

Pro Se Litigation (self-help)

SELF HELP REPRESENTATION NEWSLETTER

Basics of Pro Se Litigation.

What is Pro Se?

Individuals seeking to represent themselves in court without an attorney are often said to be participating Pro Se. It is a legal term describing a form of self-help; it is used in court proceedings and cases before a judge or other judicial tribunal, such as an agency. The term Pro Se is used in both civil and criminal cases.

Why represent yourself Pro Se?

- To save on attorney and representation costs. (It allows an individual to forego the use of an attorney; however, some lawyers may still provide some legal help, but at reduced rates).
- Unable to afford an attorney. (Sometimes a person simply cannot pay for any legal help).
- Unable to obtain free or reduced legal aid. (Many legal aid organizations have strict qualification standards in terms of both financial need and case type).
- The self-help seeker is competent to conduct solo representation. (Some legal issues are rather straight-forward or are not very complex, allowing a person to conduct a legal proceeding without any help; also, some people are rather skilled in such legal work and are often quite successful).

Terminology

When attempting any Pro Se Action, a self-helper should become familiar with some basic terms and phrases:

Pro Se Litigant—generally is a person representing himself or herself in a court of law. The Constitution protects a person's right to be heard in court, even without the aid of a lawyer; however, non-lawyers may not represent others in court.

Court, Judge, Tribunal—are terms generally used synonymously to represent the same things. Sometimes a person addresses a "court" which means basically to address a judge. A tribunal is another way of describing a formal hearing or court-like environment.

Court of First Impression—is the court where an action must be heard and decided upon first before any other action can be taken later, i.e. appeals.

To Try an Issue—is a phrase used to describe the process of resolving a legal dispute, case, or matter. When we "try" a case, we are asking for either a judge or a jury to decide upon a final resolution.

A Party or Parties—refers to the participants of a court action. Plaintiff is the one filing a lawsuit and the opposing party is the Defendant.

INSIDE THIS ISSUE

Court structure basics	2
How to begin a lawsuit	2
Lawsuit basics	3
Considerations	4
Researching your case.....	4
What to know about Court.....	4
Cautionary notes	5
Avoiding pitfalls	5
Tips for Self Representation ...	6

LEGAL NOTICE

- Information provided in this Newsletter is not intended to serve as nor should be construed as formal legal advice.
- The decision to represent oneself in a court of law is a serious matter and should not be attempted without thorough preparation!
- This Newsletter provides only a basic education and should not be solely relied upon.



BASICS OF COURT STRUCTURE

Courts come in all shapes and sizes, depending upon the matters being presented before them.

- **State Courts**—at the most basic level, state courts comprise of district and magistrate courts. These courts are usually the first places to bring a legal action. They are usually empowered to hear all types of cases.
- **Federal Courts**—federal courts also comprise of districts and magistrates who generally hear initial legal issues. However, they often restrict access to those cases involving federal laws or claims by persons residing in different states.
- **Appellate Courts**—are those which hear appeals. They are used to review the decisions of lower courts. Generally, a legal action will not begin at this level. Courts of Appeal will generally not try or even re-try a case, they “sit in review” of lower decisions.
- **Specialty Courts**—include criminal, family, drug, business, small claims, juvenile, and other courts which hear limited types of issues.
- **Supreme Courts**—exist at both the state and federal level. They are generally considered courts of last resort. Sometimes these courts have the power to hear and try issues directly, without going thru lower levels first.

Knowing which court your case is in will determine what methods and procedures you will need to use and how to conduct your case!!

MORE ON IOWA'S EDMS SYSTEM

The EDMS system was designed and created to help reduce court time and costs. It is relatively easy to use. But it does require access to a computer with Internet access.

In limited cases, online filing may be waived by a court. For instance, you may not have Internet access or not be computer savvy. However, you will be asked if someone else could aid you, like an attorney, and if so be required to file online only.

Registering with the system is easy and will provide you with great access to court documents and information. It reduces the need to keep large amounts of paperwork.

You can register with the system and create your user profile by going to:
www.iowacourts.state.ia.us/EFile/

Click on the “Request Account” button. There are also great links on how to use the system and some important court rules.

HOW TO BEGIN A LAWSUIT

The essentials of a lawsuit must be met (otherwise it may be rejected):

- * A Pro Se Litigant must first determine which court is the one of first impression (defined on page 1). This is the court where you will “try” your case. For instance, some cases can begin in small claims, others in district court. Oft times a court will require the exhaustion of all agency or administrative remedies before hearing a case further, under a process known as judicial review.
- * Next, a lawsuit must be commenced (begun) within a particular time period, known as a Statute of Limitations. You must research state law to determine this. The limitations period will vary depending upon the type and nature of a case or dispute.
- * Once you are sure your case is not barred by the statute of limitations, you will need to open the case by filing a petition or complaint with the court. More details on how this is done is discussed later in this Newsletter.
- * After opening a case, a pro se litigant will need to have it served upon the defendant. Once this service is met, the case will follow a certain litigation pattern and ultimately be ruled upon by a judge or jury.

In Iowa, all new cases will require electronic filing thru the EDMS system. EDMS is an online digital system that is required, even for Pro Se Litigants. To use this system, you must register online, create a profile, and file all your documents digitally. Only in rare cases can a person be granted permission not to use this system. Therefore, do not be surprised if you try to file a “paper lawsuit” with a clerk of court and have it be rejected.

For more information on Iowa’s EDMS system, see insert at left.



BASICS OF A LAWSUIT

Besides having a grievance or dispute, there is a basic structure and procedure for trying a case.

First, a Complaint or Petition must be filed. This will officially begin your case.

In Iowa, the filing of a petition is generally used, and requires payment for filing.

- * Petitions are rather straight-forward documents which lay out the basic grievances or disputes you have. It generally need not be detailed and exacting but must provide enough information to show a harm or legal concern.
- * Petitions usually come in a standard format, with headings and captions. A quick search online for examples will show you this heading format.
- * All petitions must be signed by you and include a statement like the following: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct." The petition should also identify you as a "Pro Se" and include your address, telephone number, and e-mail.

Next, the Petition must be served on the opposing party.

- ⇒ The usual method for service is to have a Sheriff personally deliver the petition on the opposing party. There is a fee for this service, but can be waived by the court.
- ⇒ Other service methods are sometimes allowed or required, such as publication in a newspaper. See Iowa's Rules of Civil Procedure for more details.

After Service, the opposing party is given a chance to "Answer" the complaint. This pleading (document) usually responds directly to all issues outlined in the petition.

Finally, there are rules governing Discovery (the process of getting information from witnesses and from the other party) which come before a final trial and decision. These procedures can be very complex.

See insert at right for more information on where to find help (links to online documents and sites).

ONLINE HELP RESOURCES

The Internet provides a wealth of resources to the Pro Se Litigant. A review of this information is a must for any self-helper.

1. Iowa's Rules of Civil Procedure (these rules govern how to conduct a case) <https://www.legis.iowa.gov/law/courtRules/courtRulesListings>
2. Iowa's Judicial Branch website on representing yourself. http://www.iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/
3. Iowa's Code and Laws <https://www.legis.iowa.gov/law/iowaCode>
4. FindLaw is an excellent online research site with many free features for researching legal issues. <http://www.findlaw.com/>
5. Iowa's law for how to compute time when setting dates and for responding is found by reviewing Iowa Code: Title I, Chapter 4, Section 4.1 at subpart 34.
6. A great website for legal citation formatting can be found at: <http://citeuslegalus.com/>
7. A sample legal brief can be found at: <http://www.iowa.gov/government/crc/docs/Nyoachcourtorder.pdf> (Note: this is a judge's brief, yours will be similar but not the same)
8. For a sample petition, visit <http://www.iowafathers.org/forms/default.html>
9. For some good pro se help generally, visit <http://www.iowafathers.org/prose/default.html>

HOW THE AID OF AN ATTORNEY CAN HELP

Your right to self representation cannot be denied. However, the process can be rather complex and knowing the law itself can be enough to dizzy anyone.

A pro se individual can use the aid of an attorney for limited purposes without giving up the right to self representation. So what can a lawyer do in these cases:

Generally an attorney aiding a pro se person can help draft preliminary documents, help select and fill out forms, and even provide some guidance on the law and how to conduct your case.

However, the attorney will not actually represent you in court. You will be expected to decide for yourself how to proceed. This includes making final revisions to documents you intend to file with the court, the presentation of evidence and examination of witnesses in court, and conducting your own legal research and due diligence in knowing the law.

Many attorneys who provide assistance will do so at reduced fee rates. In any case, your limited use of an attorney will itself reduce the overall costs of services because much of the work is done by you. Attorney time is also freed up because formal representation is not needed, thus giving them incentive to charge reduced rates.

In addition, an attorney can help walk you through the process of examining witnesses (the formal process of calling witnesses to the stand to testify).

PRO SE CONSIDERATIONS

Before attempting any Pro Se Litigation, one should consider:

1. The general complexity of a legal issue. Some matters are so complex that only an attorney should ever be used. But, on the other hand, courts often provide pro se persons with instructions and forms for do-it-yourself issues, ie. simple divorces.
2. Whether the opposing party intends to use an attorney. Pro se persons facing opposition from skilled lawyers should really weigh in on this concern. While you may think you are capable, an opposing skilled advocate can quickly complicate your case.
3. Whether the opposing party intends to fight against you. This is related to #2 above but also includes knowing how skilled your opponent may be at representing him or her self.

HOW TO RESEARCH FOR YOUR CASE

In today's modern electronic world, a resourceful person can find just about anything using Internet searching. The same can be said of researching legal issues. All States provide public access to their laws and some provide access to prior court decisions. Using these two media is of paramount importance to the pro se self-helper. But knowing how to effectively use them is another matter.



First, you must familiarize with online sources of information.

- ⇒ Most States publish their laws online under various court websites. A general online search engine can be used to find these.
- ⇒ Case law is the heart of our legal system. Just looking at the text of laws is often not enough. Pro se persons must also see how various issues have been handled by courts in the past before deciding how to proceed in their cases. FindLaw is a great free resource and can be accessed by going to: <http://www.findlaw.com/>

WHAT YOU SHOULD KNOW ABOUT COURT

Court is a very formal environment where much care is taken to enforce an area of decorum and respect. The Court expects no less from pro se individuals as it does for lawyers. Some things to keep in mind include the following:

- Be prepared. Know your case and evidence thoroughly, bring all documents and witnesses needed to hearings, and bring several copies for the court.
- Be Honest and Respectful. This includes being on time for all hearings, avoid unruly behavior, tell the whole truth, and follow court rules (ask the clerk of court).
- Dress appropriately. While the standard is to dress in business casual, your case can sometimes be delivered more effectively by wearing formal attire, like a suit and tie.

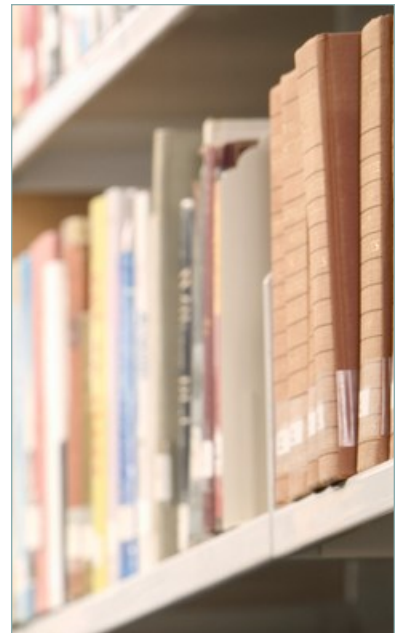
In addition, you must be aware that judges and clerks of court can help with some things but they CANNOT provide you with legal advice. What they can tell you is procedural matters, like how to serve opposite parties, who the judge is, and where proceedings will occur. They cannot provide advice on whether you have a valid claim, what remedies to seek, and what information is needed in documents and filings.

CAUTIONARY NOTES

Representing yourself is itself a rather complex decision to make. While courts often make some leeway for pro se advocates, you will still be fully expected to know what you are doing.

The decision to proceed as pro se will require you to take an outside objective viewpoint of your legal issues or concerns. When conducting your case, remember that your personal opinions are just that, not the facts. Always remain calm and focused and do not allow yourself to break down and turn the process into a rant and rave (keep emotions in check).

Don't be afraid to seek help, when needed. Remember that an attorney can provide limited unbundled services to help perform only those specific and discrete tasks that you may have difficulty in handling. But don't be bullied either, don't allow an attorney to talk you into things you don't want or need (so long as you remain confident in your abilities to self-represent).

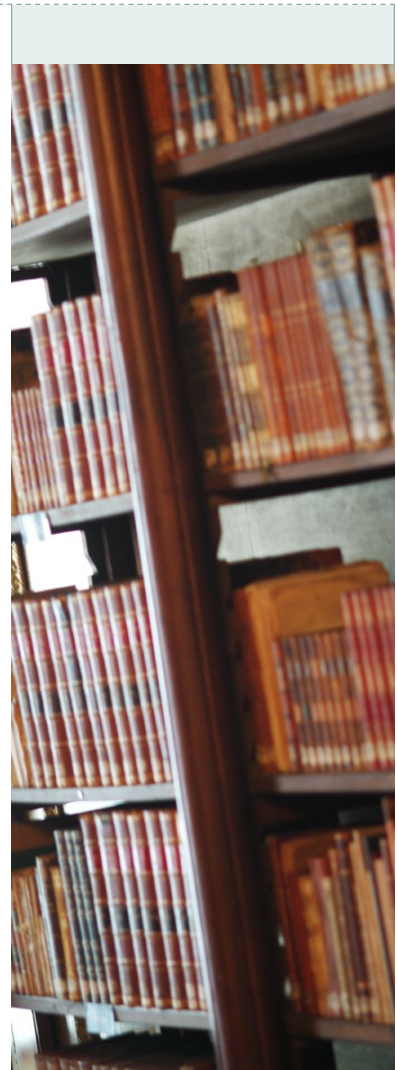


Self-representation can be complex at times, don't be afraid to seek limited legal help from an attorney, when necessary.

HOW TO AVOID PITFALLS

The following is a list of some common mistakes made by pro se litigants:

1. Failure to pay a required filing fee. While the court will process your case prior to payment, a continued delinquent payment will result in your case being dismissed.
2. Failure to fully and properly "serve" the other party with **all** filings. Cases are often dismissed for failure to notify others and to use the exact proper procedures for doing so.
3. Missing deadlines and hearing dates. There are many dates to prepare for. It is sometimes a long process.
4. Failure to seek court costs to be paid by the other party for some court proceedings. Iowa law usually allows the winning party in an action to have court costs paid for by the loser, but you **MUST** ask for this.
5. Failure to sign documents or to sign in front of a notary public when required.
6. Failure to separate facts and evidence. Most court filings are based on facts; whenever you intend to introduce **your own testimony** it must be done in an Affidavit.
7. Some cases will include many side issues, like motions to dismiss and motions for summary judgments. These are separate issues but must be handled before your main case can continue.
8. Using an improper caption (heading) on a court document. Filings usually require a header which identifies the parties, the court and jurisdiction, and the case number (an example can be easily found online by search for "court caption format").
9. Failure to redact or eliminate highly confidential information from court filings. Things like SSN, full dates of birth, and full names of minor children are not to be included in court documents (a separate form is to be used—ask the clerk of court).
10. Attempting to represent someone other than just yourself. Some legal issues will require you to join with another person to complete your case. You cannot act on behalf of others, this is the Unauthorized Practice of Law and it is prohibited. For instance, you may not be able to represent your minor children.



WHICH CASES WORK BEST FOR PRO SE REPRESENTATION

While the law allows you to represent yourself on any legal issue, self-help is best when:

1. There are pre-formatted self help forms provided by the court. The presence of such forms usually denotes simple matters for which self-help is warranted.
2. Your matter is relatively not complex and you do not expect a full battle from opposing parties, such as in uncontested divorces.
3. Small Claims matters often involve the litigation of disputes without the aid of attorneys on either side.
4. Cases where you do not anticipate the use of attorneys by opposing parties.

This Newsletter is Provided by:
Thompson Legal Assistance, LLC
704 North Cedar Street
Jefferson, IA 50129

Phone: 515-897-0431
E-mail: thompsonlaw4@gmail.com

Iowa's Code can be found by
reviewing:

Iowa's Legislative Website

TIPS ON SELF-REPRESENTATION

There are many things a self-helper must be constantly aware of. The following is a list of some useful tips to keep in mind when presenting your case.

1. Once a petition or complaint has been filed, you have only 90 days to serve it upon the opposing party, unless other law provides something differently. It is always good practice to serve the pleading (petition) as soon as possible however.
2. If you have received a petition or complaint against you, you will have 20 days to respond and file an "Answer", unless other law provides something differently. Failure to do so can result in default and losing the case.
3. Always register with Iowa's online EDMS system (discussed earlier) before proceeding further.
4. Use pre-formatted self help forms provided by the court whenever possible or whenever available. They are self-explanatory with instructions on how to fill them out.
5. When in doubt, consult an attorney. Oft times a simple answer can be given during a free consultation.
6. If your case qualifies for Small Claims Court, you should use this avenue as there are many self-help brochures available to walk you through the process.
7. Many locales offer some reduced fee or free legal help to pro se litigants, usually termed as 'self-service' or 'pro se' clinics.
8. Most legal matters concern the use of standardized forms. Seek out forms (whenever available) to aid you, but be mindful to tailor them to your unique situations.
9. Try to avoid online commercial sites that purport to produce legal forms and papers for cheap or free. These sites often do not provide up-to-date information or provide information or forms that cannot be used in your local court (while saying that they will in fact work for you).
10. Become thoroughly familiarized with legal terms, words, and definitions. (Some valuable terminology is presented in part 2 of this Newsletter)
11. Remember, no one knows your case better than you do and no one will fight as hard for you as yourself, keep this confidence in mind.
12. There is much information online. Be sure you are looking for items that are directly tied to your court and case. For instance, some issues will be found in both state and federal courts, **never follow a system that is foreign to your court.** When conducting a state case, *Never* rely on federal court procedures—very important!

Coming up in the Next Issue:

1. More detailed information on how to self-represent
2. Glossary of common usage, terms and definitions
3. Potential Complications
4. Best Practices and Advice



Pro Se Litigation (Self-help)

SELF HELP REPRESENTATION NEWSLETTER

Detailed Discussion of Pro Se Representation.

Review of Last Issue

The decision to proceed pro se under self-help representation is not one to be made lightly. There are many complex areas which must be mastered and pitfalls await around every corner. However, many people do quite well in self-representation and can oft times be successful without the reliance on an attorney.

Keep in Mind

- There are two basic sides to any litigation, substantive law and procedural law. You are expected to know each just as any law-trained person would.
- Some issues are straight-forward and easy to understand. But more complex issues may require the use of an attorney.
- The use of an attorney need not be a huge undertaking. Some lawyers will provide limited unbundled services to provide support for specific and discrete matters for which you may not be able to handle.

Avoid Pitfalls

- Knowledge and skill are key to successful litigation.
- Follow all court rules and procedures.
- Don't allow your emotions to disrupt your case. Always keep calm and maintain your confidence.

IN THIS ISSUE

In this Issue, detailed discussion will dive deeper into the workings of Pro Se Litigation, including:

1. Basic glossary of common legal terms, words, and definitions.
2. More details on the pro se process.
3. Potential complications.
4. Tips on working with an Attorney.
5. Best Practices and Final Notes.

INSIDE THIS ISSUE

Legal Terminology.....	2
The Pro Se Process	3
Potential Complications.....	4
Tips on Opposing Attorneys....	4
Best Practices	5

SPECIAL POINTS OF INTEREST

LEGAL NOTICE

- Information provided in this Newsletter is not intended to serve as nor should be construed as formal legal advice.
- The decision to represent oneself in a court of law is a serious matter and should not be attempted without thorough preparation!
- This Newsletter provides only a basic education and should not be solely relied upon.



GLOSSARY OF COMMON LEGAL TERMS

- Affidavit—a legal document providing testimony and signed in the presence of a notary public.
- Answer—is the defendant’s (opposing party’s) response to a Petition.
- Brief (or legal memorandum) - is a statement requested by a judge which includes your legal research and application of law to facts in your case. (It is a primary means for you to tell the judge **why** you are right).
- Litigation—is the process of bringing a legal action before a court.
- Motion—is the process of asking the court to do something, such as a motion to dismiss, oral or written.
- Petition—is a complaint alleging a wrong done and request for court help. It begins a lawsuit.
- Pleading—is a “paper” filed with a court which sets out the facts or conditions of a case. They include the Petition and Answer.
- Order (or decree) - is a legally binding decision by a judge.
- Standing—the right and grounds to bring a case to court. With no standing a case is usually dismissed.
- Subpoena—is a formal demand for a witness’s appearance in court or for someone to present evidence. (Pro se persons must get a form from the clerk of court to use this).

A thorough understanding of legal terms is necessary to aid in your overall understanding of the legal process.

MORE WAYS LAWYERS TRY TO SOUND IMPORTANT

Besides using basic terminology and terms of art, most attorneys pride themselves on being able to complex issues by using strong sounding words and phrases.

1. Lawyers use words like, affirm, subscribe, and oath to describe the process of providing sworn statements. They are often accompanied with Affidavits and Depositions.
2. “Deposing a party” is another example, referring to the deposition process of discovery. It is the process of making an informal trial-like interrogation of a person with a complete record made which can be used in court.
3. “Authority” refers to prior case law which a judge is sometimes bound to follow. Citing to good authority is necessary to win any case.

LEGAL PHRASES AND TERMS OF ART

Often lawyers are described as having their own secret language. We refer to this as legal-ese, and it often involves terms of art, such as the following:

- To hear a case—is the process of formal in-court discussions with all parties and the judge. It can sometimes be referred to as ‘trying a case.’
- To move the court—simply refers to the act of making a Motion (defined above).
- Prayer for Relief- also known as the “wherefore” clause or to pray to the court. It is the request for specific actions, such as a prayer for money damages or the return of lost/stolen items. The ‘wherefore clause’ or some similar form is required on a petition, without it the court will not grant you anything you are seeking.
- To address the court—is a term meaning to get permission to speak with a judge directly during a court proceeding. Remember though that most ex parte communication is not allowed.
- Ex Parte communication—is discussion between you and the judge without the other opposing party present. Most times this is improper, but some exceptions are made for emergencies, especially in domestic violence and child custody cases.
- Standard of Review—is the process of citing Authority (defined at left) that tells the judge which standard of law should be used to determine the merits of a case.
- On the Merits, or merits of a case—refers to the direct issues involved. It does not include collateral issues, such as grounds for dismissal, summary judgment, and interlocutory appeals.
- Citing a case or authority—means to provide a written reference to quoted material. There are special formats to use, like the Bluebook writer’s reference manual.
- To come before a court—simply means to participate in a legal proceeding.



MORE ON THE PRO SE PROCESS

On a very basic level, all litigant is merely the playing of a stage act. There is an audience, players and roles, a plot and structure. Form is everything. All litigation follows a basic pattern, and is described very briefly below.

Step 1—File a lawsuit. (commence the action by petition)

Step 2—Serve the other side. (Original Notice personally delivered to defendant)

Step 2a—Pre-answer motions, ie. motion to dismiss. (optional)

Step 3—Within 20 days after being served, Defendant must file an Answer. (failure results in default)

Step 4—Within 21 days following an Answer, both parties must conduct a Discovery Conference by agreeing together on an action plan. (this is true even for pro se litigants)

Step 5—Within 7 days following the Discovery Conference a Discovery Plan must be filed with the court. (it is a joint agreement between you and the other side)

Step 6—Within 14 days of the Discovery Plan, each side must present to the other a list of Initial Discloses. (see Iowa Court Rule of Civil Procedure 1.500)

Step 7—The court may set a trial-setting conference.

Step 8—Trial to jury or judge. (unless a negotiation and settlement has occurred)

During the course of litigation, it may become necessary to conduct some side actions (see insert at right). These acts and actions are part of your case, but are also considered to be side issues. These side actions can occur at any point during your actual litigation and you should be aware of them.

SIDE ACTIONS

Sometimes it will become necessary to side track your litigation and to develop alternate courses. These side tracks help to solidify your case and can either be used to hurt or to help your case.

1. Motions—these actions usually attempt to narrow issues or to dismiss a case. There are some special provisions for these side actions.

First, a judge must rule on a motion within 30 days generally. The opposing party must file a “Resistance” within 10 days of a motion or forfeit the chance to challenge it. Finally, motions will result in court costs which will be taxed (see p. 4 of this issue {next page} for more details).

1. Pre-trial conferences—are usually optional. They are generally used when much confusion remains in how to conduct a case. A judge will help negotiate the procedures for a case between the conflicting parties.
2. Discovery—refers to the process of gathering important information from the other side and from witnesses. It is a full investigation to gather evidence for use at trial. While it may sound ridiculous, you **cannot** begin discovery without first filing a lawsuit.

Of course, your own personal knowledge and fact gathering probably began well before filing a lawsuit. All that discovery refers to is the formal ability to **compel** information sharing from other persons.

TIPS FOR WORKING WITH OPPOSING ATTORNEYS

Sometimes you will represent yourself and find that an opposing attorney is likely to stand in your way. But don't fret too much, many attorneys understand that not everyone can be represented by a lawyer. Many good attorneys will be happy to work with you, even if you are on the opposite side. This is because everyone coming to court must be respectful and courteous to all others. Yet, there are some simple things you can do to make negotiations go a little smoother.

1. Tell other attorneys upfront that you are self-representing pro se.
2. Try to use the language of the law and the attorney (as described in this Newsletter).
3. Don't be afraid to demand things from the other attorney. You have the right to a fair and balanced case.
4. Be upfront on your abilities. This does not mean telling opposing counsel that you have no skill and should be taken advantage of. Rather, honestly explain why you choose to self-represent and ask the other attorney about ways to smooth the process. (Note—opposing attorneys often talk to each other about the best ways to do certain things. So can you)
5. If you are against a rude attorney or someone not willing to help keep things smooth, don't be afraid to report this to the judge. (some attorneys will try to take advantage of you—don't let them)
6. Above all else, have fun. The practice of law is just that, a practice. No attorney is ever perfect, and sometimes you know more than they do.

POTENTIAL COMPLICATIONS

There are many hang-ups that opposing lawyers try to use to confuse pro se litigants.

- Know your jurisdictional basis for using a particular court. Jurisdiction refers to both personal and subject matter. Personal jurisdiction is the power of the court to bring a person before it. In most cases, only a court where the defendant lives has power over a defendant (but not always). Subject matter jurisdiction is the power to hear a particular kind of case. For instance, if your case involves a family law issue, then you must use a family law court or your case could be dismissed.
- Bringing a lawsuit against an out-of-state defendant requires the use of a “long-arm statute.” These laws allow for a court to gain personal jurisdiction over someone living outside of Iowa.
- Service of process must be valid. Service simply refers to the process of personally delivering an Original Notice of a lawsuit to the Defendant. This is often done by a sheriff, by mailing, or by publishing in a newspaper. Laws vary on which method is valid depending upon your case, so research thoroughly. If Process is not valid, the other side can have your case dismissed.
- Avoid making vexatious lawsuits. You must have valid legal grounds for bringing a lawsuit. It must not be made merely to annoy or irritate another person and it must not be falsely made nor frivolous (without any legal merit or worth). Such cases will be dismissed.
- Know the difference between case law and statutory law. Case law is judge made law and is often found by researching prior court decisions. Statutory law is law made by legislators and often referred to as code based law. Iowa's Code is an example. When making legal arguments to favor your case, you should always cite (use) both kinds of law, because code based law is often explained in detail by case law and can be changed by it as well.
- Know when and how court fees will be taxed. Many laws provide that certain court costs will be taxed (held against) the losing party to an action, ie. motion or case. But this is not always true. And to hold the other side liable for these costs, you must request it in the document you file with the court.
- Pleadings are documents which outline the basic legal concerns and issues. Generally, there are two basic types. A petition is the pleading where a legal complaint or dispute is made. An answer is a pleading which either admits or denies the wrongs alleged in a petition. It is unwise to use “general denials”, instead state specifically why you deny a particular complaint or issue.
- Court documents use a “Caption.” This is a heading which details who the parties are, who the court is, and what type of document is being used. Cases can sometimes be won or lost on this caption. For an example of a good caption go to: <http://www.iowa.gov/government/crc/docs/Nyoachcourtorder.pdf> (Note: the caption is all printed material appearing before the “Introduction” line, and excluding the clerk of court's filing stamp).
- Nothing is set in stone until final resolution. You can make “motions for continuance” to reset hearing dates and times. You can also request (by motion) alternative means to participate in hearings, such as by telephone or other electronic means. Your personal appearance is usually required, but not always (so be sure to ask).



COMING SOON

In addition to this Newsletter, other publications will periodically become available. These Newsletters focus on specific legal topics and may be of great interest to pro se self-helpers.

In coming editions:

1. Guide to Iowa's Small Claims Court and procedures
2. The Appeal Process: Ins and Outs of Advanced Legal Proceedings.
3. Guide to Default Judgment and Summary Judgment procedures.

Thompson Legal Assistance also has currently published material in other legal areas which may be of interest to you. Go to the firm's website to access its Newsletters forum.

This Newsletter is Provided by:
Thompson Legal Assistance, LLC
704 North Cedar Street
Jefferson, IA 50129

Phone: 515-897-0431
E-mail: thompsonlaw4@gmail.com

Iowa's Code can be found by
reviewing:

Iowa's Legislative Website

BEST PRACTICES AND PRACTICAL ADVICE

The following discussion is intended for educational purposes only:

Tips and Advice

1. Always follow the Court Rules. These are posted on judicial websites for public use. These rules provide guidance in how to do certain things and provide for appropriate conduct and behavior before the court.
2. This Newsletter often refers to highly technical material, words and phrases. This is intentional in order to provide brevity. These materials have been written in common legal language and thus can easily be researched online thru simple searching.
3. Be aware that a defendant must answer a complaint within 20 days of being served, or risk being in default. If default occurs, a plaintiff can win everything asked for in a petition.
4. When a default has occurred by a defendant, the person filing the lawsuit must provide notice on the defendant and wait 10 days before asking the court for a default judgment (a final decision). There are standard forms for doing this.
5. Keep a calendar of important dates. There are many dates in any litigation and many do overlap quite a bit. Be aware that dates for side actions sometimes alter other litigation dates.
6. Iowa law requires that 3 days be added to any important cutoff date, to allow for mailing time (this is also true even if a document is filed electronically). For instance, if a person has 20 days to respond, you must add 3 days for a total of 23 days before the person becomes delinquent in responding.
7. If you are required to respond to some document, never rely on the 3 day additional time (described above). It is generally more acceptable to be respectful and respond well before the time ends for doing so.
8. When making written legal arguments, such as in legal briefs, you must use some form of legal citation when referencing literary material. A citation is a way for others to know where you got your information. For example, *City of Waterloo v. Bainbridge*, 749 N.W.2d 245, 248 (Iowa 2008). A great website for help with creating a citation can be found at: <http://citeuslegalus.com/>
9. Representing yourself can be complex, take time to thoroughly review this entire Newsletter, and note that some material may not be presented in a highly organized fashion. **Be sure to re-read this Newsletter many times so you don't miss something.**
10. For low income persons, the court allows you to request a fee and court cost waiver, this form must be approved **prior** to filing your petition (ask the clerk of court for details).

This Newsletter has provided a very cursory (brief) overview of those things currently taught in law school. You should be aware of this limitation and be sure to research the materials presented herein in much greater detail on your own before attempting a pro se litigation.

