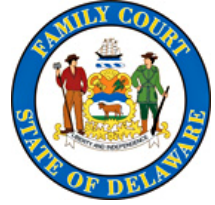




Preparing For Your Court Hearing

The Family Court of the State of Delaware
<http://courts.delaware.gov/family>

THE FAMILY COURT RESOURCE CENTER



The Family Court Resource Center is where you will find resources to guide you through the judicial system at the Family Court of the State of Delaware.

Resources include:

- Resource Center Information Desk
- Personable Staff
- Court forms and easy-to-read instructions
- Informational materials, including videos, about Family Court, its procedures, its jurisdiction and the judicial system
- Reference materials that address the emotional aspects of your case
- Directories of lawyers and brochures of other professionals
- Reading table and individual computer workstations
- Computers with word processing functions and a printer for you to complete court forms and other court documents
- Family Court website
- Internet access and research tools
- Photocopier
- Facsimile machine
- Notary services for court forms

Take advantage of the Family Court Resource Center to better prepare for your case.

COURT HEARING PROCEDURE OVERVIEW

TABLE OF CONTENTS

CHAPTER	PAGE
CHAPTER 1-COURT HEARING QUICK REFERENCE GUIDELINES....	
Introduction.....	1
Practice.....	2
Organize.....	4
Tips and Reminders for Your Hearing Day.....	5
CHAPTER 2- GENERAL INFORMATION.....	
What Happens Before a Court Hearing?.....	8
What Happens at a Court Hearing?	8
CHAPTER 3- OPENING STATEMENTS	
What is an Opening Statement?	11
Who Makes the First Opening Statement?	12
Do I Have to Make an Opening Statement?	12
CHAPTER 4-TELLING YOUR SIDE OF THE STORY.....	
When May I Talk at a Hearing and How Do I Tell My Side of the Story?..	
A. Before Anyone May Tell the Court Information	
He/She Must Swear to Tell the Truth	15
B. What if I Do Not Remember Something While I am Telling	
the Judicial Officer My Side of the Story?	16
C. Will the Judicial Officer Listen to Everything I Want to Say	
or Look at Everything I Want to Show?	16
D. How Do I Go About Showing the Court Something	
Such as a Paper?	17
E. When I Finish Telling My Side of the Story, May I Go	
Back to My Seat?	19
F. May I Have Other People Tell Things to the Court?	20
G. If I Want the Court to Look at a Paper or a Photograph,	
How Many Copies of the Paper or How Many Original	
Photographs Must I Bring to the Hearing?	22
H. What Happens When I am Finished Asking the Person	
Questions?	22
I. What Do I Do if I Want More Than One Person to Talk	
To the Court?	23
J. What Do I Do after I Have Had Everyone Speak that I	
Want to Speak at the Hearing?	24
CHAPTER 5-THE OTHER PARTY'S CASE.....	
What Do I Do When the Other Side or a Different Party Gets to Tell	

His/Her Side of the Story?	26
What Do I Do if I Do Not Agree with What the Other Side is Saying?	26
What Happens if the Other Side or Another Party Has Other People to Help Prove His/Her Case?	27
CHAPTER 6- CLOSING ARGUMENTS	
What is a Closing Argument?	29
CHAPTER 7- THE COURT'S DECISION	
The Court's Decision	32
CHAPTER 8- FLOWCHARTS	
Court Procedure Flowchart	34
Telling Your Side of the Story	35
Other People Giving Information to the Court (Witness testimony)	36
CHAPTER 9- GLOSSARY OF LEGAL TERMS	38



Chapter 1

Court Hearing Quick Reference Guidelines

YOUR COURT HEARING

Part 1: INTRODUCTION

Make sure to read **ALL** Answers to Frequently Asked Questions and instruction books on the subject of your Hearing, as well as any other materials **BEFORE** the day of your Court Hearing.

WHAT IS A COURT HEARING?

A Court Hearing is the same as a trial. It is your chance to tell the Court your side of the story. After the Court Hearing, a Judicial Officer will make important decisions affecting your life.

MUST I READ ALL OF THE INFORMATIONAL MATERIALS ON COURT HEARINGS BEFORE MY COURT HEARING?

Absolutely. Because your Court Hearing is so important, the Family Court of the State of Delaware has developed this packet to help you learn what the Court will expect of you at the Court Hearing and to help you prepare.

Please make sure to read **ALL** the informational materials on Court Hearings and on the subject of your Court Hearing, as well as any other related materials **BEFORE** the day of your Court Hearing.

WHAT HAPPENS AT A COURT HEARING?

A certain procedure must be followed during a Court Hearing. It is important that you are familiar with this procedure so that you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story. This packet explains generally what the Court Hearing procedure is and should answer any questions you have.

YOUR COURT HEARING

Part 2: PRACTICE

Make sure to read **ALL** Answers to Frequently Asked Questions on the subject of your Hearing **BEFORE** the day of your Court Hearing.

ARE YOU READY FOR YOUR COURT HEARING?

At the Hearing, you must be clear about what you want the Court to do. Think about the way you want to tell your side of the story. Everything about you, including the way you dress, the way you act, and the way you explain things, may affect the decision of the Judge, the Commissioner (the “Judicial Officer”). **Therefore, make sure you are fully prepared and ready to tell your side of the story at the Hearing. How do you do that? PRACTICE.**

HOW DO I PREPARE FOR MY COURT HEARING?

First, think about the reason for the Hearing, which is written on your notice for the Hearing. Make sure to understand what information the Judicial Officer is looking for in order to make his or her decision. Look in the Instruction Packet and any Answers to Frequently Asked Questions about the subject of your Hearing to find out what information the Judicial Officer needs to know. Also, look in the Delaware Code to read what the law is, and, if possible, meet with an attorney to discuss how the law applies to your situation.

Based on the information the Judicial Officer must learn from you, write down **why** the Court should give you what you want **and** not give the other person what he/she wants. Stick to the basic facts and keep things as simple as possible.

SHOULD I HAVE OTHER PEOPLE TALK OR BRING THINGS TO THE HEARING?

You must bring anything that your Notice says to bring. However, as to whether you should bring anything else or have someone else talk, it depends on the situation. Do you want the Court to know what other people have seen, heard, or said? If so, you should have these people at the Hearing. Do you want to talk about something that someone else wrote? If so, you should have the person who wrote the paper **AND** the paper at the Hearing (you may refer to the Delaware Uniform Rules of Evidence for more information).

For example, if you want to show the Court that your child is doing better in school since the child started living with you, you should bring to Court the child's report cards to show the Court how the child was doing in school before living with you and since living with you. If you want to talk about a letter your child's doctor wrote about your child's medical or emotional health, then you must have the doctor's letter **AND** the doctor at the Hearing. If you want to use evidence written by someone else, that person must come to Court, unless the other side does not object. Remember, it is not always enough just to tell the Court something, you must **prove** to the Court that what you are saying is true.

WHO SHOULD I HAVE GO TO THE HEARING?

When it comes to deciding who you want to speak at the Hearing, think about what you want that person to tell the Court. You do not want, for example, 2 people to tell the Court the same thing. Instead, pick the person who has the most to tell. If you want different people to talk about different things, then you might want all of them to come in. Write down (**for your use ONLY**) what you want the people to talk about to make sure that at the Hearing, you ask them to talk about everything you want them to cover. You may **NOT** tell those people what to say, but you **MAY** tell them what issues they should address.

Remember, you will need to tell and show the Court at the Hearing **EVERYTHING** you want the Judicial Officer to know before the Judicial Officer makes his/her decision. Even if something already is in the file, bring it up again at the Hearing. Even if you told the Judicial Officer something at another

Hearing, if you want the Judicial Officer to consider something in making his/her decision at **this** Hearing, you must bring it up again. If you do not bring up something at the Hearing, you might not have another chance to tell the Court.

Make sure that what you or someone else tells or shows the Court helps you prove your point and relates to what the Judicial Officer must know.

WILL THE JUDICIAL OFFICER LISTEN TO EVERYTHING I WANT TO SAY OR LOOK AT EVERYTHING I WANT TO SHOW?

Not necessarily. The Court must follow what are called the **Rules of Evidence**. The **Rules of Evidence** may stop you or someone else from being able to tell or show the Court something. If you are worried about whether the **Rules of Evidence** may stop you from being able to fully tell the Court your side of the story, you should consider hiring an attorney or review the rules of evidence when preparing.

AM I DONE PREPARING ONCE I KNOW WHAT I WANT TO TELL AND SHOW THE COURT?

No. You must **organize**. In what order do you want to tell your story to the Judicial Officer? In what order will you want to say things, have other people say things, or show things to the Court? Keep practicing to make sure you do not forget something and to make sure that at the Hearing, you tell your story in the order you want.

WHAT CAN I DO TO MAKE SURE SOMEONE GOES TO THE HEARING AND/OR BRINGS A PAPER OR THING THAT I WANT HIM/HER TO BRING?

You should always have a **Subpoena** served if you want someone to appear and/or bring something to Court. If you do not have the Court issue a **Subpoena** and that person does not show up at the Hearing, the Hearing will go on without that person and you will be unable to appeal the Court's decision to have the Hearing without the person present. In the subpoena, you may also ask that the person bring documents or other evidence with them. Please read the **FAQ** on **Subpoenas** to find out what it is and how to get one.

YOUR COURT HEARING

Part 3: ORGANIZE

IT IS IMPORTANT THAT YOU KEEP A FILE WITH COPIES OF ALL COURT DOCUMENTS. Make sure to read **ALL** Answers to Frequently Asked Questions on the subject of your Hearing **BEFORE** the day of your Court Hearing.

What Do I Take To The Hearing?

Make sure you take the following to the Hearing:

- The **Court Notice** that states the Hearing Officer's name and the date and time of your Hearing. If you cannot find your Court Notice, make sure you know the name of the Hearing Officer when you enter the courthouse. If you do not know this information, you should contact the Court prior to the date of your hearing.
- Your notes that you used to practice to make sure that you tell and show the Court everything you want the Court to know and that you ask people all the questions you want to ask. (You should not look at your notes when you tell your side of the story. If you must look at your notes to refresh your memory, you may be required to show your notes to the other side before you may look at them. You may look at your notes when you ask other people questions)
- Everything you want the Court to look at. If you are not sure whether you want to bring something, bring it just in case.
- If you want the Court to look at a paper, bring **4 copies** (1 original and 3 copies). You must give the Court the original paper, give one copy to the other side, keep one copy for yourself and have the third copy available should you decide to use it when questioning a witness. To know when you should give out these papers, read chapter 4.
- All of your Court papers from this case and put them in a folder with the most recent papers on top.
- A pen and paper so that you can take notes.

What Else Should I Do BEFORE My Hearing Day?

- Double check the day and time your Hearing is scheduled.
- As your Hearing day approaches, contact the people you want to come to the Hearing to remind them to be there and/or to bring with them whatever you want them to bring.
- Get a babysitter for your children, if you have any, on your Hearing Day. The courthouse is not a place for children nor is it good for your children to hear their parents talking about adult matters, or negative things about their family.
- Dress nicely for the Hearing. **Make sure what you wear is clean.** Women should wear a dress or a blouse with dress pants or a skirt. Men should wear nice pants, a shirt, and a tie, if you have one. You are trying to make a good impression; do not wear casual clothes such as shorts, halters, miniskirts or jeans.
- Make sure you know how to get to Family Court and where to park. (Allow extra time to find a parking spot when parking in Wilmington.)

YOUR COURT HEARING

Part 4: TIPS AND REMINDERS FOR YOUR HEARING DAY

GOING TO THE FAMILY COURT OF THE STATE OF DELAWARE

- Remember to **dress in the most professional manner that you can.**
- **Arrive at least 15 minutes before the Hearing AND allow even more time to find parking. In Wilmington, arrive even earlier** because the courthouse is large and it may take additional time for you to report to the appropriate location. **You may be required to check in at two different places:** 1) the receptionist or clerk of court desk when you first enter the building to find out where in the courthouse you need to go; and 2) the reception desk on the floor where your Hearing will be held. Each check-in takes time and there may be a line. After the 2nd check in, someone will call you when the Court is ready to begin your Hearing.
- Electronic devices, including cell phones, are **NOT** permitted in the Courthouse.
- **Do NOT bring any weapons.** This includes pocketknives, scissors, chains on a wallet, nail files, glass containers, etc. Capital police has the right to prevent you from bringing anything they deem a security risk into the courthouse.
- Bring something to do while you wait for your Hearing to begin.

AT THE COURT HEARING

- **Do NOT wear a hat** unless you must wear one for religious or medical reasons.
- **Do NOT eat or chew gum** in the courtroom. (You might want to eat something before you go to the courthouse so that you do not get hungry during the Hearing.)
- **Do NOT bring anything to drink into the courtroom.** If you must have something to drink in the courtroom, you may ask the Judicial Assistant (“J.A.”) for some water.
- **ALWAYS call** the Judge or Commissioner (Judicial Officer) **“Your Honor.”**
- **ALWAYS stand** when you talk to the Judicial Officer unless you are told you may sit.
- **Act respectfully, reasonably, courteously, and politely** to everyone in the courthouse.
- **Keep calm.** Do not lose your temper. Control your emotions and stay focused.
- **Do NOT** talk in a Hearing unless it is your turn to speak. If it is not your turn to speak, sit quietly in the courtroom. If you disagree with what someone says, write it down. This way, you will remember to ask him/her about his/her statement when it is your turn to speak.
- **Do NOT** have side discussions or argue with the other side at any time during the Hearing. This includes making comments under your breath about what someone, including the Judicial Officer, has said. **Talk directly only to the Court** unless you are answering questions or asking a witness questions.
- When it is your turn to speak, **speak up** so everyone in the courtroom can hear you.
- **Say “Yes” and “No.”** Do **NOT** nod your head to answer yes or no. The Hearing is being recorded, and a recording cannot tell what your answer is if you nod your head.

- **Do NOT argue** with the Judge, Commissioner or Mediator.
- When being asked a question, **listen carefully**. If you are not sure what is being asked, ask to have the question repeated or asked a different way.
- **ALWAYS** tell the truth. Be honest even if you do not want to admit the truth.
- If you are told at the end of the Hearing, that the Court will give you a paper such as an **Order**, a letter, or a **Notice**, make sure you understand what the paper is and what it will say **BEFORE** the Judicial Officer leaves the courtroom.



Chapter 2

General Information

COURT HEARING PROCEDURE

Make sure to read **ALL** Answers to Frequently Asked Questions and Instruction Packets on the subject of your Hearing and any other related materials **BEFORE** the day of your Court Hearing.

WHAT HAPPENS BEFORE THE COURT HEARING?

Prior to the Court Hearing, you will receive a notice which contains the date and time of the hearing. It is suggested that you arrive at the courthouse at least 15 minutes prior to your scheduled hearing time. You should allow plenty of time for parking and to pass through security. Cellular phones or electronic devices are not permitted in some courthouses. It is recommended that you leave these devices in your car or in the lockers in the parking garage.

After passing through security, check in at the information or reception desk, where you will be directed to the waiting area outside of the courtroom.

WHAT HAPPENS AT A COURT HEARING?

You will be called into the courtroom by the judicial assistant and told where to sit. This time is a good opportunity to arrange your papers and documents prior to the start of the hearing. You will be told to “rise” (stand up) when the Judge or Commissioner (“Judicial Officer”) enters the courtroom. The Judicial Officer will tell you when you may sit down.

A certain procedure must be followed during a Court Hearing. It is important that you are familiar with this procedure so that you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story. A basic outline of the procedure is as follows: 1) Opening Statements; 2) the person who asked for the Hearing will tell his/her story; 3) the other person(s) will

tell his/her story; and 4) Closing Arguments. Each of these steps is described in this packet.

There are flowcharts in chapter 8 of this packet which outline the Court Hearing Procedure.

To make this packet easier to understand, it will refer to a case as having only 2 parties – you and the other side. (The term “party” refers to a litigant or person involved, named, in a court case.) However, if at any point, the Court Hearing Procedure differs when more than 2 parties are involved, this packet will explain how it differs.



Chapter 3

Opening Statements

WHAT IS AN OPENING STATEMENT?

After you sit down, the Judicial Officer may (but does not have to) ask if any of the parties want to make an “Opening Statement.” An Opening Statement is how you tell the Court a summary of what the Court is about to hear. For example, if you saw a good movie and you wanted to tell a friend to see it, you would tell your friend basically what the movie is about **in just a few sentences** to get your friend to want to see the movie. You would not want to go into detail because otherwise you would ruin the movie for your friend.

An Opening Statement works the same way. In **just a few sentences**, you would tell the Judicial Officer basically what you plan to prove to the Court and what you want the Court to do (the “bottom line” of your story, what your story is about) and you would let the Judicial Officer know if you are going to have other people come in to talk to the Court to help you prove your case.

KEEP YOUR OPENING STATEMENT SHORT AND SIMPLE. Do not go into much detail. And make sure you stand when making your Opening Statement.

The following is an example of what an Opening Statement might sound like in a custody case.

Your Honor, today I am going to prove to the Court that it is in my child’s best interests to give me custody of my child. I will tell you about my child and my living situation, our relationship, and why it is best to have my child live mostly with me. I have one of my child’s teachers here who will tell you how much better my child is doing in school since my child started living with me. I also have my sister and mother here to talk about the relationship my child has with them and my other relatives who live close by. By the end

of the Hearing, I believe you should decide that I should have custody of my child. Thank you, your Honor.

Notice that in the above example, the Opening Statement does not say *why* it is in the child's best interests that you be granted custody or give any information about living situations and relationships. It merely states the "bottom line" without information explaining why.

When you are finished with your Opening Statement, sit down.

WHO MAKES THE FIRST OPENING STATEMENT?

If both sides want to make an Opening Statement, then the person who filed the Petition (the "Petitioner") or Motion (the "Movant") that caused the Hearing to be scheduled will give his/her Opening Statement first. When that person is finished and sits down, the other person (the "Respondent") may stand and ask the Court if he/she may now give his/her Opening Statement. When the Judicial Officer says it is okay, the other person may give his/her Opening Statement.

If there are more than 2 parties in the case such as cases having more than one Respondent, or cases involving a Guardian *ad Litem*, the person who filed the Petition (the "Petitioner") or Motion (the "Movant") that caused the Hearing to be scheduled still will give his/her Opening Statement first. Then the Judicial Officer will decide which person (party) may make his/her Opening Statement next. This order of who goes first will continue throughout the Hearing.

DO I HAVE TO MAKE AN OPENING STATEMENT?

No. You do not have to make an Opening Statement if you do not want to. As previously stated, sometimes, the Judicial Officer may decide that

Opening Statements are not necessary and, therefore, will not ask if any party would like to make one. There are times the Judicial Officer may ask you questions instead of having you make an Opening Statement. Just in case, **be prepared at the beginning of the Hearing to tell the Judicial Officer what you want the Court to do and what decision you want the Court to make.**

If neither side wants to make an Opening Statement, if the Judicial Officer decides not to hear Opening Statements, or if the Judicial Officer does not ask questions, then the Judicial Officer will begin listening to the case.



Chapter 4

Telling Your Side of the Story

WHEN MAY I TALK AT A HEARING AND HOW DO I TELL MY SIDE OF THE STORY?

After the Opening Statements, if any, the person who filed the Petition (the “Petitioner”) or Motion (the “Movant”) that caused the Hearing to be scheduled will be able to tell the Judicial Officer his/her side of the story first.

If you would like to talk to the Judicial Officer to tell your side of the story (“testify”), ask the Court if you may “testify.” Simply ask, “Your Honor, may I begin my case by testifying?” When the Judicial Officer is ready, the Judicial Assistant will show you where you must sit when you tell your side of the story, at the “witness stand.”

You should **NOT** take your notes with you when you go to the “witness stand.” This is a reason why you should practice **BEFORE** your Court Hearing. Make sure you remember everything you want to tell the Judicial Officer and in what order you want to tell it.

A. Before Anyone May Tell The Court Information He/She Must Swear To Tell The Truth

Before you sit down, you must be “sworn in.” **Anyone who provides information (talks) to the Court during the Hearing must be “sworn in” before he/she can say anything.** Being “sworn in” means swearing “to tell the truth, the whole truth, and nothing but the truth.” Usually you would put your right hand on the Bible as you swear to tell the truth “so help you God.” If you prefer, you may ask the Court if you may “affirm,” in which case you would promise to tell the truth but neither the Bible nor any references to God will be used.

After you are “sworn in,” you may sit down and begin telling your side of the story. Remember to say **everything** you want to say. If you want to show

the Court any papers or other things that have to do with what you are talking about, show them at this time. However, before you show the Court anything, you must ask permission first. “Your Honor, may I show you this . . . [state what it is that you want to show the Court]?”

B. What If I Do Not Remember Something While I Am Telling The Judicial Officer My Side Of The Story?

If, for whatever reason, while you are telling the Judicial Officer your side of the “story” you truly cannot remember something and you need to look at your notes, you must ask the Judicial Officer for permission to look at your notes to “refresh your memory.” It is up to the Judicial Officer to decide if you should be allowed to look at your notes.

If you are allowed to look at your notes, you **FIRST** must show the other side the notes at which you are going to read **BEFORE** you may read them yourself. If there are more than 2 parties in the case, you first must show your notes to **EACH** of the other parties before you may read them. And at this point when you do read your notes, you must read them silently to yourself. You do NOT read your notes out loud to the Court. Because you do show these notes to the other side, before you go to the Hearing, make sure there is nothing in your notes that you do not want the other side(s) to see. If you are not allowed to look at your notes, do **NOT** argue with the Judicial Officer. Remain calm and continue telling your story to the best of your ability.

C. Will The Judicial Officer Listen To Everything I Want To Say Or Look At Everything I Want To Show?

No, not necessarily. The Court must follow what are called the **Rules of Evidence**. The purpose of the Rules of Evidence is to make sure that things that people say to the Court are true or things that people show the Court are actually

what they are supposed to be (i.e. a letter actually is written by the person who signed the paper as opposed to being forged.) The Rules of Evidence and the Court Hearing Procedure also are structured so that if someone wants to talk about what someone else has said, or what someone else, for example, has written, each party in a case will have the chance to ask questions about the things that are said or written to the person who said or wrote those things.

The Rules of Evidence are complicated and may stop you or someone else from being able to tell or show the Court something. If you are worried about whether the Rules of Evidence may stop you from being able to fully tell the Court your side of the story, you may hire an attorney to represent you at the Hearing or review the Rules of Evidence yourself prior to your hearing.

Although there may be exceptions, if you are going to talk about what someone else has seen, heard or said, you should have that person at the Hearing to talk about what he/she had seen, heard or said. If you are going to talk about what someone else has written, drawn, made, or photographed, you should have that person at the Hearing to talk about what he/she has written, drawn, made, or photographed. You also should have the paper, picture, thing or photograph that was written, drawn, made, or taken.

There is a chance that even if you bring these people, there may be a Rule of Evidence that will stop that person from being able to talk about something or show the Court something.

D. How Do I Go About Showing The Court Something Such As A Paper?

Assuming the Judicial Officer permits, whenever you want to give the Judicial Officer something, you must give it to the Judicial Assistant (“J.A.”). The

J.A. will give it to the Judicial Officer. However, before you give anything to the J.A., you first must follow the procedure below.

If you want to talk about a paper and/or to show that paper to the Court, bring the original of the paper and 3 copies (assuming you and the other side are the only parties in the case). **For every additional party** (i.e. if there is more than one Respondent or a Guardian *ad Litem*), **you must bring an additional copy**. Before you may give the paper to the J.A., you **FIRST** must show the original and one copy of the paper to each party in the case to allow each party to read the paper and to make sure that the copy is a true copy of the original. **Each party may keep a copy**.

After each party is finished looking at the original paper, you must give the original paper to the J.A. (the Judicial Assistant). The J.A. will give the original paper to the Judicial Officer. You should keep a copy of the paper too, so you can look at it while you talk about it.

Likewise, if it is a photograph that you are showing, you should have with you 4 originals of the photographs (assuming you and the other side are the only parties in the case). **For every additional party** (i.e. if there is more than one Respondent or a Guardian *ad Litem*), **you must bring an additional photograph**. Before you show the Court the photograph, show each party the original photographs to allow each party to make sure the photographs are identical. Then let each party keep one of the photographs and give one photograph to the J.A. You, too, should keep one photograph so you can look at it while you talk about it.

When the other side (or any other party) wants to show the Court something, the other side must let you see it first as well.

E. When I Finish Telling My Side Of The Story, May I Go Back To My Seat?

No. When you are finished telling your side of the story, the other side may ask you questions (“cross examine”) about things you have said or things you have shown the Court. If there is more than one party to the case, each party will have a turn to ask you questions. The Judge will determine the order of who may ask questions first and it generally is the same order followed when Opening Statements were made, if any.

If a party asks you something with which you do not agree, you must calmly explain why you do not agree. Do **NOT** argue with the person asking you questions. Although emotions may run high, you must remain calm, polite and courteous. Remember, your answers are providing information to the Court. It is not an opportunity to have arguments with someone in the case.

Only when each party is done asking you questions, if there is something that the one of the parties asked that you believe needs a further explanation, you may ask the Court if you may explain the answers you gave to that person/party. **ONLY IF** the Judicial Officer permits (which he/she does not have to do) may you explain your answers. **This is NOT the time to talk about anything new. Your chance to talk about anything you want the Court to know was during the first time you spoke, BEFORE each party was able to ask you questions.** (This is another reason why you should practice and be prepared before going to your Hearing.)

After you are finished explaining your answers, the Judicial Officer may (but does not have to) allow each party to “re-cross” which means to ask you questions **ONLY** about your explanations. If after “re-cross” **OR** if you were not allowed to say anything more, you may go back to where you originally were sitting when you first entered the courtroom.

There is a flowchart on page 17 that outlines the process of you telling your side of the story to the Court.

F. May I Have Other People Tell Things To The Court?

Yes, unless the Rules of Evidence does not permit it. If you have other people at the Hearing that you want to talk to the Court, ask the Judicial Officer if one of those people may now answer questions. “Your Honor, I would like to ask [state the person’s name] to now testify.” If the Judicial Officer allows that person to testify, the Judicial Officer will ask the J.A. to bring that person to the witness stand to be “sworn in” and to answer questions (“testify”). **This person only may answer questions.** They may not speak freely as you were allowed to do. Therefore, make sure you ask that person questions having answers that explain to the Court the information you want that person to provide.

Every Hearing is a different Hearing. Even if that person talked to the Court at a different Hearing, you should assume that the Court does not know anything about this person or what that person has to say. It is a good idea to have that person begin by answering questions about who he/she is, how that person knows the people in this case, and the reason why he/she is there.

If you want that person to talk about something that that person wrote, you must follow the following procedure:

- **FIRST, you MUST** ask the Court if you may show the person the paper you want the person to talk about. For example, “Your Honor, I would like to show and have [say the person’s name] talk about this paper. May I give this paper to [say the person’s name]?” If the Court **DOES NOT** let you show the paper to the person, then you may not

talk about the paper. However, if the Court **DOES** let you show the person the paper, go to the next step.

- **BEFORE** you show the person the paper, you must **FIRST** give a copy of the paper to each party in the case. This way, each party can see what the person is talking about.
- After you give a copy to each party, you may give the **original** to the person. It is a good idea for you to keep a copy for yourself when you give the original to that person so you can see what the person is talking about too.
- When you give the paper to the person, ask the person to state what the paper is. For example, if it is a letter that the person wrote, you should ask the following questions. **Ask the questions one at a time and wait for the person to answer the question before you ask the next question.** “I am showing you a paper. Do you recognize what it is? What is it? Is that your handwriting? Is that your signature at the bottom of the letter? etc.”
- After the person tells the Court what the paper is and that the person is the one who wrote it, you may begin asking questions about what the person wrote. Ask questions having answers that explain to the Court what you want the Court to know.
- When you are finished having the person talk about the paper, ask if you can “admit the paper into evidence.” By admitting something into evidence, you are asking the Court to look at the paper and to consider it when the Judicial Officer makes his/her decision.

- **If the Judicial Officer allows you to “admit the paper into evidence,” you must give the original to the J.A.** who will give the paper to the Judicial Officer. If the Judicial Officer does **NOT** allow you to “admit the paper” the Court will probably have you keep the original. The Court may **NOT** consider a paper in deciding a case unless it is admitted into evidence. And you **ONLY** may admit something into evidence after following this procedure.

G. If I Want The Court To Look At A Paper Or A Photograph, How Many Copies Of The Paper Or How Many Original Photographs Must I Bring To The Hearing?

As stated above, you give 1 copy of the paper or photograph to **EACH** party in the case and you keep 1 copy of the paper or photograph for yourself. You give the Court the original paper and photograph. And you should bring one additional copy just in case. For example, if it is just you and the other side in the case, you should bring the original paper and 3 copies or 4 original photographs.

Why might you need an extra copy later? Once you give the original to the Judicial Officer, you will not get the original back. Therefore, if you would like someone else to talk about the original, you will need an additional copy (if it is a paper) or additional photograph to give to that new person.

H. What Happens When I Am Finished Asking The Person Questions?

When you are finished asking that person questions, each party will have a chance to ask that person questions based on what that person told the Court. The order of who asks questions first will be the same order followed when the other parties asked you questions.

When each party is finished asking questions, if you think some of the person's answers to a party's questions should be explained, you may ask the Court if you may ask that person more questions about what that party asked ("re-direct examination"). It is up to the Judicial Officer to decide whether you may ask more questions.

If you are allowed to ask the person more questions, each party may ask if he/she may ask the person more questions ("re-cross examination"). Similarly, it is up to the Judicial Officer to decide whether to allow a party to have a second chance at asking the person questions. This second chance, if permitted, **ONLY** may be about answers the person gave to you during your second round of asking questions.

Once the person is finished answering questions, the Judicial Officer will tell the person if that person may go home, may sit in the back of the courtroom, or must wait outside the courtroom. There is a flowchart in chapter 8 that outlines this process of having other people at the Hearing to answer questions.

I. What Do I Do If I Want More Than One Person To Talk To The Court?

If you have someone else you would like to speak at the Hearing, you will begin the process over again of having other people answer questions. You must ask the Judicial Officer if you may now ask a different person to "testify." (See above Sections "E. *When I Finish Telling My Side of the Story, May I Go Back to My Seat?*" and "F. *May I Have Other People Tell Things to the Court?*")

J. *What Do I Do After I Have Had Everyone Speak That I Want To Speak At The Hearing?*

When you do not have anyone else to talk to the Court and you have finished telling the Court everything you wanted the Court to know about your side of the story, then you must tell the Judicial Officer that you are finished by saying “Your Honor, I rest my case.”

Be careful that you did not forget to tell the Court something before you say “I rest my case.” Otherwise, it may be too late for you to tell the Court new or more information



Chapter 5

The Other Party's Case

WHAT DO I DO WHEN THE OTHER SIDE OR A DIFFERENT PARTY GETS TO TELL HIS/HER SIDE OF THE STORY?

When the first person to tell his/her story “rests his/her case” the other side may begin telling his/her side of the story. If there is more than one party in the case, the party who tells his/her side of the story next is the party who was first to ask you questions when you told your side of the story.

The same above rules apply to when that party gets to tell the Court his/her side of the story. If that party wants to speak directly to the Court, he/she will be “sworn in” before he/she can begin telling his/her side of the story.

WHAT DO I DO IF I DO NOT AGREE WITH WHAT THE OTHER SIDE IS SAYING?

Have your pen and paper ready! Just as the other side or other parties were not allowed to talk while you were talking, you are not allowed to talk or interrupt when another party is talking. If the other party says something with which you do not agree, **write it down.**

Generally, only when the other party is finished talking, are you allowed to ask that person questions. If there is more than one Respondent or a Guardian *ad Litem* in the case, the Judicial Officer will decide the order of who gets to ask questions first. When it is your turn to ask questions, the best thing to do is to look at all of the things you wrote down. Think about the reason you are at the Hearing and what information the Judicial Officer is looking for. Then decide whether or not if you asked the person questions about his/her statements, it would help you prove your case. If not, do not ask the question. If yes, then ask the person a question about the statement.

Keep in mind, you must ask questions. You may not simply tell the Court that you do not agree with what the person said. For example, assume the issue is how much money each side makes. The other side said that he/she works at a restaurant and only makes \$3.50 per hour. You want to prove that he/she makes more than \$3.50 per hour. You must wait until it is your turn to ask questions before you can ask about how much the other person says he/she makes.

When it is your turn to ask questions, you may **NOT** say, “You do not just make \$3.50 per hour. That is not true.” However, you may ask questions about how much that person makes to prove that person earns more. For instance: “Isn’t it true that even though your hourly wage is \$3.50 per hour, you also earn tips? How long are your shifts at work? On average, how many tables do you wait on per shift? On average, how many people sit at a table per shift? What is the average bill per shift?” **Of course, you MUST ask one question at a time AND you must wait for the person to answer your question before you can ask the next question.**

WHAT HAPPENS IF THE OTHER SIDE OR ANOTHER PARTY HAS OTHER PEOPLE TO HELP PROVE HIS/HER CASE?

Again, the same rules apply to the other side (or other party) that apply to you. The other side may ask questions of the people that he/she wanted to have at the Hearing. Only when the other side is done asking that person questions may you ask that person questions. However, your questions **ONLY** may be about the answers the person gave earlier. You may not ask about different topics. **If you had wanted this person to talk about something other than what the other side asked, you should have asked that person to answer your questions when you were telling the Court your side of the story, BEFORE you rested your case.**



Chapter 6

Closing Arguments

WHAT IS A CLOSING ARGUMENT?

When both sides (or each of the parties) are done telling their sides of the story, the Judicial Officer may (but does not have to) ask if any party wants to make a “Closing Argument.” A Closing Argument is a very short recap of what you already told the Court to remind the Judicial Officer the most important parts of your story.

If both sides want to do a Closing Argument, the person who filed the Petition (the “Petitioner”) or Motion (the “Movant”) that caused the Hearing to be scheduled will say his/her Closing Argument first. Then the other side (the “Respondent”) will say his/her Closing Argument. If there are more than 2 parties in the case, and each party wants to make a Closing Arguments, then the person who filed the Petition (the “Petitioner”) or Motion (the “Movant”) that caused the Hearing to be scheduled will say his/her Closing Argument first. Thereafter, the remaining parties will make their Closing Arguments in the same order as Opening Statements, if any, or the same order as that followed when asking questions of the first person to tell his/her side of the story.

The following is an example of what a Closing Statement might sound like in a custody case:

Your Honor, today I proved to the Court that it is in my child’s best interests to give me custody of my child. I explained to the Court about the good relationship she and I have and how well she is doing living in my home and at school. Her teacher testified as to how much better she is doing now that she primarily resides with me. My sister and my mother also testified about their close relationship with my daughter and how active they are in her life. Based upon all of this testimony, it is clear that it is in her best interests for me to have custody.

If neither side wants to make a Closing Argument or if the Judicial Officer does not want to hear Closing Arguments, then there will be no Closing Argument



Chapter 7

The Court's Decision

THE COURT'S DECISION

After the Closing Arguments, if any, are made, the Judicial Officer either will make a decision at the end of the Hearing or will end the Hearing and think about what decision to make. The Judicial Officer's decision is called a "**Court Order.**" How long it takes for the Judicial Officer to make a decision depends upon the type of case. Usually, the Judicial Officer will give you an idea of when he/she will make a decision.

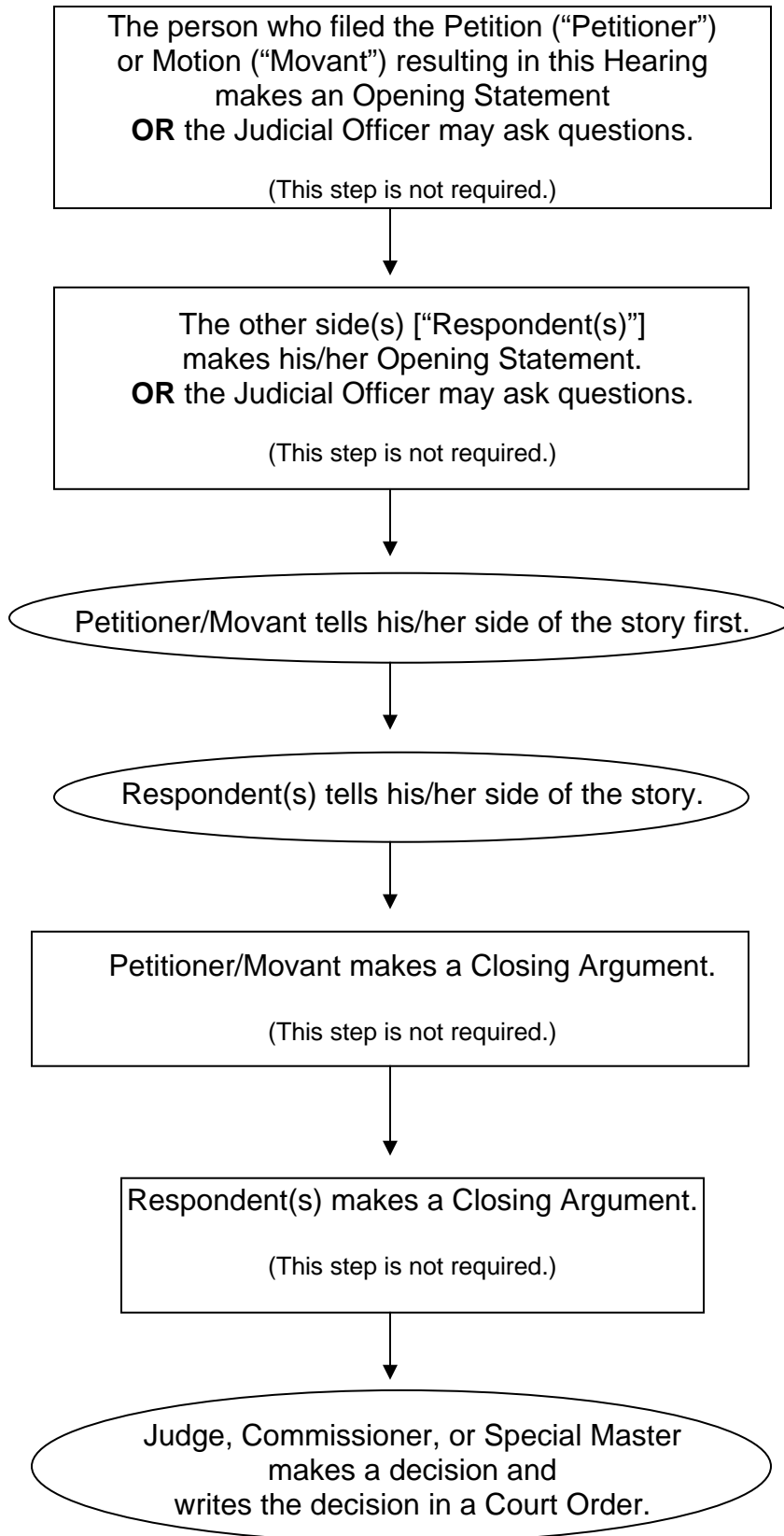
When the Judicial Officer makes his/her decision, all of the parties will receive the decision in writing usually by mail. Sometimes, the Judicial Officer may ask all of the parties to return to Court at a later date to tell them what his/her decision is.



Chapter 8

Flowcharts

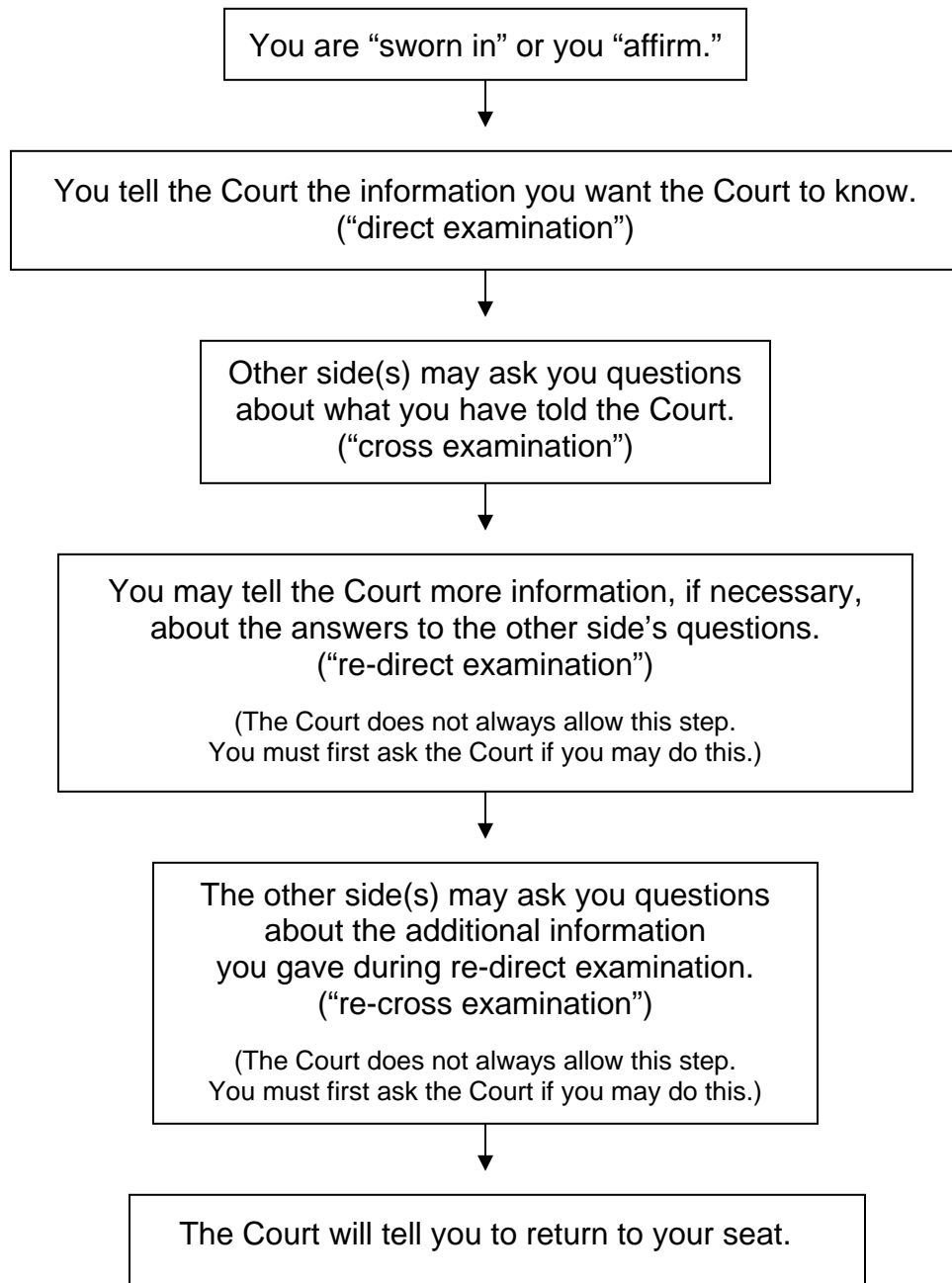
Court Procedure Flowchart



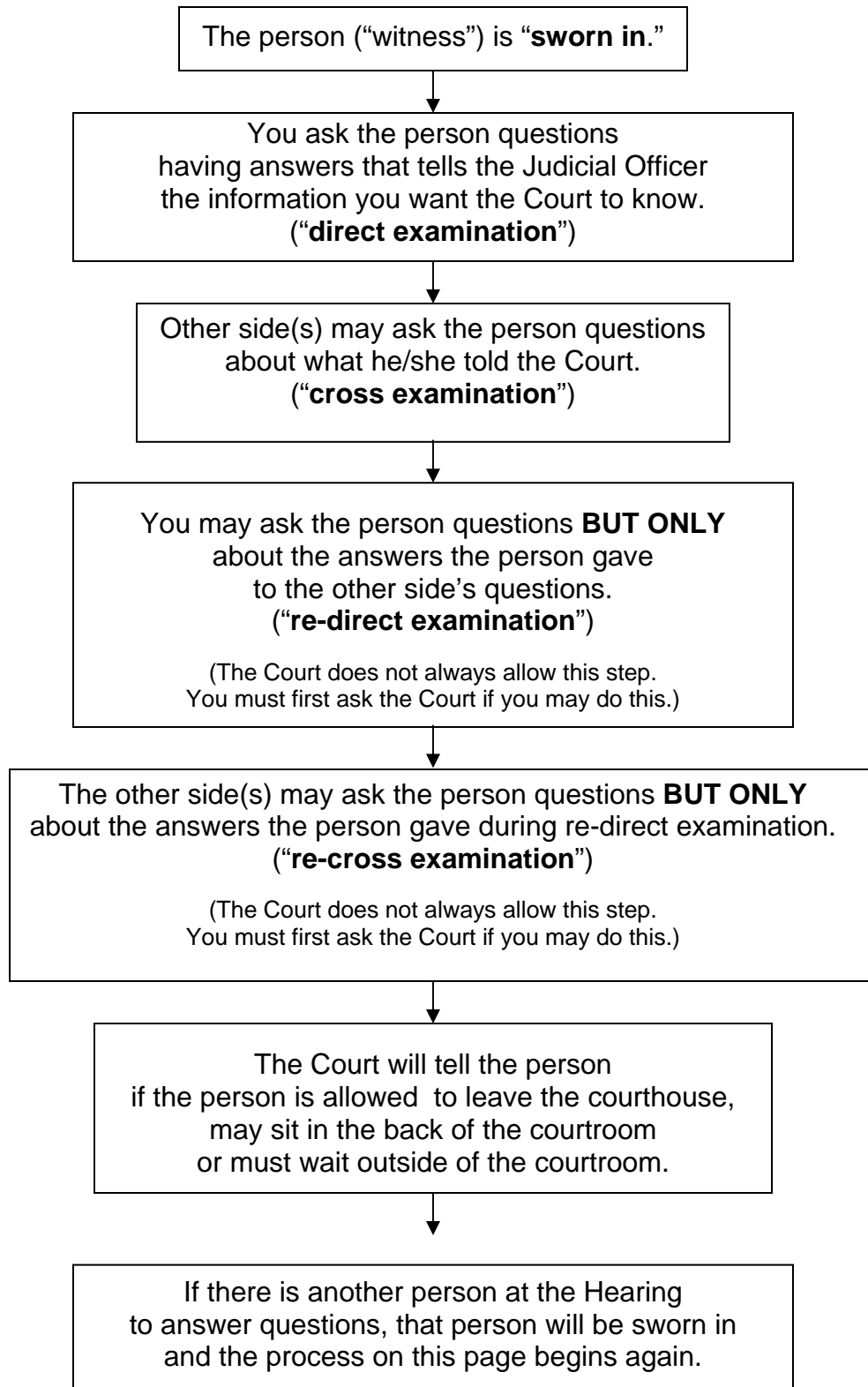
Telling Your Side of the Story

There is no set way of telling your side of the story. You are allowed to talk to the Court and/or you may ask other people questions to give information to the Court.

Do you want to tell your side of the story? If so, below is the process to do that:



Do you have any other people at the Hearing to give information to the Court?
If so, below is the process for each person:





Chapter 9

Glossary of Legal Terms

ADJUDICATION: The process of rendering a judicial decision as to whether the facts alleged in a petition or other pleading are true. An adjudicatory hearing is that Court proceeding in which it is determined whether the allegations of the petition are supported by evidence. Also called a "Jurisdictional" or an "Evidentiary" hearing.

When a matter (civil or criminal) is brought before the Court it must then be decided, settled or resolved. The act of deciding finally is called adjudication.

ADMISSION: 1) A statement tending to establish the guilt of the person making the statement. 2) The transfer of a minor's physical custody to a detention or shelter facility.

ADOPTION: A legal proceeding in which an adult takes, as his or her lawful child, a minor who is not the adoptive parent's natural offspring. The adopted minor loses all legal connection to the previous parent(s), and the adoptive parent undertakes

AFFIANT: The person who makes or subscribes an affidavit.

AFFIDAVIT: A written statement of facts signed under penalty of perjury, often before a Court clerk or notary public who administers the oath to the signing party.

ALLEGATION: A charge; a statement of fact in a petition or complaint which must be proved if the petition or complaint is to be found true.

A charge or claim set forth in a petition, which must be proven true or false at a hearing.

ANCILLARY MATTERS: Matters in dispute between the parties in connection with divorce or annulment including equitable division of marital property, alimony, and attorneys fees, to be resolved after the divorce.

ANSWER: A formal written statement in which the respondent in a civil case sets forth his or her defense to the relief asked for in the petition.

APPEAL: Resort to a higher Court, in the attempt to have the decision of a trial Court changed. Appeals from Family Court are filed either in Superior Court or in the Supreme Court, depending on the type of case.

APPEARANCE: Coming into court as party to a suit, either in person or represented by an attorney, whether as plaintiff or defendant.

ARBITRATION: The process by which minor delinquency and some adult criminal charges are settled without a hearing before a Judge. This process of dispute resolution involves a neutral third party, an Arbitration Officer, who renders a decision after both parties are given the opportunity to be heard.

ARREARS: An overdue support payment.

ASSETS: Property of all kinds, real and personal, tangible and intangible, which belong to any person (including a corporation or the estate of a decedent).

B

BEST INTEREST OF CHILD: The standard used by the Court to determine issues of custody and visitation.

C

CASA: Court Appointed Special Advocate is a trained volunteer appointed by a Family Court Judge to represent the best interests of abused, neglected, or dependent children who are the subject of Court proceedings.

CERTIFIED COPY: A copy of a document or record, signed and certified as a true copy by the officer having custody of the original.

CHARGE: A complaint having a legal basis found in the Delaware Criminal Code or the Municipal Code.

CHIEF JUDGE: The administrative head of Family Court. Qualifications and judicial authority are the same as the Associate Judge. The Chief Judge is nominated by the Governor and approved by the Delaware State Senate. The Chief Judge is responsible for the administrative affairs of Family Court and for executing judicial policies as set forth by the body of judges. He or she does not have the power of judicial review of decisions made by Associate Judges of Family Court.

CHILD ABUSE: Traditionally, any physical mistreatment of a child, as opposed to child neglect or negligent care. However, the term is increasingly used to cover any "physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child...by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby," and is so defined in the federal Child Abuse Prevention and Treatment Act (Pub. Law 93.247,1974).

CHILD NEGLECT: Failure by a parent or custodian to render appropriate care to a child; an act of omission by the person legally responsible for a child's care which threatens the child's well-being. Failure to provide a child with suitable food, shelter,

CIVIL PROCEEDING: All lawsuits other than criminal prosecutions, including juvenile delinquency cases.

CLERK: Officer of court, who accepts pleadings, motions, judgments, etc., issues process, and keeps records of court proceedings.

COMMISSIONER: A judicial officer appointed by the Governor, confirmed by the Senate with constitutional powers including the power to incarcerate. A Commissioner can hear any civil case within the Court's jurisdiction not precluded by

statute as well as criminal and delinquency cases, including those resulting in detention of a juvenile, and incarceration of an adult.

COMMON LAW: Law developed as the result of judicial decisions rather than by statutes written by the legislature.

CONSENT: An agreement of the parties resolving pending matters before the court.

CONTEMPT: The action of a person who willfully disobeys a court order or fails to comply with a court decision.

CONTINUANCE: The adjournment or postponement of a session, hearing, trial or other proceeding to a subsequent day or time.

COUNSEL: Advice or assistance given by one person to another in regard to a legal matter. May also be used to refer to an attorney.

COUNTERCLAIM: A claim presented by a defendant in opposition to the claim of the plaintiff.

CROSS-PETITION: A formal written application to the Court requesting judicial action on a certain matter against a party/person who has already filed a petition in that case.

CUSTODY: The right to or responsibility for a child's care and control, carrying with it the duty of providing food, shelter, medical care, education and discipline. Custody can be joint or sole.

CUSTODY (JOINT LEGAL): Where parents have equal decision making authority regarding the care and control of a child. Joint custody differs from Residential Custody.

CUSTODY (SOLE LEGAL): One parent, the sole legal custodian, makes all major decisions affecting the child(ren).

D

DEFAULT ORDER: An order entered against a party who has failed to appear after proper notice to defend against a claim that has been brought by another party.

DEFICIENT FILING: A document filed with the Court that does not contain the necessary requirements, fees or elements.

DELINQUENCY: The commission of an illegal act by a juvenile.

DELINQUENT CHILD: A child who commits an act, which if committed by an adult, would constitute a crime.

DEPENDENT CHILD: A child whose physical, mental or emotional health and well-being is threatened or impaired because of the inability of the child's custodian to provide adequate care and protection.

DETENTION: The confinement of a juvenile by a legally authorized person.

DISMISS: To dispose of an action or suit without any further consideration or hearing.

DISPOSITION: The Judicial Officer's written order as to how the case was decided.

DOCKET: A brief, formal record of the proceedings of the Court.

DOMESTIC VIOLENCE: A pattern of assaulting and controlling behaviors, including physical, sexual and psychological attacks, committed by one family member against another or by an intimate partner against the other partner.

DUE PROCESS: The constitutionally guaranteed right of persons to be treated by the law with fundamental fairness. In criminal proceedings, due process means the right to adequate notice in advance of hearings, the right to counsel, the right to confront and cross examine witnesses, the right to refuse to give self-incriminating testimony, the right to notification of allegations of misconduct in advance of the hearing and the right to have allegations proven beyond a reasonable doubt.

E

EMERGENCY (PRIORITY): An unforeseen combination of circumstances that calls for immediate action without time for full deliberation. An emergency/priority order will be issued by the Court, without notice to the parties for a hearing, when it appears from facts shown by affidavit or verified complaint that immediate and irreparable harm will result before the adverse party can be heard.

ENTRY OF APPEARANCE: A coming into court as party to a suit, either in person or by an attorney, whether plaintiff or defendant.

EVIDENCE: Any sort of proof submitted to a Court for the purpose of influencing the Court's decision. Some special kinds of evidence are:

Circumstantial Evidence - Evidence which implies another fact.

Direct Evidence - First-hand evidence, usually of a witness who saw an act committed.

Hearsay Evidence - Testimony about an out-of-court statement made by someone other than the person testifying; for example, "I heard him say..." Except where the law provides an exception to the hearsay rule, such

evidence is usually excluded because it is considered unreliable and because the person who made the original statement cannot be cross-examined as to the factual basis for the statement. There are numerous exceptions to the hearsay rule, however.

Physical Evidence - Any tangible piece of proof, such as a document, x-ray print, photograph, firearm, etc. Also called "real" evidence.

EX PARTE: A judicial proceeding or order which is held or granted at the instance and for the benefit of one party without notice to the other party. Normally, these hearings are held on an emergency basis. A full hearing with notice to both parties is held at a later date.

EXPERT TESTIMONY: Witnesses with various types of expertise may testify in a case. Experts are usually questioned in Court first about their education or experience which qualifies them to give opinions about certain matters. Only after the hearing officer decides that the witness is sufficiently expert in the subject matter may the witness proceed to state his or her opinions. Doctors and psychologists are common expert witnesses in Family Court cases.

F

FAMILY: Under Delaware law, for the purpose of determining whether Family Court has jurisdiction over a case, family is defined as: spouses; a couple cohabiting in a home in which there is a child of either or both; custodian and child; or any group of persons related by blood or marriage, without regard to legitimacy and relationships by adoption, who are residing in one home under one head and where one is related to the other by any of the following degrees of relationship, both parties being residents of this State: mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, son, daughter, son-in-law, daughter-in-law, grandfather, grandmother, grandson, granddaughter, stepfather, stepmother, stepson, stepdaughter.

FILING: A paper is filed when it is delivered to the Clerk of Court, to be entered and docketed in the court's file.

FOSTER CARE: A form of substitute care, usually in a home licensed by a public agency, for children whose welfare requires that they be removed from their own homes.

G

GUARDIAN: An adult appointed by a Probate or Family Court to serve as custodian of a minor until the minor's parent proves renewed ability to provide proper care to

the child. A guardian has almost all the rights and powers of a natural parent, but the relationship is subject to termination or change.

GUARDIAN AD LITEM: An adult who is appointed by a Court to act in the minor's behalf ad litem (in a lawsuit), because minors lack the legal capacity to sue or defend against suit. The guardian is considered an officer of the court.

Guardian Ad Litem are sometimes known as NEXT FRIENDS. In Delaware, the CASA serves as a Guardian Ad Litem for the child.

GUARDIANSHIP: The power and duty of taking care of, and/or managing property and rights of a child or an individual who is considered incapable of taking care of his/herself.

H

HEARING: A trial or other proceeding before a judicial officer. Several types are described below:

Adjudicatory hearing – In delinquency cases, a fact finding hearing to determine whether the accused committed the alleged acts; in civil cases, a fact finding hearing to determine the rights and duties of the parties.

Amenability hearing – A hearing in Family Court to decide whether the juvenile charged with a serious crime can be effectively helped by our Court, or whether the juvenile should be treated as an adult and the case transferred to Superior Court. Required for juveniles between the ages of 16 and 18 who have committed certain felonies.

Arraignment – A hearing to notify the accused of his or her rights and of the charge before the court. The accused must enter a plea of guilty, not guilty, or, where permitted, “nolo contendere”.

Bond (Bail) hearing – Hearing during which a Judge or Commissioner sets an amount of money, which the defendant/respondent must post, or be incarcerated in default of bail, pending dispositional hearing.

Fact Finding hearing – A formal trial before a judge, commissioner, or master where witnesses may be present to testify, to determine if the allegations are true.

HEARING OFFICER: The individual who presides at a judicial proceeding.

I

INJUNCTION ORDER (PRELIMINARY): A court order prohibiting someone from doing some specified act or commanding someone to undo a wrong or injury.

J

JUDGE: A lawyer, appointed by the Governor and confirmed by the Senate who presides over court hearings and has the power to enter orders affecting the parties. Family Court has one Chief Judge, who is the administrative head of the Court, and 12 Associate Judges. All Family Court Judges are appointed for 12-year terms.

JUDGMENT: A final decision of the Court resolving the dispute and determining the rights of the parties involved in the case.

JURISDICTION: The power of a particular Court to hear and dispose of cases involving certain categories of persons or allegations. Family Court has jurisdiction over most juvenile delinquency cases, adult misdemeanor domestic violent crimes, and family civil actions, such as divorce and custody.

JUVENILE: A youth under 18 as established by the laws of the State of Delaware.

JUVENILE DELINQUENCY: When a juvenile is found guilty of committing an act which would be a crime if the juvenile were an adult.

M

MASTER: A person appointed by the Chief Judge to hear cases as assigned. Masters' orders may be reviewed before a Judge of Family Court.

MEDIATION: The process by which Court mediators assist parties to reach voluntary agreement in domestic relation matters (e.g., support, custody, visitation) without a formal court hearing before a Judge. This is an informal dispute resolution process in which a neutral third party (Mediation Officer) helps litigants to reach an agreement. The mediator has no power to impose a decision on the parties.

MEDICAL SUPPORT ORDER: A medical support order requires one or both parents to provide health insurance and requires both parents to pay a portion of medical expenses not covered by health insurance for their children.

MELSON FORMULA: The informal name of the Delaware Child Support Formula, named after former Judge Melson. This is a standard guideline formula used to calculate child support obligations.

MISDEMEANOR: A category of crime, for which the punishment can be no more than one year of imprisonment (usually in a county jail rather than state prison) and/or fine of \$1,000.00. Distinguished from a felony, which is more serious, and from an infraction, which is less serious (e.g., loitering).

MOTION: An application made to a court or judge in a pending matter for the purpose of obtaining an order directing some act to be done in favor of the applicant.

O

ON THE RECORD: Anything that is put on the written or recorded account of the court proceedings, to remain as permanent evidence of the matters to which it relates.

ORDER: The direction of a court or judge, usually reduced to writing.

P

PARTY: A person who has filed a petition with the Court or who has had a petition filed against him or her. A petitioner or a respondent.

PATERNITY: The state or condition of a father; the establishment of a father and child relationship.

PETITION: A civil pleading filed to initiate a matter in Court, setting forth the alleged grounds for the Court to take jurisdiction of the case and the relief requested. A formal written application to a court requesting judicial action on a certain matter.

PETITIONER: The person initiating a legal action, usually in a civil case. The person who presents a petition to a court.

PFA ORDER (PROTECTION FROM ABUSE ORDER): Order preventing a person from abusing another person, where persons are members of following classes: family; former spouses; man and woman cohabiting; or man and woman living apart with a child in common. Relief granted may include restraining the respondent from committing domestic violence, restraining the respondent from contacting the other person, granting the petitioner exclusive possession of residence, granting temporary custody of children, awarding child and/or spousal support, ordering the respondent to relinquish firearms, and ordering participation in counseling.

PLACEMENT: The residential and/or custodial arrangements determined for a child by the Court. The removal of a child from his or her natural home and placement in a different custodial setting for more than a short period of time. Placement may be in a foster home, group home, relative's home, or an institution. Juvenile or Family

Courts sometimes place minors through their own staffs, but usually commit delinquents or dependent children to other agencies for placement services.

PLEADINGS: Any one of the formal written statements of accusation or defense in an action of law.

The formal allegations by the parties of their respective claims and defenses.

PRAECIPE (ALIAS): A document filed with the Clerk of Court requesting that the Clerk take action, i.e., issue subpoenas, prepare a file for appeal, etc.

PRO SE: Litigant who is representing himself (not represented by counsel).

PROTECTIVE CUSTODY: In child abuse and neglect cases, the emergency removal of a child from his home when the child would be in imminent danger if allowed to remain with the parent(s) or custodian(s).

R

RESPONDENT: The person against whom the petition or complaint is filed.

RESPONSE (TO MOTION): An answer to a pleading filed by the defendant/respondent, which addresses each of the allegations made by plaintiff/petitioner in his/her complaint.

RETROACTIVE SUPPORT: The establishment of back child support.

S

SOCIAL REPORT: The document prepared by a probation officer or social worker for the Family Court hearing officer's consideration at the time of disposition of a case. This report addresses the minor's history and environment.

STATUTE: A law enacted by a State legislature or the U.S. Congress.

STIPULATION: A voluntary agreement between the parties in a case, allowing a certain fact to be established in evidence without the necessity for further proof.

SUBPOENA: A legal document, usually issued by a Court clerk, requiring that the person named in the subpoena appear or send materials requested on a stated day and time at a specified Court. Failure to obey a subpoena is punishable as a contempt of Court.

SUBPOENA DUCES TECUM: A subpoena served upon the person who has custody of records, commanding that such custodian bring the specified records to Court on the stated day and time. Requires specific documents such as books or files to be submitted for review in a legal proceeding.

SUMMONS: A legal document, issued by the Court Clerk or other Court officer, notifying the named person that a lawsuit or legal cause has been filed against or involves him or her, and notifying such person of any dates set for hearings and deadlines for responding to the complaint or petition. The purpose of a summons is to notify the persons concerned.

I

TERMINATION OF PARENTAL RIGHTS (TPRs): A legal proceeding to free a child from his or her parents so that the child can be adopted by others without the parents' written consent.

TESTIMONY: A statement or declaration made to establish a fact or facts and given under oath.

TRIAL: A judicial hearing to determine issues between parties to an action through the testimony of witnesses and documentation.

W - Z

WAIVER: The understanding and voluntary relinquishment of a known right, such as the right to counsel or the right to remain silent during police questioning.

WITNESS: A person called upon to testify in a Court proceeding.

WORK RELEASE: Program supervised by Department of Corrections where a person committed to prison is allowed to leave for the purpose of either finding work or going to work. They must return to the prison at the end of the work day.

WRIT: An order issued by a Court commanding that a certain act or acts be done or not done.