with the clerk’s office stating that the opposing party in a lawsuit received the papers filed in the case.

Child support - court-ordered funds paid by one parent for a minor child after divorce or separation.

Circuit Court - a court composed of one or more counties. Circuit courts are trial courts that have the authority to hear general cases over \$300 in a dispute. West Virginia’s 55 counties are divided into 31 circuits.

Civil Case - an action brought by a person, company, or other entity to protect some right or to help recover money or property from another person or company.

Complaint - (civil case) written statements by the plaintiff stating the claims against the defendant.

Counterclaim - a claim filed to oppose another claim in a legal action.

Court Clerk - the person whose duty it is to establish and maintain dockets and records for the court, to assist in preparing court reports, and to carry out the duties of the court on behalf of the magistrates or judges, as well as assist the public.

Court rules - a set of procedures adopted by courts to be followed by parties and their lawyers. Most states have statewide rules of court.

Criminal Case - a criminal lawsuit with the State of West Virginia versus the defendant.

Default Judgment - when a party who has been sued fails to answer, either the clerk or the court may enter a judgment by default against that party.

Defendant - the person against whom relief or recovery of money or property is being sought in a civil lawsuit. Also used to designate the accused in a criminal case; similar to respondent.

Discovery - a pretrial proceeding where a party to an action has an opportunity to learn information known by other parties, witnesses or other persons.

Divorce Packet - a series of fill-in-the-blank forms and instructions developed by the Supreme Court of Appeals of West Virginia to assist persons filing for divorce.

Evidence - any presented proof, which may be established by witnesses, testimony, records, documents, etc.

Family Court – a court that has authority over cases involving divorce, child custody, visitation, support and domestic violence.

Fee Waiver and Fee Waiver Forms - formerly called “Affidavit of Indigency” - a sworn statement used to determine whether someone meets the income guidelines so that they are not required to pay court fees.

Financial Statement - a statement showing the details of income and expenses for a given time period.

Hearing - any proceeding before a judge or magistrate without a jury in which evidence and argument is presented to determine some issue of fact or both issues of fact and law.

Judge - a public official who hears and decides cases brought before a court of law.

Jurisdiction - authority of a court to hear certain cases.

TERMS

Lawyer - a person authorized to practice law, conduct lawsuits or give legal advice.

Magistrate - judicial officer of the limited jurisdiction court.

Magistrate Court - a small claims courts with authority over cases with \$5,000 or less in dispute.

Mediation - a method of solving problems without going to court.

Mediator - a person who helps resolve disputes between two or more parties.

Notice of Hearing - an official notice telling the parties when a hearing is scheduled.

Opening Statement - a summary of the case and the evidence that will be presented, given at the beginning of a hearing.

Order - the written decision of a judge.

Parenting Plan - a plan that states which parent will be responsible for the children and decision-making, and how disputes will be decided between the parents.

Petition - a formal written request to a court for an order of the court.

Petition - in a civil case, written statements by the plaintiff stating the claims against the defendant.

Petitioner or Plaintiff - in a civil case, the person who files a claim against another person. In divorces, this is the person who files or starts the divorce.

Remedy - the relief given or ordered by a court to enforce a right or prevent a wrong, such as returning property or the monetary value of loss.

Respondent - the person a civil lawsuit or a divorce is being brought against; similar to a defendant.

Restitution - returning to the proper owner property or the monetary value of loss.

Service of Process - the legal methods of delivering papers to the other party in a lawsuit and proving to the court (by filing a Certificate of Service) that the papers were received.

Settlement - an oral or written promise to resolve a problem, especially before going to court.

Spousal support - payment for support of an ex-spouse (or a spouse while a divorce is pending) ordered by the court. More commonly called alimony.

Subpoena - a written legal notice requiring a person to appear in court and give testimony or produce documents.

Summons - a notice to the person named that an action has been filed against that person.

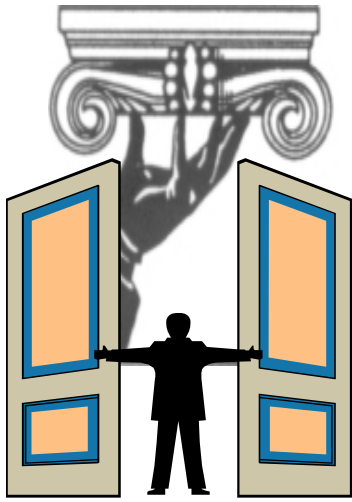
Supreme Court of Appeals of West Virginia - the highest court in West Virginia where five Supreme Court Justices hear appeals of decisions made in lower courts and interpret the laws and constitutions of West Virginia and the United States.

Testimony - a solemn statement made under oath.

Venue - the specific county, city or geographical area over which a court has authority.

Witness(es) - one who can give a firsthand account of something seen, heard, or experienced.

Writ - a written order of a judge requiring specific action by the person or entity to whom the order is directed.



Are You Being Served?

The court staff can give legal information.

The court staff *WILL*:

- Explain how the court works, including procedures, rules, and practices to litigants, the media, and other interested citizens.
- Provide examples of forms and pleadings, provide procedural guidance to litigants, and answer questions about the completion of forms.
- Explain the meaning of terms and documents used in the process.
- Explain how to bring problems before the court.
- Provide information contained in docket reports, case files (except juvenile and family), indexes, and other reports.
- Explain the requirements to have a case considered by the court.
- Give you information from your case file.
- Encourage you to seek legal advice.
- Provide a written guide outlining the West Virginia Court system.

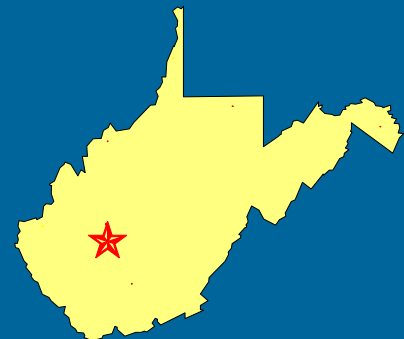
A lawyer can give legal advice.

The court staff *CANNOT*:

- Advise you whether to bring your problems before the court or what remedy to seek.
- Give advice or information to one party over another or take sides in a case.
- Give information when they are unsure of the correct answer.
- Advise you whether to take a particular course of action.
- Disclose the outcome of a matter until the outcome is part of the public record.
- Give information that must be kept confidential, by statute, rule, or case law, such as domestic relations and juvenile.
- Tell you whether or not to bring a case to court.
- Give an opinion about what will happen if a case is brought to court.
- Recommend a lawyer, but can refer you to the West Virginia State Bar Lawyer Referral Service — (304) 558-7991.
- Talk to the judge for you about what will happen in your case.
- Let you talk to the judge outside of court.

The court staff *CAN* answer:

- How do I request a hearing?
- How do I file a lawsuit?
- Has a complaint (or petition, motion, response, answer, certificate of service, objection, etc.) been filed?
- I just got this summons and complaint. It says I have to file an 'answer' or I will be subject to default. I can't afford an attorney. What is an answer? What does one look like? What does it say? What does 'default' mean?
- When is my answer due?
- What does 'interrogatory' mean?
- I got a summons for jury service. My wife and I have tickets for a cruise on the date I have been called to serve. What happens if I don't show up? Well, what should I do then?
- When are the court deadlines and due dates?
- Do I have to do anything else?
- This is the situation I'm in . . . , so how should I bring this issue before the court to decide?
- What does the court ask for in complaints and motions?



Supreme Court
of Appeals
of West Virginia

HELP LINE: 304-558-WVCT

304-558-0145

FAX: 304-558-1212

TTY Line: 304-558-4219

[Hearing Impaired]

WEB PAGE:

www.state.wv.us/wvsca



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