

REPLEVIN FORMS

If someone has kept your property, you should send them a letter asking them to return the property. Give them a certain date to return the property by. Keep a copy of the letter you send. If they do not return the property, you can file a replevin action.

Replevin is a legal action to ask for the return of your personal property which is being kept from you by another person without your permission. You must own or have a property interest in the property you want returned. The person who has the property must be wrongfully keeping it at the time you file your action.

By filing this action you may give up your right to sue the other person for additional claims you might have against them which arise out of the same facts and circumstances covered in your replevin action. For example, if this claim is against your landlord, you may give up other claims for damages arising from your rental agreement. If this claim is against someone who kept your property for a long time, you may lose the right to claim money for damages you suffered because you were deprived of the use of your property for that time.

A replevin case can be filed either in a Municipal Court, County Court or a Common Pleas Court. If the value of the property claimed is more than \$15,000, you should file in the Common Pleas Court.

Attached are the forms you need to file to begin an action for replevin. These forms must be filled out and submitted to the Clerk of the Court together.

FILING THE PAPERS

1. Have all forms filled out (and the Affidavit notarized), and make two copies of each form (except the Request for Hearing which will require three copies), before you go to the Court. The Clerk of Court's staff will not help you in completing the forms or making copies.

2. Take the completed forms to the Clerk of Courts' office. There is a filing fee, which varies from county to county. The only way to avoid paying the filing fee is if you do not have the money and file a Poverty Affidavit with your Motion. A Poverty Affidavit form is included in these papers if you cannot afford the filing fee.

3. The Clerk's staff will take the originals and one copy of the complete set of forms (the Motion, Affidavit, Praecipe, and Poverty Affidavit, if one is included). Keep one set of copies of the forms for yourself. Ask the Clerk to time-stamp your copy of the Motion. This is proof that you filed it.

4. The Clerk will tell you when you need to go to Court on your Motion.

HEARING

1. It helps a lot if you are prepared for the hearing. Dress as neatly as you can and bring to Court with you any witnesses you have to the things you have said. For instance, you should bring to Court anyone who knows that you were given or purchased the items in question. You should bring any title you have to the property or a written bill of sale.

2. You should make a list of what you are going to tell the judge so you don't forget. Write out what you are going to ask your witnesses so you are sure to ask them all the questions you want to. Do this before you go to Court so you are ready.

3. You may be asked questions by the judge or the person you are suing. Listen to the questions and make sure you answer the questions as directly and truthfully as you can. If you do not understand the questions or are not sure what you are being asked, you have the right to have the questions explained to you before answering. Ask if you don't understand the question.

4. After the hearing, the judge will decide what order to make. Enclosed is an Entry you may give the judge to write out his/her order.

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

(Your Address)

Judge _____
(leave blank)

Plaintiff,

VS.

(Their Name)

COMPLAINT FOR REPLEVIN

(Their Address)

Defendant.

FIRST CAUSE OF ACTION

1. I am a resident of Ohio and _____ County.
2. Defendant is a resident of Ohio and _____ County.
3. The court has proper jurisdiction and venue over this matter because it involves residents of _____ County and property that is located in _____ County.

4. I own the following property: _____
(list the items Defendant has kept)

5. My ownership of the property is evidenced by _____

(explain how you got the property – bought it, etc.)

6. On _____ Defendant took possession of property
(date they took your property)

belonging to me.

7. Defendant took possession of my property by _____
(describe what Defendant did)

8. I request the return of my property.

9. Defendant has failed to return the property belonging to me.

10. The property being held by Defendant is worth about \$ _____
(value of your property)

11. Upon information and belief, the property is in the actual possession of
Defendant and is located at _____
(address where you believe the property is located)

SECOND CAUSE OF ACTION

12. Defendant has wrongfully exerted control of my property.

13. Defendant has converted my property.

PRAYER FOR RELIEF

I request that the Court order the following relief:

A. Find that I am the owner of the property in question;

B. Order the Defendant to return the property to me;

C. If the property cannot be returned to me, then order the Defendant to pay

\$ _____ for the conversion of my property;
(value of property)

D. Grant me costs; and

E. Grant any other relief that may be just or equitable.

Sign Here

Print Your Name

Your Address

City, State, Zip Code

Your Telephone Number

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

VS.

(Their Name)

Defendant.

**MOTION FOR ORDER OF
POSSESSION OF PROPERTY**

Pursuant to Ohio Revised Code §2737.03, Plaintiff respectfully requests the Court grant an order of possession of the property described in Plaintiff's Affidavit in Replevin which is attached to this Motion. Plaintiff requests that the Order of Possession order the Sheriff of _____ County to seize and deliver to Plaintiff or accompany Plaintiff in repossession of the following property now in possession of Defendant and wrongfully detained by Defendant:

(list property or attach a list)

I make this Motion because Defendant obtained possession of the property by

(describe how Defendant took your property)

Defendant has refused to return the property after being requested by a letter. I have attached a copy of the letter I sent. As a result, Defendant continues to wrongfully retain my property.

For these reasons, I respectfully request this Court grant my Motion and execute an Order of Possession.

Respectfully Submitted,

Sign Here

Print Your Name

Your Address

City, State, Zip Code

Your Telephone Number

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Plaintiff,

VS.

(Their Name)

Defendant.

Case No. _____
(leave blank)

Judge _____
(leave blank)

AFFIDAVIT IN REPLEVIN

STATE OF OHIO

COUNTY OF _____, SS.

_____, being first sworn, says:
(Your Name)

I am the owner of the following described personal property:

<u>PROPERTY</u>	<u>VALUE</u>
_____	_____
_____	_____
_____	_____
_____	_____

2. The property is located at the following location: _____

3. I own the property because: _____
(explain how you got the property - bought it, etc.)

4. If my interest in the property is based upon a written instrument, a copy of that instrument is attached to this Affidavit. (for example a car title)

5. The property is being wrongfully kept from me by Defendant.

6. Defendant took possession of the property when: _____

(describe how Defendant got your property)

7. I have been damaged by the Defendant's keeping my property.

8. The property was not taken by Defendant for a tax assessment, or fine pursuant to statute, or seized under execution of judgment against the property.

9. To the best of my knowledge, Defendant has no lawful reason to keep my property.

10. I have requested that Defendant return my property.

(Affiant)

Sworn to and subscribed before me, a Notary Public, this _____ day of _____, 20____.

Notary Public

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

vs.

(Their Name)

NOTICE

Defendant.

You are hereby notified that the Plaintiff in this proceeding has applied to this Court for the recovery of possession of the property described in the attached Affidavit claimed to be in your possession. The basis for this application is indicated in the documents that are enclosed with this Notice.

If you dispute the Plaintiff's claim for possession of property and believe that you are entitled to retain possession of the property because it is exempt or for any other reason, you may request a hearing before this Court by disputing the claim in the Request for Hearing form appearing below, or in a substantially similar form and delivering the request for the hearing to this Court, at the office of the Clerk of this Court, not later than the end of the fifth business day after you receive this Notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if

you do not state your reasons, it will not be held against you by the Court and you can state your reasons at the hearing.

If you request a hearing, it will be conducted in this Court at _____m. on, _____, 20_____.

You may avoid having a hearing but retain possession of the property until the entry of final judgment in the action by filing with the Court, at the office of the Clerk of this Court, not later than the end of the fifth business day after you receive this Notice, a bond executed by an acceptable surety in the amount of double the value of the personal property.

If you do not request a hearing or file a bond on or before the end of the fifth business day after you receive this Notice, the Court, without further notice to you, may order a law enforcement officer or bailiff to take possession of the property. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time and place of the trial of the action will be sent to you.

Clerk of the Court

Date

IN THE _____ COURT
_____ COUNTY, OHIO

Case No. _____

Plaintiff,

Judge _____

vs.

Defendant.

**DEFENDANT'S REQUEST
FOR HEARING**

I dispute the claim for the possession of property in the above case and request that a hearing in this matter be held at the time and place set forth in the notice that I previously received.

I dispute the claim for the following reasons:

(Name of Defendant)

(Signature)

(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU MAY WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING.

NOTE: CLERK MUST ATTACH A POSTAGE-PAID ENVELOPE (O.R.C. §2737.05)

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Case No. _____
(leave blank)

Plaintiff,

Judge _____
(leave blank)

vs.

(Their Name)

PRAECIPE

Defendant.

TO THE CLERK OF COURTS:

Kindly issue to the Defendant a copy of the Complaint and Motion for Order of Possession and two copies of the Notice of this proceeding. Defendant can be served at the address on the Complaint.

Respectfully Submitted,

() _____ - _____

IN THE _____ COURT
_____ COUNTY, OHIO

Case No. _____

Plaintiff,

Judge _____

vs.

ENTRY

Defendant.

This matter came on to be heard on the Motion for Order of Possession filed by

_____ were present.

Based upon the Motion and the evidence presented, it is hereby ORDERED:

JUDGE

SUBMITTED BY:

IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Plaintiff,

vs.

(Their Name)

Defendant.

Case No. _____
(leave blank)

Judge _____
(leave blank)

**AFFIDAVIT OF INABILITY
TO PREPAY COURT COSTS**

_____, being first duly sworn and cautioned,
(Your Name)

depose and state that I am the Plaintiff, that I have a valid cause of action but am
unable to give either security or a cash deposit to secure costs.

Sworn to and subscribed before me this _____ day of _____,
20_____.

Notary Public

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IN THE _____ COURT
_____ COUNTY, OHIO

(Your Name)

Plaintiff,

VS.

(Their Name)

Defendant.

Case No. _____
(leave blank)

Judge _____
(leave blank)

JOURNAL ENTRY
FILING FEES

Plaintiff's motion for waiver of filing fees is/is not granted.

IT IS SO ORDERED.

JUDGE/MAGISTRATE (Court will complete)

- Call a witness who is familiar with the party's signature, and ask the witness: "Do you know the other party in this case? Are you familiar with the party's signature? How?"

Then show them the letter and ask "Is this the other party's signature?"

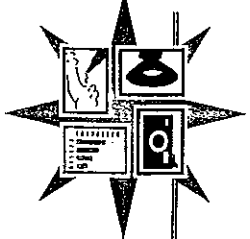
- Call the person who signed the letter. Show the witness the document, and ask the witness if that is his or her signature. (Only do this if you think they will admit to it).

- 4. Explain that the letter is in the same condition now as when you received it. ("The letter was kept in a safe place and nothing has been changed since I received it.")

TIPS

Do not read anything from the letter until the court has admitted it into evidence.

If the other party objects to the letter saying that it is hearsay, respond by saying: "The letter shows the letter writer's state of mind."



Laying the Foundation for Documents and Records From Businesses

1. Explain how the document or record is related to your case.
2. Call a witness from the business/agency that produced the record, ask the witness what his or her responsibilities are at the business/agency and how he or she is involved in record keeping.

- 3. Show the witness the record and ask him/her if it is a record from the business/agency.

TIP

If the record is certified (a statement is attached to the record stating that it is in fact a record from a public agency or it has an agency seal on it) you do not need to do anything before you show it to the judge. Just let the judge know it is certified.

- 4. Ask the witness:
 - Was the record made by a person with knowledge of the acts or events appearing on it.
 - Was the record made at or near the time of the acts or events appearing on it.
 - Is it the regular practice of the business/agency to make such a record, and
 - Was the record kept in the course of a regularly conducted business activity.

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Representing Yourself in Court?

How to Use Photographs, Letters, Business Records, and Other Evidence to Help Prove Your Case



What is Evidence?

Evidence is anything you use to prove your claim. Evidence can be a photograph, a letter, documents or records from a business, and a variety of other things. All evidence that is properly admitted will be considered by the judge.

Your case probably will be decided by a judge. If there is a jury, it will look at admitted exhibits during its deliberations.

For example:

- In a request for change of custody, the child's school records could be introduced as evidence that the child's grades have dropped or he/she has missed a significant amount of school while living with the other parent.
- In a domestic violence or stalking civil protection order case, a photograph of any injury you suffered or a threatening letter written by your abuser may help your case.
- In a divorce case, a copy of tax return documents or documents showing who has title to a car may be introduced as evidence.

Why Use Evidence?

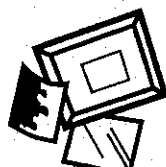
- 1 Evidence is more **believable and trustworthy** than what a person says. For example, in a domestic violence case, if you say that your ex-boyfriend has left you threatening messages but he testifies that this is an absolute lie, the judge may not know whom to believe. However, if you submit a tape recording of one of these messages the judge will be more likely to believe you.
- 2 Evidence may make something **easier to understand**. "A picture is worth a thousand words." Some things are hard to explain in words, while a drawing or photograph is descriptive and clear.

How Do I Present Evidence to the Court?

Each court is different, but in most courts, you can't just walk into court with a photograph or document and show it to the judge or jury. There are many things you must do before the court will even look at the evidence you have. Further, there are many different types of evidence, and the rules for using each type of evidence are different. Once you follow these rules, your evidence will be "admitted".

Steps to Follow to Admit Evidence

- 1 Before you ever go to court, think about the evidence you want to use to prove your case. Mark each piece of evidence with an exhibit number (attach a sticker labeled "Exhibit 1," "Exhibit 2," etc.)
- 2 Bring these marked Exhibits with you to court. When you want to show the court one of the exhibits, do the following things:
 - 1 Show the exhibit to the other party or the other party's attorney.
 - 2 Then "lay the foundation" for the evidence. To do this, you must show that the evidence is relevant to your case and authentic (not a forgery). Depending upon what you want the court to consider, follow the rules listed in this pamphlet for "laying the foundation" - explaining why and how the exhibit is connected to your case.
 - 3 Either you or your witness must testify about the exhibit.
 - 4 Ask the court to admit the exhibit into evidence. The other party or attorney may object to the exhibit for some reason. Try to answer these objections as best you can. If you can't, let the judge decide.
 - 5 If there are no objections from the other party, or the judge has ruled in your favor, ask the court to "admit the Exhibit into evidence."



Laying the Foundation for Photographs

- 1 Explain why a photo is connected to your case. For example:
"This photo shows the injury I suffered after my ex-boyfriend punched and kicked me."
- 2 Explain how you know about what is in the photo. For example:
"I had my sister take this photograph within 2 hours after the incident occurred and went to get the film developed myself the following day."
- 3 Explain that the photo is timely. For example:
"At the bottom right-hand corner of the photo is the date on which it was taken. As you can see, the photo was taken on the same day that the incident occurred, which is also the same day the police arrested my ex-boyfriend."
- 4 Explain that the photo "fairly and accurately" shows what is depicted in the photo as it appeared on the date relevant to your case. For example:
"This photo is a fair and accurate depiction of how my face and side looked two hours after the incident and for the next two weeks."

TIP
When using photographs, it is best to use color photos and enlarge them, if possible.

Foundation for Letters

- 1 Explain why the letter is connected to your case. For example:
"This is the letter that I received from my ex-boyfriend shortly before he beat me up."
- 2 Explain when and how you got the letter. For example:
"This letter was shoved under the door to my apartment some time before 6 p.m. on Wednesday, January 2, 2001. I found it on the floor when I came home from work that day."
- 3 Prove that the signature is that of a party to the case. Ways to prove this:
 - Explain to the court: that you are familiar with the other party's signature, how you came to know that person's signature, and that it is your opinion that the signature on the letter is the other party's signature.



WARNINGS

- ❑ **Do not try to try to talk to the judge about your case before your case is called.**

The law prevents the judge from talking to one party if the other party is not present (unless the case is currently before the court). This one-sided conversation is called an “ex parte communication” and it is illegal.

Any letter, motion, or request you send to the court will be ignored by the judge (because it is an ex parte communication) unless you send a copy of that letter or request to the opposing party as well.

For example:

If you write a letter to the judge requesting that the court date for your divorce be changed, you must send a copy of this letter to your spouse as well and let the judge know that you have done this. Otherwise the judge will not even read your letter.

- ❑ **Do not ask court staff for legal advice.**

Court staff are **not** attorneys and **cannot provide legal advice**. More importantly, they are employees of the court and must treat both sides in a case fairly. It is unfair and illegal for them to help one party and not the other.

Court staff can answer questions about court procedure, court rules, and the meaning of certain legal terms.

- ❑ **Do not ask law librarians for legal advice.**

Most law librarians are **not** attorneys and **cannot provide legal advice**.

Even if a librarian is an attorney, they are **not acting as your attorney** and cannot give you legal advice.

They cannot tell you which form you need or what information to put on the form.

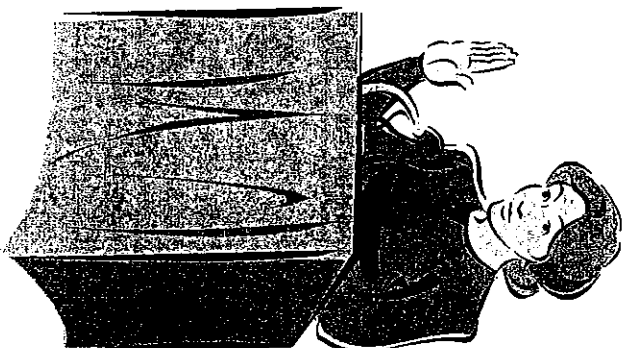
Read the instructions provided and try to figure this out for yourself.

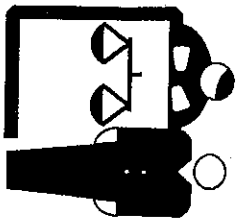
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Rules to Follow When You Are Representing Yourself





The Court is a very traditional place. When you are representing yourself in Court, you are trying to persuade a judge or jury that you are right. So you must act, dress, and speak in a way that helps you with your case. Here are some tips:

BE ON TIME

What will happen if you are late?

- Your case can be dismissed.
- The judge may make a decision without hearing your side.

What to do if you are late?

- Call the Court, ask to speak with the secretary of the Judge assigned to your case. Ask the secretary to tell the Judge why you are late & when you expect to arrive.

DRESS NEATLY

- You do not need fancy clothes, just make sure you are neat and clean.
- Tank tops, shorts, ripped jeans, or baseball hats are not acceptable.
- T-shirts or hats with messages such as “Legalize Marijuana” or “Where’s the Beef,” while funny, are not acceptable for court.

BE RESPECTFUL

- How you act is as important as how you look. Just like an attorney, you must be respectful to everyone in the Court, including the judge, court staff, and the other party involved in your case.
- Do not speak while others are speaking. Do not get into an argument with the other side. If you disagree with what the other side is saying, wait until he or she is done and then tell the Judge.
- Speak to the judge only when you are told it is your turn. Address the judge as “your honor.” Never interrupt the Judge.
- Try to control your emotions as much as possible, especially anger.

DO NOT BRING CHILDREN WITH YOU TO COURT

- It is okay to bring your child if it is a custody or visitation case and the Judge or Magistrate needs to talk with your child. In all other cases, find someone to look after your child.

NO CELL PHONES OR PAGERS IN THE COURT

- Turn your phone /pager off when you enter the court. Ringing phones and beeping pagers are very distracting and make some judges very mad, which will not help your case!

What to Expect When You Arrive at the Courthouse

Check in at the clerk’s office to find out which courtroom to go to. Go into the courtroom and sit quietly until your case is called. You may have to wait for up to an hour; just be patient.

When your case is called, walk to the table or podium for lawyers in front of the judge, and stand facing the judge. The judge will tell you when to speak.

When the judge asks you to present your case, tell the judge what it is that you are requesting and why you are requesting it. After you are finished, the other side will have a chance to ask you questions.

Next, the other side will present his/her case. Don’t forget, if you disagree with something the other side says, do not interrupt. You will have an opportunity to ask the other side questions when he/she is finished talking.

During the hearing the judge may ask you questions.

- If you don’t understand the question, say so. Don’t answer until you fully understand the question.
- If you don’t know the answer say so. Do not be afraid to admit that you don’t know something.

Decisions are not always given right away. In most cases, you will receive the judge’s decision in the mail within two weeks.

What About the Other Side's Witnesses?

The other side will question them first. The judge will give you an opportunity to "cross examine" them (that is, ask them your own questions). You do not have to ask any questions if you think the witness will only repeat what was already said.

When asking questions of the other side's witnesses, you are allowed to ask leading questions. *Leading questions have Yes or No answers.*

Examples to use:

- Was my husband ever drunk when he dropped the children off at your house?
- Didn't my husband yell and swear at the children when he came to pick them up from day care?

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Rules To Follow When Questioning Witnesses

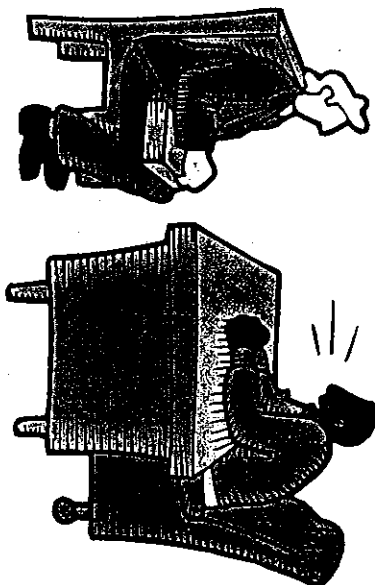
- Keep your questions short.
- Never ask a question when you do not know what the answer will be—the answer could hurt your case more than help it.
- If you don't get the answer you were expecting from a witness, do not argue with them or accuse them of lying. It makes you look bad before the judge. Remember... politeness at all times!
- If a witness refuses to answer a question, ask the judge to make the person answer.

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Samples of Questions to Ask My Witnesses

- What is your name?
- What is your address?
- How long have you known me?
- During the time that you have known me, have you become familiar with my reputation in the community?
- Do I have a reputation for good character and honesty in the community?
- From what you know about me, am I someone the Court can rely upon to tell the truth?
- You have heard what I have said in Court. To the best of your knowledge, do you know it to be true?
- Please explain how you know this to be true.

How to Handle Witnesses When You Are Representing Yourself



Prepared by:

NAPIL Equal Justice Fellow
Ohio State Legal Services Association
September 2000

When Should I Bring a Witness to Court?

It is always a good idea to bring a witness with you simply to tell the Court that you are an honest person or to confirm that what you are telling the Court is true.

In most cases that come before the Court, both sides are telling a different version of the same story. The Court knows that each side may be telling the version that best serves his or her own interests. The testimony of a witness (someone not involved in the case directly) will make your side of the story more believable.

In some types of cases, you are required by law to bring a witness. For example, in divorce cases, many Courts require a that you bring a witness to testify that you are a person known to have good character in your community (that you are an honest and good person).

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What If My Witnesses Can't Come to the Hearing?

Your witness **must** come to the hearing! A handwritten note from a person will not be accepted by the Court—the witness must show up at the hearing and testify live. Live testimony is required so that the other side has an opportunity to ask questions of your witness as well.

To make sure your witnesses will show up, make sure you call them the week of the hearing and again the day before the hearing to remind them.

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Who Should I Bring as a Witness?

→ People who know you and your reputation in the community.

→ People who know about the situation that brought you to the Court from things they have seen or heard. Only use witnesses after you have talked to them and are sure that they will tell the Court what is helpful to your case.

While it is okay to have a friend or family member be a witness for you, it is always best to have someone who does not favor one side over the other. With family members and friends, the Court may assume that the person is testifying for you simply because they like you and want you to win.

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How Do I Prepare My Witnesses?

→ Think about what is the most valuable thing each witness could say on your behalf.

→ Write down a few questions that will help the witness get the idea across.

→ Practice with your witness ahead of time, so you know what answers will be given.

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What Should I Do With My Witnesses at the Court Hearing?

→ Start by asking the witness their name and address.

→ If your witness is a professional, you should ask what their job is, what their educational degrees are, and how long they have been doing their job.

→ Then ask specific questions about what information they have about your case.

With your own witness, it is not okay to ask "leading questions." Leading questions give the witness the answer you want them to say.

You must keep your questions open-ended. *Open-ended questions are Who, What, Where, When, How, and Why questions.*

Examples to use:

→ How would you describe my husband's condition when he dropped the children off at your house?

→ What did my husband do when he would pick the children up from day care?

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