

COURT OF COMMON PLEAS

FOR THE STATE OF DELAWARE



JUSTICE OF THE PEACE COURT CIVIL APPEALS

PLAINTIFF BELOW INSTRUCTIONS

<http://courts.state.de.us/commonpleas/>

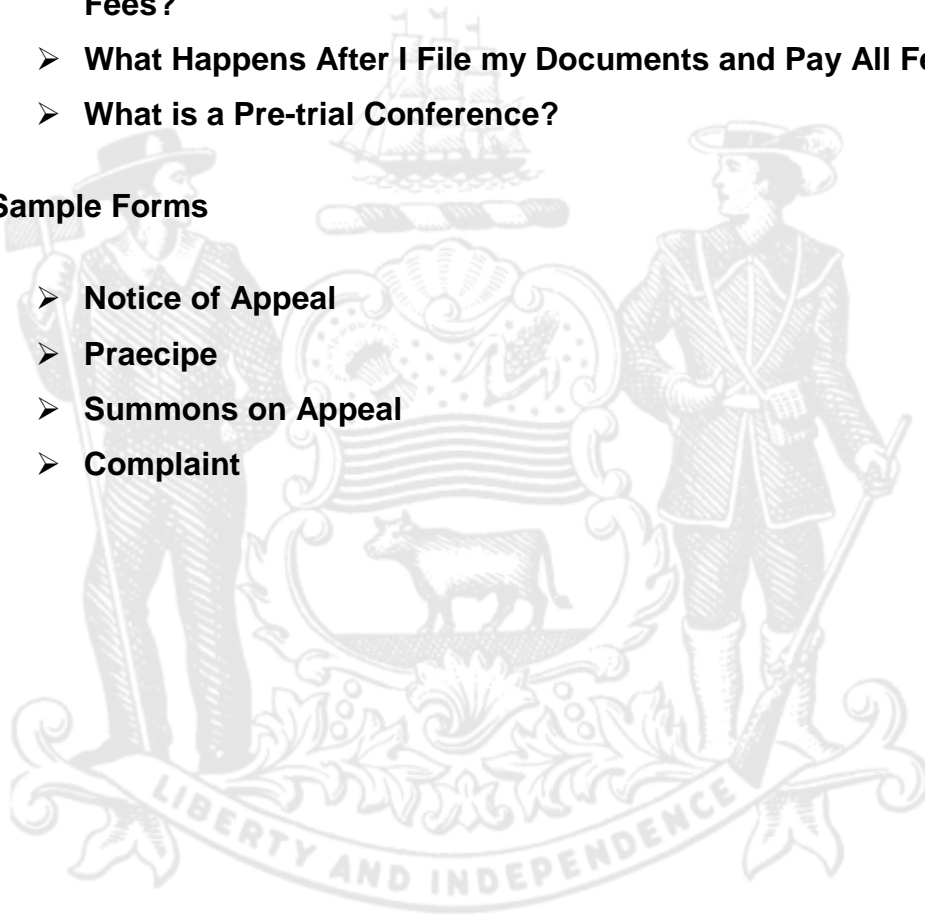
JUSTICE OF THE PEACE COURT APPEALS OF CIVIL CASES TO THE
COURT OF COMMON PLEAS

General Instructions for Plaintiff Below

- **What Happens if I Fail to File These Documents and Pay All Fees?**
- **What Happens After I File my Documents and Pay All Fees?**
- **What is a Pre-trial Conference?**

Sample Forms

- **Notice of Appeal**
- **Praecipe**
- **Summons on Appeal**
- **Complaint**



GENERAL INSTRUCTIONS

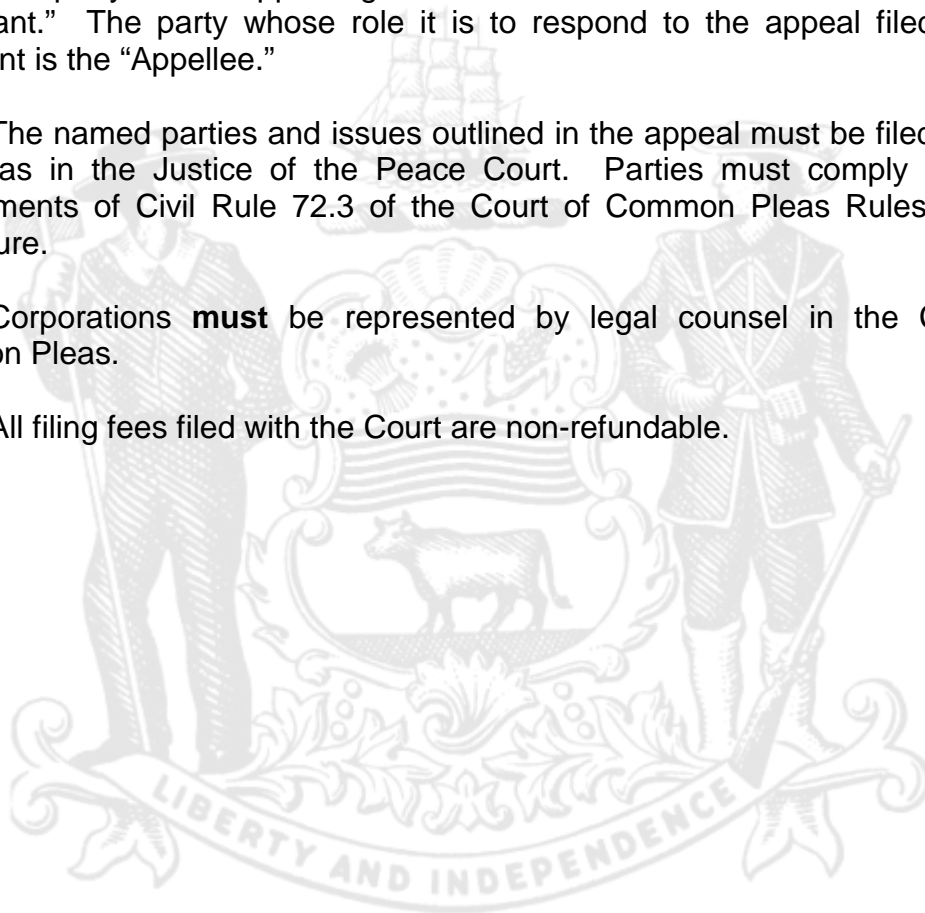
All decisions from the Justice of the Peace Court civil matters, **except landlord/tenant possession cases**, may be appealed to the Court of Common Pleas in the county in which the Justice of the Peace Court is located. The landlord/tenant cases **MUST** be appealed to a three judge panel of Justices of the Peace. Appeals to this Court are “de novo,” meaning that the case starts over in the Court of Common Pleas. (Court of Common Pleas Civil Rule 72.3(a))

The party who is appealing the Justice of the Peace Court decision is the “Appellant.” The party whose role it is to respond to the appeal filed by the Appellant is the “Appellee.”

The named parties and issues outlined in the appeal must be filed exactly as it was in the Justice of the Peace Court. Parties must comply with the requirements of Civil Rule 72.3 of the Court of Common Pleas Rules of Civil Procedure.

Corporations **must** be represented by legal counsel in the Court of Common Pleas.

All filing fees filed with the Court are non-refundable.



APPEALS FROM JUSTICE OF THE PEACE COURT CIVIL CASES

PLAINTIFF BELOW INSTRUCTIONS

To appeal a decision from a Justice of the Peace Court civil matter, the Plaintiff Below must file within fifteen (15) days the following:

- A Notice of Appeal. This must be filed in the Clerk's Office of the Court of Common Pleas and must include an original and one copy for each party to be served.
- An original Praecipe and one copy. A Praecipe is a document which tells the Sheriff where to serve the parties.
- An original Summons on Appeal and one copy for each party to be served. The Summons on Appeal is the document that the Sheriff will serve with the pleadings. Pleadings are written statements in which a party to a lawsuit sets forth or responds to claims, allegations, denials and defenses.
- An original Complaint with the Court plus one (1) copy for each party to be served. (See attached sample Complaint)

At the same time, or within ten (10) additional days, the Plaintiff Below must:

- Pay a non-refundable \$135.00 filing fee (including the Court Security Assessment.) Payments can be made with check, cash, or money order. Currently, we are unable to accept credit/debit card payments at the Court. All checks must be made payable to the "Court of Common Pleas."
- Pay a separate non-refundable check made payable to "Sheriff." Sheriff costs are as follows:

If you are serving more than one person, the costs are \$30.00 for the first address and \$30.00 for each additional address. There is a \$5.00 fee for each additional person served at the same address.

- The Appellant shall, within ten (10) calendar days, file a copy of the Notice of Appeal with the Justice of the Peace Court.

Once the Defendant Below has been served with the Complaint, he/she shall have twenty (20) days in which to file an Answer. If the Defendant Below fails to file an Answer, see the “How to Prepare a Civil Motion” packet available in the Clerk’s Office and on the Court’s web site at the following link:

<http://courts.delaware.gov/forms/download.aspx?id=45678>

WHAT HAPPENS IF I FAIL TO FILE THESE DOCUMENTS AND PAY ALL FEES?

Your appeal cannot proceed until you have complied with all instructions. If you fail to file any of the required documents or you fail to submit the appropriate fees, your appeal will be dismissed by the Court.

All filing fees are non-refundable.

WHAT HAPPENS AFTER I FILE MY DOCUMENTS AND PAY ALL FEES?

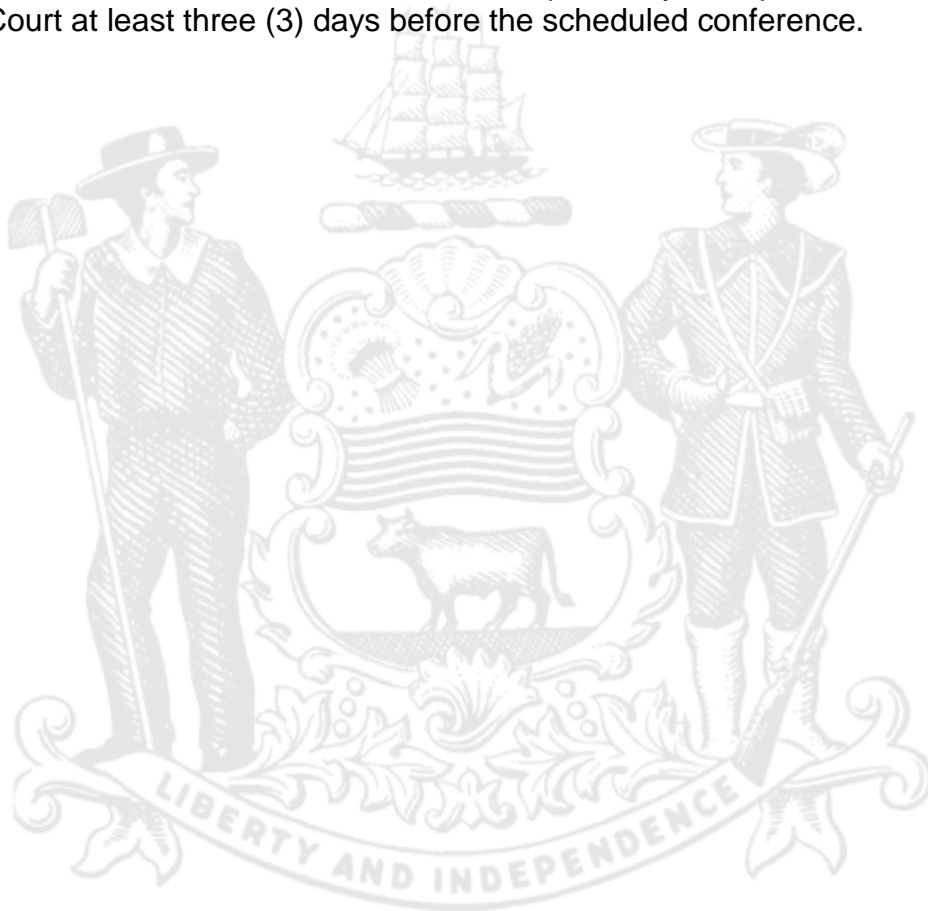
Once all the pleadings above have been served on the Defendant Below, he/she will have twenty (20) days to respond in writing to the Complaint. Pleadings are written statements in which a party to a lawsuit sets forth or responds to claims, allegations, denials and defenses. Examples of pleadings are a “Complaint” and “Answer.” If the Defendant Below responds within twenty (20) days, you will be notified by the Court of a Pre-trial Conference with the Judge and the other party.

A party may call the Civil Clerk’s Office to determine if “service” has been made on a party. “Service” or “service of process” is the formal delivery of a legal notice. You may have to make another attempt if no service is made within the prescribed time allotted.

WHAT IS A PRE-TRIAL CONFERENCE?

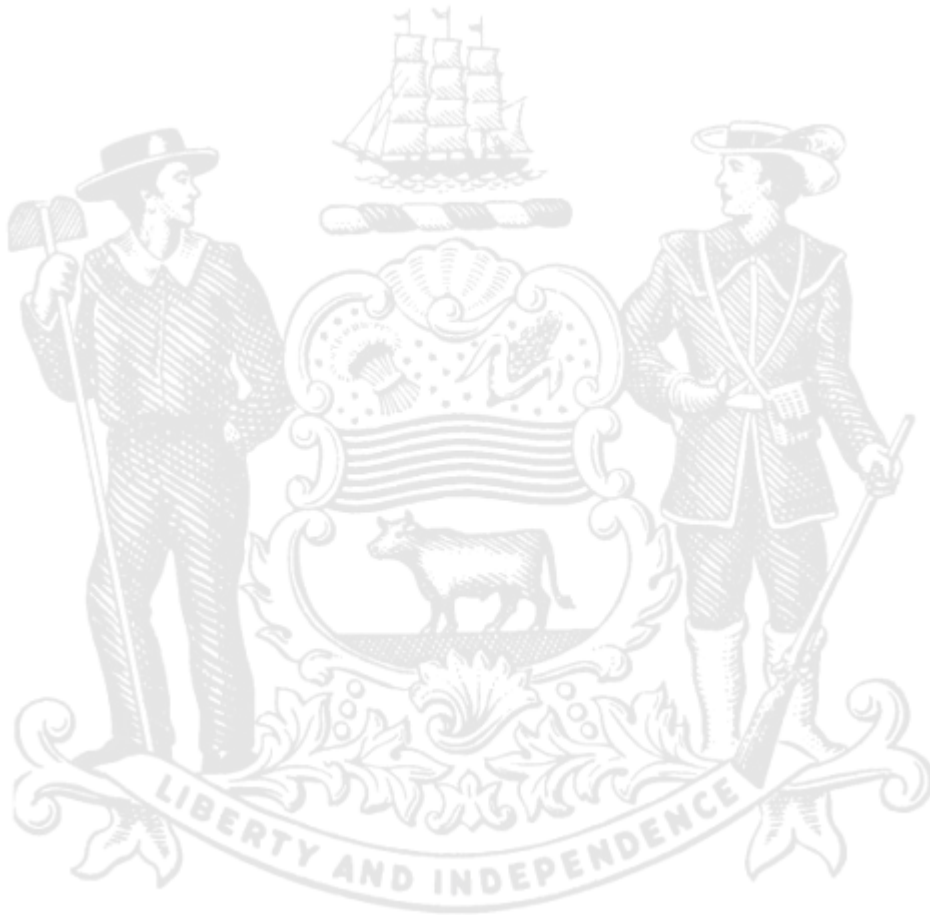
If the Defendant Below answers the Complaint, the case may be scheduled for a pre-trial conference. At the conference, the parties will meet with a judicial officer in an attempt to narrow the issues, determine the number of witnesses to be called, the length of the trial, and to discuss the possibility of settlement.

If a pre-trial conference is scheduled, you will receive notice by mail along with a pre-trial worksheet, which must be completed by both parties and returned to the Court at least three (3) days before the scheduled conference.



SAMPLE FORMS

- Notice of Appeal
- Praecipe
- Summons on Appeal
- Complaint



Sample Notice of Appeal of a Justice of the Peace Court Civil Case. This is to be used by the Plaintiff Below in the Justice of the Peace Court (now the Appellant in the Court of Common Pleas)

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (Kent, New Castle, Sussex) COUNTY

PLAINTIFF(S) BELOW,)
APPELLANT(S),)

v.)

) Civil Action No: _____

) (This number is to be assigned by
) by the clerk)

DEFENDANT(S) BELOW,)
APPELLEE(S),)

NOTICE OF APPEAL

COMES NOW, _____, and

hereby gives notice pursuant to 10 Del.C. § 9571, of an appeal of the decision of

Justice of the Peace Court No. _____, by The Honorable _____

_____, Civil Action No. _____,

dated: _____.

Print Name: _____

Signature: _____

Address : _____

Daytime Telephone: _____

Date: _____

Sample Praecipe for a Justice of the Peace Court Civil Case. This is to be used by the **Plaintiff Below** in the Justice of the Peace Court (now the Appellant in the Court of Common Pleas)

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (Kent, New Castle, Sussex) COUNTY

PLAINTIFF(S) BELOW,)
APPELLANT(S),)

v.)

DEFENDANT(S) BELOW,)
APPELLEE(S),)

Civil Action No: _____

(This number is to be assigned by the clerk)

PRAECIPE

Please issue Summons to the Sheriff of (*Kent, New Castle, Sussex*) County for Service on Defendant(s) Below/Appellee(s) at the following address(es):

Print Name: _____

Signature: _____

Address : _____

Daytime Telephone: _____

Date: _____

Sample Summons on Appeal of a Justice of the Peace Court Civil Case. This is the first pleading to be used by the **Plaintiff Below** in the Justice of the Peace Court (now the Appellant in the Court of Common Pleas)

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (*Kent, New Castle, Sussex*) COUNTY

PLAINTIFF(S) BELOW,
APPELLANT(S),

v.

DEFENDANT(S) BELOW,
APPELLEE(S),

SUMMONS ON APPEAL

TO THE STATE OF DELAWARE,

TO THE SHERIFF OF (*Kent, New Castle, Sussex*) COUNTY:

YOU ARE COMMANDED:

To summon the above-named Appellee so that, within twenty (20) days after service upon Appellee, exclusive of the day of service, Appellee shall serve a copy of the Answer upon Appellant whose address is: _____

TO THE ABOVE-NAMED APPELLEE:

The original of your Answer must be filed with the Clerk's Office of the Court of Common Pleas, (*address of the Court **MUST** be inserted here*)

If you fail to serve a copy of your Answer the Appellant named above within twenty (20) days after service upon you, exclusive of the day of service, a judgment may be entered by the Court.

Date

Clerk of Court

Below is an Example of what a **Complaint** may look like. Do not copy it exactly because there are things included such as names of parties, case number and the claims themselves that will be different for your case.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (Kent, New Castle, Sussex) COUNTY

JOHN DOE,)
)
Plaintiff(s) Below,)
Appellant(s),)
) Civil Action No. 1999-01-123
v.)
)
MARY ROE,)
)
Defendant(s) Below,)
Appellee(s).)

COMPLAINT

1. Plaintiff is a citizen of the State of Delaware.
2. Defendant is a citizen of the State of Delaware residing at 79 Whistful Vista, Anytown.
3. On or about January 2, 20XX, Defendant borrowed from Plaintiff the sum of \$5,000.00 promising to repay that amount within 120 days with interest at the rate of 10 percent.
4. Defendant did not repay the loan.
5. Plaintiff, therefore, asks the Court to award the Plaintiff that amount accrued with interest.

JOHN DOE (Plaintiff)
1234 Main Street
Anytown, Delaware
(302) 961-1515

Date: _____

Court Locations and Hours

New Castle County Courthouse

500 N. King Street, Suite 1610
Wilmington, DE 19801-3704
Telephone (302) 255-2501
Hours of Operation:
8:30 a.m. to 4:30 p.m.

Kent County Courthouse

414 Federal Street
Dover, DE 19901
Telephone (302) 735-3900
Civil Matters & Name Change Petitions – Press 3
Hours of Operation:
8:00 a.m. to 4:30 p.m.

Sussex County Courthouse

Race & Market Streets
1 The Circle, Suite 1
Georgetown, DE 19947
Telephone (302) 858-5730
Hours of Operation:
8:30 a.m. to 4:30 p.m.

