



# 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 2<sup>nd</sup> 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.