

HOW TO MODIFY A CUSTODY ORDER

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COURT SELF HELP CENTER

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CUSTODY MODIFICATION PACKET

	<u>Page No.</u>
I. INTRODUCTION	3
II. DEFINITIONS	4
III. CUSTODY MODIFICATION FILING AND PROCEDURAL INFORMATION	8
IV. FILING CHECKLIST	16
V. FREQUENTLY ASKED QUESTIONS	17
VI. STATUTES AND RULES	19
VII. FORMS	20
VIII. APPENDIX A - Special Relief	i

I. INTRODUCTION

A custody modification petition is a way to legally ask the court to change an existing custody order. **It is recommended that you at least speak to an attorney so you can find out your rights.**

COURT-STAFFED OFFICES IN THE COURTHOUSE ARE NOT PERMITTED TO GIVE YOU LEGAL ADVICE.

If you decide to represent yourself in the custody modification action (known as “pro se”), it will take a lot of time, and cause you difficulty, confusion, and frustration. You **MUST** follow the Rules and Procedures, both state and county, as are required for attorneys. The Court will not allow you to skip any procedure because you “**did not know how or when**” to do something in your custody action. This packet is not to be a substitute for professional legal advice tailored to a specific fact situation.

Also, the Judges and Conference Officers WILL NOT be available to you to provide advice or guide you through the proceedings. You are NOT ALLOWED to contact Judges or Conference Officers except for filing official paperwork or appearing in court proceedings.

If you feel you need an attorney, you may contact the **LANCASTER BAR ASSOCIATION**, at (717) 393-0737.

II. DEFINITIONS

- “Action”** All proceedings for legal and physical custody partial custody or visitation, and proceedings for contempt and modification of prior Orders of any Court.
- “Adult”** An individual 18 years of age or older.
- “Caption”** The heading on a pleading which sets forth the name of the Court, the number of the action, the name of the pleading, and the names of all of the parties.
- “Child”** An unemancipated individual under the age of 18 years, including children by birth or adoption.
- “Complaint”** A formal pleading, filed in the Prothonotary's office, in the paragraph format and with all contents as required by the Pennsylvania Rules of Civil Procedure for pleadings requesting primary physical custody, or a schedule of partial physical custody or visitation, to begin a custody action when there is no pre-existing custody order.
- “Continuance”** A request to change the date of a Conference, Pretrial Conference, or Hearing to another date.
- “Custody”** The legal right to keep, control, guard, care for and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody.”
- “Custody Conference”**
A Conference, facilitated by a Custody Conference Officer, where the parties to an action mediate and/or narrow the issues in the custody action to facilitate the conciliation process and to encourage frank, open and meaningful exchanges between the parties and their respective counsel. Statements made by the parties at the Custody Conference shall not be admissible as evidence at a later Custody Hearing. The Custody Conference Officer shall not be a witness for or against any party.
- “Custody Conference Officer”**
A member of the Lancaster County Bar or other appropriate person appointed by the Court to conciliate custody cases filed with the Court and recommend to the Court Interim or Temporary Custody Orders.
- “Defendant”** The person being sued.
- “Ex Parte”** In order to preserve fairness in all proceedings, no one party or his/her lawyer may contact the Court or the Conference Officer about issues in the case without the other party's participation. This includes by telephone, mail, fax, e-mail, or in person.
- “Home County”** The county in which the child has resided preceding the time involved for at least the past 6 consecutive months, and in a case of a child less than 6 months old, the county in which the child lived from birth.

“In loco parentis”

Latin for “in the place of a parent” or “instead of a parent” refers to the legal responsibility of a person or organization to take on some of the functions of a parent.

“Jurisdiction” The authority of the court to act regarding particular parties and the subject of litigation.

“Legal custody”

The legal right to make major decisions on behalf of the child, including, but not limited to, medical, religious, and educational decisions. ¹

“Order”

A formal written document, signed by a judge, directing schedules, procedures, arrangements and decision-making authority during the course of and at the conclusion of custody litigation.

“Partial Custody”

The right to assume physical custody of the child for less than a majority of the time.

“Party”

A named Plaintiff or Defendant in the action.

“Paternity”

The legal determination that someone is the father of the child.

“Person acting as parent”

A person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

“Petition”

A formal pleading, filed in the Prothonotary’s office, in the paragraph format and with all contents as required by the related section of the Pennsylvania Rules of Civil Procedure for the particular type of petition: to modify an existing Custody Order, or to cite contempt (disobedience) of an existing Custody Order, or for “special relief.” Petitions for special relief which also request immediate court intervention must be presented in Family Business Court in accordance with all procedures required by those proceedings.

“Petitioner”

A party who presents a petition to a court or other official body.

“Primary physical custody”

The right to assume physical custody of the child for the majority of time.

¹ Examples of legal custody issues are whether a child will attend public or some type of private school; who will be the child’s doctor or dentist; what religion, if any, will the child learn; whether a teenager may have a part time job or go on a trip; whether a child will play in organized sports, take music lessons, etc. All of these legal custody issues are for the parties, not the court, to decide, and therefore are called “co-parenting issues,” meaning the parents, even though separated, should discuss them and must be responsible enough to do so in a civil, respectful manner. “Informing” the other parent or party about a decision you made alone (except for medical emergencies) is not a “discussion” and instead is a violation of the shared legal custody process required by Pennsylvania custody law.

“Physical custody”

The actual physical possession and control of a child.

“Plaintiff”

The person filing the case.

“Pre-Trial conference”

A Conference with the Judge and the parties’ counsel, or the party if unrepresented, where the issues that will be presented at a Hearing are clearly enumerated and any special requests for witnesses are discussed.

“Pro Se”

For one’s own behalf or appearing for oneself.

“Putative Father”

The alleged biological father of a child born out of wedlock.

“Registered mail”

Either registered mail or certified mail.

“Relocation”

A change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights.

“Respondent”

The party against whom a motion or petition is filed.

“Service”

(meaning service of process) -- The formal delivery, to the other party, in the manner directed by the Pennsylvania Rules of Civil Procedure, of legal documents related to an action before the court, including original process (initial complaint, petition, etc.), and later pleadings filed in that action, as well as notices of petitions about to be filed. Because the date of service has legal significance in an action before the court, proof of the date of service of each such document on the other party must be filed by the party who performed the service, whether for original process or for later pleadings in the case.

“Shared legal custody”

The right of more than one individual to legal custody of the child.

“Shared physical custody”

The right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.

“Sole legal custody”

The right of one individual to exclusive legal custody of the child.

“Sole physical custody”

The right of one individual to exclusive physical custody of the child.

“Standing” A legally recognized right to participate as a party in a custody action. This is determined by legal principles and not by the level of sincerity or amount of good faith of an interested person.

“Supervised Physical Custody” Custodial time during which an agency or an adult designated by the court, or agreed upon by the parties, monitors the interaction between the child and the individual with those rights.

“Venue” The county in which the child has lived for the past 6 months immediately preceding the filing of the action.

“Verification” A written statement of fact by the signer, supported by oath or affirmation or made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

III. CUSTODY MODIFICATION FILING AND PROCEDURAL INFORMATION

- **WHEN SHOULD I FILE FOR MODIFICATION OF A CUSTODY ORDER?**

1. If you think it is in your child's best interest;
2. If you are afraid that the other party may take the child out of the area without your permission and not return;
3. If you want to change the dates and times for periods of custody that are in the court order; or
4. If you wish to move and that move affects the other party's custodial rights (see 23 Pa.C.S.A. §5337 for specific information regarding relocation).

- **ARE THERE SITUATIONS WHEN IT MAY BE BETTER *NOT* TO FILE?**

If you and the other party have an agreement between the two of you that is working well and the child is happy, there is no reason to change the court order. Sometimes getting the court involved can create bad feelings when there were none before.

If any party, or a member of that party's household, has been convicted of or charged with an offense listed under 23 Pa.C.S.A. §5329, you may want to consider the consequences of putting the issue before the court.

Whether to begin a custody modification action can be a fact sensitive decision. If you have questions about your specific situation, you should consult an attorney.

- **WHO MAY FILE FOR MODIFICATION OF A CUSTODY ORDER?**

Any of the parties named in the existing custody order may file for modification of the order.

- **HOW MUCH DOES IT COST TO FILE A PETITION TO MODIFY THE COURT ORDER?**

The current fee (as of 01/01/2018) is \$93.50. This is the filing fee and is subject to change. It is to be paid at the time that the custody modification petition is filed at the Prothonotary's Office on the second floor of the Lancaster County Courthouse. It can be paid by cash, money order, or cashier's check; a money order or cashier's check should be made payable to the **Lancaster County Prothonotary**. The filing fee is non-refundable and non-returnable.

If you fit the financial requirement for low income families, the filing fee may be waived. To see if you qualify, you must file an IFP (in forma pauperis) petition with the court.

- **ARE THERE ANY OTHER COSTS INVOLVED?**

Yes. The court requires that every party who is named in the caption attend a custody education seminar designated by the court, unless they have previously attended the seminar and filed the Certificate of Attendance with the court. The identification of the seminar shall be attached to the custody modification petition in the form of a brochure and registration form. This form can be obtained at the District Court Administration Office or at the Court Self Help Center, or access to the form can be obtained on the Pressley Ridge Website: www.pressleyridge.org.

- **CAN I FILE FOR MODIFICATION OF A CUSTODY ORDER WITHOUT AN ATTORNEY?**

Yes. Effective July 5, 2013, if you are representing yourself, you must file a written Entry of Appearance (form 5) stating an address where you agree that pleadings and other legal papers may be served. The address does not have to be your home address. The entry of appearance shall also state a telephone number at which you may be contacted. If you choose, you may also provide a facsimile (fax) number.

** Note: If your address and/or your telephone number are confidential pursuant to a PFA Order, you are NOT required to state your address and/or telephone number on your Entry of Appearance of Self-Represented Party form. You are, however, required to maintain your address and telephone contact information up to date with the Prothonotary's staff, who keeps that information secured and confidential from other parties and the public.*

If you are representing yourself, you are under a continuing obligation to update your contact information with the Court, to other self-represented parties, and to attorneys of record.

If you are representing yourself, you are required to provide copies of your entry of appearance to all other self-represented parties and attorneys of record.

- **IN WHAT COUNTY COURT DO I FILE?**

If the original custody order was entered in Lancaster County, you can file for a modification in Lancaster County. If the original order was entered in another county or state, you should consult an attorney.

- **WHAT DO I NEED TO FILE?**

Please see the Filing Checklist on pg. 16 of this packet for a list of the items that you need to file. Please note: The plaintiff, defendant, and docket number of the custody modification petition will be the same as the plaintiff, defendant, and docket number of the existing custody order. The petitioner is the party requesting the modification; the respondent is the other party.

- **WHAT HAPPENS AFTER I FILE THE CUSTODY MODIFICATION PETITION?**

The Prothonotary's Office will keep the original and all copies of the petition and scheduling order. They will forward the paperwork to the office of Court Administration to have either a criminal history hearing or a custody conciliation conference scheduled.

Note: The Court may schedule a criminal history hearing depending on the matters disclosed in the Criminal Record Abuse History Verification. At the hearing, the Court shall consider evidence of criminal or abusive history presented by the parties. There is no obligation for the Court to conduct an independent investigation of the criminal or abusive history of either party or members of their household. The Court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling, or whether a party or household member poses a threat to a child, the Court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member and whether the offense involved violence.

Copies of the custody modification petition with a date and time for either a criminal history hearing or a custody conference (which typically will be held within *six* weeks after the filing date) will be returned to you. It is your responsibility to make sure any person who has physical custody of the child or claims to have custody of the child is given notice of the time and place of the conference and the requirement for them to complete and file the Criminal Record/Abuse History Verification within 30 days after service. Prior to the conference, proof of service must be filed with the Prothonotary with the postal receipt card signed by each person served attached to it. Service of the petition must be made by either personal service (form 7(A) or form 7(B)) or by both regular and certified mail (form 8) in accordance with Pa. R.C.P. 1930.4.

- **WHAT IF MY CONTACT INFORMATION CHANGES AFTER THE MODIFICATION PETITION IS FILED?**

You must file a Change of Contact Information of Party form (form 6) with the court and serve it upon all of the other parties and/or attorneys in the action.

- **DO I HAVE TO BRING ANYTHING TO THE CONFERENCE?**

Yes. You must bring to the conference proof that you completed the court-approved custody education seminar unless you have previously filed this document with the Prothonotary's office. Also bring to the conference a copy of the service document and the return receipt card signed by each person served which proves that the petition and order scheduling the conference was served.

NOTE: WITHOUT PROOF OF SERVICE, THE CONFERENCE MAY NOT BE HELD.

- **WHO RUNS THE CONCILIATION CONFERENCE?**

The conference is conducted by an attorney who has been appointed by the court to act as a Custody Conference Officer (CCO). His or her job is to help the parents or parties work out a custody schedule which is agreeable to all. The conference officers cannot take sides, nor can they look at evidence you wish to present such as character references, letters from doctors or counselors, etc.

The custody conference officer MAY NOT be contacted by any party or by anyone on a party's behalf outside of the conference for any reason.

The custody conference officer CANNOT be subpoenaed to testify in a custody hearing.

- **WHAT IF I CHANGE MY MIND AFTER FILING THE CUSTODY MODIFICATION PETITION?**

Please be advised that after you file a custody modification petition, you can only withdraw or discontinue the action by written agreement of the parties or by an Order of the Court. (See Pa. Rule of Civil Procedure 1915.3-1). Therefore, you should not start this action unless you plan to follow through with it.

- **WHAT IS THE APPROPRIATE CONDUCT AND DRESS AT ALL COURT APPEARANCES?**

The Conference Officer controls the conference and decides who talks first and whether the statement is relevant to furthering a custody agreement. Turn off your cell phone. Dress as if you were working in a business office - shorts are not permitted. Do not chew gum. Do not interrupt the Conference Officer or the other party. Each party will have an opportunity to speak. Remember to control your emotions and your remarks. If there are angry outbursts or inappropriate language, the offending party may be ejected and the conference may continue.

- **WHAT IS THE PROCEDURE AT THE CONFERENCE?**

The conference officer will first ask the party who filed the modification petition what he or she wants to see happen. Then the other party will have a chance to respond. It is good to have worked out what you want to say ahead of time. If an agreement can be reached, you will each leave the conference with a handwritten summary of the agreement which will be typed up within ten days, signed by a family law judge and mailed to you. If the parties cannot agree, the Conference Officer may make a recommendation for a custody schedule and either schedule a follow-up conference or schedule the case for a hearing before a judge. You will receive a handwritten copy of the recommendation when you leave as well. If recommended, a hearing typically is scheduled several months after the conference. It may be helpful to review the Parenting Plan found at 23 Pa.C.S.A. §5331 prior to the conference to familiarize yourself with issues that may arise and questions that may be asked. At the end of the conference, if a hearing is to be scheduled, any party may request a pretrial conference before the judge.

- **WHO MAY COME TO THE CONFERENCE?**

Only the parties on the caption of the modification petition are allowed at the conference. Each party may bring an attorney. No other relatives, friends, etc. are allowed in the conference room. Children are permitted in the conference only if there is a specific court order allowing them to attend. Children must not be left unattended in the courthouse, so please make day care provisions for them elsewhere.

- **WHAT IF I AM UNABLE TO ATTEND THE CONFERENCE ON THE DAY IT IS SCHEDULED?**

There are only certain conditions that allow for continuances. Work is not considered an adequate reason for a continuance. To request a continuance, you must first get permission from the other party. If there is an agreement, then the continuance form (form 9) must be signed by both parties and submitted to Court Administration. A motion cover sheet (form 3) must also accompany the form. If the request is *submitted less than* fourteen (14) days before the conference, you **MUST** pay another \$93.50 to the Prothonotary's office. If there is no agreement to the continuance, you must petition the court to get permission. (See Special Relief procedures herein.)

- **WHAT HAPPENS IF A HEARING IS SCHEDULED?**

If no agreement is reached at the conference and the conference officer recommends a follow-up conference or a hearing, the date for the procedure will appear in the court order which results from the conference.

NOTE: ALL PARTIES MUST ATTEND THE EDUCATION SEMINAR AND PROVIDE PROOF OF ATTENDANCE TO THE PROTHONOTARY'S OFFICE.

There are six family law judges who hear custody cases. Custody cases are not heard before a jury. Two custody cases are scheduled for each hearing date - one at 9:00 a.m. and one at 10:00 a.m. If you are scheduled at 10:00 a.m., your case could get continued to another date if the 9:00 a.m. case is heard. If the 9:00 a.m. case settles, your case will be heard. You must be prepared to present your case even if the 9 a.m. case settles at the last minute.

It may be helpful to review the statutory factors set forth below that the court will use to make a custody determination:

**Factors for the Court to consider in custody determinations pursuant to
23 Pa.C.S.A. §5328:**

- (a) Factors. --In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:
- (1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.
 - (2) The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child.
 - (3) The parental duties performed by each party on behalf of the child.
 - (4) The need for stability and continuity in the child's education, family life and community life.
 - (5) The availability of extended family.
 - (6) The child's sibling relationships.
 - (7) The well-reasoned preference of the child, based on the child's maturity and judgment.
 - (8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.
 - (9) Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child adequate for the child's emotional needs.
 - (10) Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child.
 - (11) The proximity of the residences of the parties.
 - (12) Each party's availability to care for the child or ability to make appropriate child-care arrangements.
 - (13) The level of conflict between the parties and the willingness and ability of the parties to cooperate with one another. A party's effort to protect a child from abuse by another party is not evidence of unwillingness or inability to cooperate with that party.
 - (14) The history of drug or alcohol abuse of a party or member of a party's household.
 - (15) The mental and physical condition of a party or member of a party's household.
 - (16) Any other relevant factor.

- (b) Gender neutral. --In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter.

Pretrial Conference

Any party may request a pretrial conference, see Pa. R.C.P. 1915.4-4. This is a meeting of the parties and the judge at least 30 days prior to the hearing to discuss the issues and explore whether there can be a resolution without going to a hearing. If a party wishes to request a pretrial conference, he/she must file with the Prothonotary's office and serve upon each party a Praecipe for Pretrial Conference (form 10).

At least five (5) days prior to the pretrial conference, each party shall file a Pretrial Statement (form 11) with the Prothonotary's Office and serve a copy of the statement upon the court and the other party. The Pretrial Statement includes a proposed Custody Order. If you include a witness on the Pretrial Statement, the court will assume that you have communicated with that witness about the substance of their testimony. No testimony is taken or recorded at the pretrial conference.

Rules of Conduct

If you are not represented by an attorney, you are considered a “*pro se litigant*”. Even though you are unrepresented, the court holds *pro se* litigants to the same standards of conduct in the courtroom. The parties are bound by the *Pennsylvania Rules of Civil Procedure* and the *Pennsylvania Rules of Evidence*. The *Rules of Evidence* sets standards for objections to what is being said by a witness, what constitutes relevant testimony, what exhibits can be admitted, etc. If you are the party who filed the modification petition, you will present your case first. You will testify on your own behalf and present witnesses to help prove why the court should grant the relief you request. The other party will be able to cross examine or question you and your witnesses. You will also be able to cross examine or question the other party and his/her witnesses. The judge may also have questions.

The bailiff will tell you where you should sit. After the hearing has started, you may not leave the table without permission from the judge. Each party acting as an attorney must stand when addressing the judge (unless you are testifying on the witness stand) and must refer to the other party and witnesses as Ms. or Mr. This is a formal setting. The judge is always addressed as “Your Honor.”

Attire

As noted above, this is a formal setting. You should dress in business attire. Shorts, flip flops, tank top tee shirts, mini skirts, jeans, etc. are not appropriate. You are not allowed to chew gum. Turn off your cell phone.

Witnesses

It is your responsibility to give your witnesses notice of the time and date for the hearing. Please check the *Pennsylvania Rules of Civil Procedure* regarding subpoenas for the witnesses, if necessary. A subpoena is a court order directing a witness to come to the hearing. *You and all other adults residing in your household are required to attend and testify at the hearing.*

Children at the hearing

Judges usually do not interview children who are under six years of age. You should ask the judge ahead of time (such as at the pretrial conference) if the children should be brought to the hearing.

The judge usually speaks with the children in his/her chambers after the testimony has ended for the day. It is boring for the children to spend the day in the hallway of the courthouse. The parties should make arrangements to have the children brought to the courthouse at a time designated by the judge. Children may not be left unattended in the hallway and the parties must be in the courtroom during the hearing. That means it is necessary to bring another responsible adult to watch them.

Need for more time

If the hearing is not completed in one day, another day of testimony will be scheduled at a later date. Even when testimony has been completed, you will usually not get a ruling from the judge on that day. The judge may ask for proposed custody arrangements, which outlines the custody schedule you request. Then he or she will take time to deliberate. This time varies based upon the complexity of the case and the judge's current work load.

- **WHAT IF I AM UNABLE TO ATTEND THE HEARING ON THE DATE IT IS SCHEDULED?**

Because of the large number of Family Court cases, if you request a continuance of your hearing, it will be months, not weeks, until a new hearing date will be scheduled. You are expected to make every effort to arrange your schedules so you can be available for a hearing on the important issue of your child's custody. However, as with the continuance for the custody conference, if there is some dire reason why the hearing needs to be continued, you first must get permission from the other side. If you have permission, you must have all parties sign the continuance form (form 9), and fill out the Court Administration Cover Sheet (form 3). If there is no agreement, you must petition the court with an attached proposed continuance order. (*See Special Relief procedures in this packet.*)

- **WHAT IF I DO NOT AGREE WITH THE JUDGE'S DECISION?**

Due to the complexity of the procedure for filing an appeal, it is recommended that you consult an attorney.

IV. FILING CHECKLIST:

- The custody modification petition (form 1) with a scheduling order on the top (form 2) and a registration form for the seminar (currently known as the Focus on Children seminar) brochure and application (separate form from this packet) shall be filed with the Office of the Prothonotary. If the child was born out of wedlock, proof of paternity (either an acknowledgment of paternity or a court order establishing paternity), must also be attached if applicable. Copies of the Acknowledgment of Paternity form are available either in the Prothonotary's Office or in the court Self Help Center. Please bring the original and one copy for each party in the action.
- A Court Administration cover sheet (form 3).
- A completed Criminal Record/Abuse History Verification (form 4), completed for yourself and your household members, are also required as well as a blank form 4 for the other party to complete.
- Bring the money order, cash, or cashier's check for the current filing fee. Bring a self addressed stamped 9x12 envelope with enough postage to cover the cost of mailing **all** of the copies to you.
- A completed Entry of Appearance (form 5).

PLEASE NOTE-DO NOT SUBMIT AN INCOMPLETE PETITION. IF YOUR PETITION DOES NOT CONTAIN ALL OF THE REQUIRED INFORMATION, IT WILL BE REJECTED BY THE COURT. IF THE PETITION IS REJECTED, YOU MAY BE REQUIRED TO RE-FILE YOUR PETITION AND PAY THE FILING FEE AGAIN.

V. FREQUENTLY ASKED QUESTIONS.

- **THE OTHER PARENT NEVER SPENDS TIME WITH MY CHILD(REN), MAY I TERMINATE HIS PARENTAL RIGHTS?**

Parental rights cannot be terminated unless: 1) there is a stepparent who is willing to adopt the child and the non-custodial parent signs a consent to the adoption or; 2) there is a stepparent who is willing to adopt the child and, after a hearing, the court determines that the non-custodial parent has abandoned the child such that his/her rights can be terminated without his/her consent. This is a separate procedure in Orphans Court. It is not a custody procedure.

- **MAY I KEEP THE OTHER PARENT FROM SEEING MY CHILD(REN) BECAUSE THAT PARENT DOES NOT PAY CHILD SUPPORT?**

No. The non-payment of child support does not allow a parent to disobey a court order for custody. The court believes that it is in the child's best interest to have a relationship with both parents. Instead, child support issues should be pursued through the Lancaster County Office of Domestic Relations Enforcement Office (717-299-8141).

- **CAN CUSTODY EVER AFFECT SUPPORT?**

Yes. If the non-custodial parent can show that he or she regularly has the child in excess of a threshold amount of time over the course of the year, the support amount may be adjusted. The threshold amount of time is established by the State Support Guidelines.

- **MY CHILD IS 12 YEARS OLD. MAY SHE DECIDE WHERE SHE WANTS TO LIVE?**

No. There is no magic age in Pennsylvania when the child gets to make the decision as to where he/she will live. The court looks at all of the factors involving the best interest of the child and the child's preference can be a factor. The weight of that preference will depend upon the age, maturity, intelligence and reasoning of the child. The parties are free to agree to follow the child's preference.

- **COMMUNICATION WITH THE COURT - - IF I HAVE QUESTIONS ABOUT HOW TO PRESENT MY CASE, WHAT MY RIGHTS ARE, OR A PROBLEM WITH THE OTHER PARTY WHILE MY CASE IS PROCEEDING THROUGH THE COURT SYSTEM, MAY I WRITE OR CALL THE JUDGE ASSIGNED TO MY CASE FOR MORE INSTRUCTIONS ABOUT WHAT TO DO, OR AT LEAST TO LET THE JUDGE KNOW THE PROBLEMS I AM EXPERIENCING IN GETTING THE OTHER PARTY TO COOPERATE?**

NO. Attempts to communicate with the court without the other party present to know what you are telling the judge is called ex parte (without the other person) communication. This kind of one-sided effort to contact a judge is strictly prohibited. In addition, the judge's staff

may not communicate with you. Even if you do not intend to discuss the facts of your case and limit your contact to requesting instructions about how to proceed, that may be considered legal advice, which neither a judge, the judge's staff, nor any other court related office may give you. If you do not understand what steps to take or how a custody modification action proceeds after reading this packet, you should consult an attorney.

The court's authority to act is not exercised in response to letters or telephone calls, but only in response to formal pleadings and evidence presented in official proceedings. The permissible method of communicating with the court about your case is by filing formal pleadings (served on the other party as discussed above), or in an actual court proceeding where the other party is present to hear what you are relating to the judge or conference officer.

The only exception to these restrictions is when the court or its staff *requests* you to provide information to assist the court in handling your case. Examples of such court requests are:

- responding to a request by the other party for a continuance;
- furnishing school schedules or vacation plans;
- providing a list of suggested counselors or other experts; or
- submitting proposed custody schedules/arrangements.

Just as with any pleading you file, complete copies of any information you provide the court, even if requested by the court, must be provided at the same time to the other party.

• **WHEN IT IS TIME FOR MY CHILD TO VISIT THE *OTHER PARENT*, HE DOES NOT WANT TO GO. DO I HAVE TO SEND HIM?**

Yes. If there is a court order scheduling your child to visit with the other parent at a certain time, the schedule must be followed or you can be held in contempt of the court order. You should be encouraging your child to spend time with the other parent. If you choose not to send your child, you may have to justify your refusal at a later contempt proceeding or you may need to file a pleading to modify the custody order if you have concerns. Willful failure to abide by a court order can cause a person: to be fined up to \$500.00; imprisoned for up to six (6) months; serve probation for up to six (6) months; and/or lose his/her driving privileges and be assessed counsel fees and costs. (See 23 Pa.C.S.A. §5323(g).)

VI. STATUTES AND RULES

STATUTES

- The Pennsylvania statutes pertaining to custody are in Title 23 of the Pa. Consolidated Statutes, beginning at Section 5321.

RULES

- State Rules pertaining to custody can be found in the Pennsylvania Rules of Civil Procedure beginning at Rule No. 1915.1 through 1915.25.
- County Rules pertaining to custody can be found in the Lancaster County Local Civil Procedure Rules specifically Rules beginning at No. 1915.1.
- Procedures pertaining to presentation in Family Business Court are governed by Lancaster County Local Civil Procedure Rule 1931.

Copies of all of the above items can be found at the Lancaster County Law Library.
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VII. FORMS

#	FORM
1.	PETITION FOR MODIFICATION OF A CUSTODY ORDER
2.	SCHEDULING ORDER
3.	COURT ADMINISTRATION COVER SHEET
4.	CRIMINAL RECORD/ABUSE HISTORY CERTIFICATION
5.	ENTRY OF APPEARANCE
6.	CHANGE OF CONTACT INFORMATION OF PARTY
7(a)	AFFIDAVIT OF SERVICE BY PLAINTIFF
7(b)	ACCEPTANCE OF SERVICE BY DEFENDANT
8.	AFFIDAVIT OF SERVICE BY CERTIFIED MAIL
9.	CONTINUANCE FORM - UNCONTESTED MOTION
10.	PRAECIPE FOR PRETRIAL CONFERENCE
11.	PRETRIAL STATEMENT
APP 1	NOTICE OF INTENT

NOTE: PLEASE SEE LOCAL RULE NO. 205.2(a) PHYSICAL CHARACTERISTICS OF LEGAL PAPERS

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
:
:
:
:

No. CI-

PETITION FOR MODIFICATION OF A CUSTODY ORDER

1. Petitioner is _____ and resides at _____
_____.
2. Respondent is _____ and resides at _____
_____.
3. Petitioner respectfully represents that on _____, 20____, an Order of Court was entered for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody). A true and correct copy of the Order is attached.
4. The Order should be modified because:

_____.
5. Petitioner has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

WHEREFORE, Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child(ren).

By: _____

_____ (Petitioner)

_____ (Address)

_____ (Address)
_____ (Telephone No.)

Dated: _____

Name _____

CI-

VERIFICATION

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATE

Petitioner

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs.

Defendant

:
:
:
: No. CI-
:
:
:

ORDER OF COURT

You, _____ (Plaintiff/Defendant), have been sued in Court to (OBTAIN) (MODIFY) (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the following child(ren):

You are Ordered to appear in person at 50 North Duke Street, Lancaster County Courthouse, Lancaster, Pennsylvania, on the ____ day of _____, 20__, at ____ o'clock ____ .m. for a conciliation conference to be held in Conference Room No. ____ before _____, Custody Conference Officer.

2. **Pending the custody conference:**
(court selects option)

- No temporary Order is requested.
- The Court issues no temporary Order.
- The custody Order _____ (date and reference No.) remains in effect.

With the following revisions (if applicable):

The court enters the following Temporary Order:

3. Required Education Seminar:

(a) All parties named in the caption of the case **MUST** participate in the custody education seminar approved by the Court at the time the custody action was filed.

(b) Unless specifically directed by Order of Court, no children shall be present at either the custody education seminar or the conciliation conference. For those cases in which the Court directs the party to bring a child or children to the conference, the supervision requirements of Local Rule 1915.5(b) C apply.

(c) Attendance at the custody education seminar will be verified by a certificate which must be presented to the Conference Officer at the beginning of the conciliation conference.

(d) A brochure and registration form identifying the seminar and giving the dates, times and location of the seminar is attached. The registration form and fee **MUST** be returned promptly to assure timely attendance. All parties must attend the required seminar even if the seminar information was omitted from the attached complaint or petition.

(e) If a brochure and registration form are not attached, call the District Court Administrator at 717/299-8041 or access the Form on the Court's website which is www.co.lancaster.pa.us/courts.

(f) If you fail to attend the custody education seminar without being excused by Order of Court, you **WILL** be subject to contempt proceedings.

4. If you fail to appear as provided by this order, an order for custody may be entered against you or the Court may issue a warrant for your arrest.

5. You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation) but no later than 30 days after service of the complaint or petition.

6. No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. §5337 and PA.R.C.P. No. 1915.17 regarding relocation.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LANCASTER BAR ASSOCIATION
LAWYER REFERRAL SERVICE
28 PENN SQUARE
P.O. BOX 30
LANCASTER, PA 17608
TELEPHONE: 717 393-0737

AMERICANS WITH DISABILITIES
ACT OF 1990

The Court of Common Pleas of Lancaster County is required by law to comply with the Americans with Disabilities Act of 1990. For information about the accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

BY THE COURT:

J.

DATE: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
COURT ADMINISTRATION OFFICE SCHEDULING COVER SHEET (CAOSCS)
IN ORDER TO BE PROCESSED ALL REQUESTED INFORMATION MUST BE COMPLETED
PLEASE TYPE OR PRINT LEGIBLY
ORIGINAL CAPTION

PLAINTIFF CHANGE OF ADDRESS

DOCKET NO. _____

DEFENDANT CHANGE OF ADDRESS

NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEYS/PRO SE

PLAINTIFF CHANGE OF ADDRESS

DEFENDANT CHANGE OF ADDRESS

Check one

CIVIL

FAMILY

DOMESTIC RELATIONS (SEE INSTRUCTIONS ON BACK OF FORM)

Name of person submitting CAOSCS: _____

SECTION A: EVENT INFORMATION

Hearing type _____ Conference type _____ Length of time _____

SECTION B: SCHEDULING INFORMATION (Select one option below)

REQUEST TO SCHEDULE AN EVENT: Family Business Court pick-up date if applicable: _____
Date: _____ Time: _____ Place: _____ Judge/CCO/DM: _____

REQUEST FOR CHANGE OF A SCHEDULED EVENT:
_____ Continuance _____ Cancellation _____ Opposing Counsel/Parties _____ **IS** _____ **IS NOT** in agreement
Presently scheduled for: Date: _____ Time: _____ Place: _____ Judge/CCO/DM: _____
Continued to: Date: _____ Time: _____ Place: _____ Judge/CCO/DM: _____
Reason: _____
Special instructions for rescheduling event: _____

REQUEST TO SCHEDULE A CONTINUATION AFTER START OF HEARING:
Date Started: _____ Time: _____ Place: _____ Judge/CCO/DM: _____
Continuation scheduled for: Date: _____ Time: _____ Place: _____ Judge/CCO/DM: _____

SECTION C: COURT USE ONLY

Approved by Judge _____ **Date:** _____

For Court Administration Use Only

Report Entered/Deleted on CCSC

CDAEVNT

Scheduled in BANNER

Letters Sent

(If a continuation, this must be indicated on CCSC)

Initials/Date _____

INSTRUCTIONS FOR COMPLETING CAOSCS

Section A: Event Information Select whether it is a hearing or a conference and specify the type. Type of Hearing example: Custody, Special Relief, License Appeal, Minor's Compromise, Adoption, Estate, Support, etc. Type of Conference example: Zoning Appeal, Custody, Support, etc. Enter estimated length of time needed.

Section B: Scheduling Information Select whether it is a Request to Schedule, Request for Change of a Scheduled Event, or a Request to Schedule a Continuation of an event that is in progress and complete that section accordingly.

Note: For Custody Conferences: Rescheduling fee must be attached along with a signed, ***Uncontested Motion for Continuance and Waiver*** form.

Any other Event changes: Continuances and Cancellations must have an Order (Original and 2 Copies)

Fees: Must be in the form of a Cashier's Check, Money Order, cash or Law Firm Check.

Section C: The date selected must be approved by a Judge and the CAOSCS sheet then given to Court Administration.

INSTRUCTIONS FOR COMPLETING CAOSCS - DOMESTIC RELATIONS SECTION, 150 NORTH QUEEN STREET, LANCASTER

First and second reschedule requests:

Agreement - Judges' approval is not required. File completed CAOSCS form at Domestic Relations Office.

Non-agreement - File completed CAOSCS form and motion in Family Business Court.

Third or subsequent reschedule requests: Must file a motion in Family Business Court.

GLOSSARY OF TERMS

PLAINTIFF - The party that institutes a suit in a court.

DEFENDANT - A person against whom an action is brought.

DOCKET # - The number assigned to the document.

HEARING - A session before a Judge in a courtroom or Divorce Master in a hearing room.

CONFERENCE - A meeting before a court appointed officer.

FAMILY BUSINESS COURT - Family petitions are presented to the Judge, assigned by defendant's last name.

COMPLAINT - The presentation by the plaintiff in a civil action, setting forth the claim on which relief is sought.

CAPTION - The heading which lists the plaintiff & defendant in the action.

PRO SE - for self - you represent yourself

JUDGE - The assigned judge for the event.

CCO - Custody Conference Officer - A court appointed officer assigned the custody conference.

DM - Divorce Master - A court appointed officer assigned the divorce hearing.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

	:	
vs.	:	No. CI -
	:	

CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. §4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a crime below, neither I nor any other member of my household have been convicted or pled guilty or pled no contest or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. §6307 to any of the following crimes in Pennsylvania or a substantially equivalent crime in any other jurisdiction, including pending charges:

<u>Check all that apply</u>	<u>Crime</u>	<u>Self</u>	<u>Other Household Member</u>	<u>Date of Conviction, guilty plea, no contest plea, or pending charges</u>	<u>Sentence</u>
<input type="checkbox"/>	18 Pa.C.S. Ch. 25 (relating to criminal homicide)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2702 (relating to aggravated assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2706 (relating to terroristic threats)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2709.1 (related to stalking)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2901 (related to kidnapping)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2902 (relating to unlawful Restraint)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2903 (relating to false Imprisonment)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3121 (relating to rape)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	18 Pa.C.S. §3122.1 (relating to statutory sexual assault)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §3123
relating to involuntary
deviate sexual
intercourse) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3124.1
(relating to sexual
assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3125
(relating to aggravated
indecent assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3126
(relating to indecent
assault) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3127
(relating to indecent
exposure) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3129
(relating to sexual
Intercourse with animal) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3130
(relating to conduct
relating to sex
offenders) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §3301
(relating to arson and
related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4302
(relating to incest) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4303
(relating to concealing
death of child) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4304
(relating to endangering
Welfare of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §4305
(relating to dealing in
Infant children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5902(b)
(relating to prostitution
And related offenses) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §5902 (c) or
(d)(relating to obscene and
other sexual materials
and performances) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

- | | | | | | |
|--------------------------|---|--------------------------|--------------------------|-------|-------|
| <input type="checkbox"/> | 18 Pa.C.S. §6301
(relating to corruption of minors) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6312
(relating to sexual abuse of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6318
(relating to unlawful contact with minor) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6320
(relating to sexual Exploitation of children) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | 18 Pa.C.S. §6114
(relating to contempt for Violation of protection order or agreement) | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Driving under the Influence of drugs or Alcohol | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| <input type="checkbox"/> | Manufacture, sale, Delivery, holding, Offering for sale or Possession of any Controlled substance or Other drug or device | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history or abusive conduct, or involvement with a Children & Youth Agency, including the following:

<u>Check All that Apply</u>	<u>Self</u>	<u>Other Household Member</u>	<u>Date</u>
<input type="checkbox"/> A finding of abuse by a Children & Youth Agency or similar agency in Pennsylvania or similar statute in another jurisdiction	<input type="checkbox"/>	_____	_____
<input type="checkbox"/> Abusive conduct as defined under the Protection from Abuse Act in Pennsylvania or similar statute in another Jurisdiction	<input type="checkbox"/>	_____	_____
<input type="checkbox"/> Involvement with a Children & Youth Agency or similar agency in Pennsylvania or another jurisdiction. Where? : _____	<input type="checkbox"/>	_____	_____
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	_____	_____

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

4. If any conviction above applies to a household member, not a party, state that person's name, date of birth and relationship to the child:

5. If you are aware that the other party or members of the other party's household has or have a criminal/abuse history, please explain:

I verify that the information above is true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated: _____

Signature

Printed Name:

INSTRUCTIONS IN COMPLETING THE FORM ON THE FOLLOWING PAGE

**PLEASE INSERT THE INFORMATION CORRESPONDING TO THE NUMBERS
BELOW WHERE INDICATED ON THE FOLLOWING PAGE**

- (1) Your name, including middle initial;
- (2) Your spouse's name, including middle initial;
- (3) Leave this blank (the Prothonotary's Office will fill in this number);
- (4) Your name, including middle initial; then check the box if you are the Plaintiff or Defendant in the action;
- (5) Place a mark on this line if you currently have an attorney who you want to withdraw from the case and proceed to step (6); otherwise, leave steps (5) and (6) blank and proceed to step (7);
- (6) Print your attorney's name who you want to remove from the action, if applicable;
- (7) Print your name;
- (8) Sign your name;
- (9) Print your telephone/cellular phone number;
- (10) Print your address;
- (11) Print your fax number, if applicable;
- (12) Print the date on the day you are filing the form with the Prothonotary's Office;
- (13) Print the type of service, such as first class mail, certified mail or personal service;
- (14) Print Defendant's address; and
- (15) Print the date in which you served the Entry of Appearance upon the Defendant.

**DO NOT ATTACH THESE INSTRUCTIONS
WHEN FILING YOUR ENTRY OF APPEARANCE**

INSTRUCTIONS

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

(1) _____ :
Plaintiff :
vs. : (3) No. CI- _____
(2) _____ :
Defendant : CUSTODY

ENTRY OF APPEARANCE OF SELF-REPRESENTED PARTY
PURSUANT TO Pa. R.C.P. No. 1930.8

I, (4) _____ () Plaintiff or () Defendant, represent myself in the within
action.

REMOVAL OR WITHDRAWAL OF COUNSEL OF RECORD (if applicable)

(5) _____ Remove (6) _____, Esq., as my attorney of record.

_____ Withdraw my appearance for the filing party.

_____, Esq. (Print name) ID# _____

_____ Signature DATE: _____

I understand that I am under a continuing obligation to provide current contact information to the court, to
other self-represented parties, and to attorneys of record.

All pleadings and legal papers can be served on me at the address listed below, which may or
may not be my home address pursuant to Rule 1930.8:

(7) _____
Print Name

(8) _____
Signature

(9) _____
Telephone Number

(10) _____
Address

(11) _____
FAX

(10) _____
City, State, Zip Code

(12) _____
Date

**THE PARTY FILING THIS ENTRY OF APPEARANCE MUST PROVIDE NOTICE BY SENDING A
COPY TO ALL PARTIES AND ATTORNEYS, INCLUDING ATTORNEY REMOVED FROM THE
CASE.**

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

(1) _____ :
Plaintiff :
vs. : (3) No. CI- _____
(2) _____ :
Defendant : CUSTODY

CERTIFICATE OF SERVICE

This is to certify that on this date, a true and correct copy of the foregoing Entry of Appearance of Self-represented Party Pursuant to Pa. R.C.P. No. 1930.8 was served upon the Defendant by (13) _____ to the following:

(2) _____

(14) _____

(14) _____

BY (8)
(1) _____
(10) _____
(10) _____

(15) _____
Date

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	No. CI-_____
	:	Custody
_____	:	
Defendant	:	

CHANGE OF CONTACT INFORMATION OF PARTY

My name is: _____

Legal papers may be served on me at the following address (unless said address and/or telephone number is confidential pursuant to PFA Order):

(Street address)

(City, State, Zip Code)

My telephone number is: _____

My facsimile (fax) number is: _____

I understand that I have a continuing obligation to provide current contact information to the Court and other parties and/or their attorneys.

I understand that I must provide a copy of this document as well as all other documents that I file to all other parties and/or their attorneys.

Dated: _____

signed by Pro Se Party

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:
Plaintiff	:
	:
vs.	: No. CI-
	:
_____	:
Defendant	:

AFFIDAVIT OF SERVICE

I, _____, hereby depose and say that on this date, I personally served the
(name of person serving the Respondent)
Respondent, with a Custody Modification Petition and Order (setting a conference date), by
personally handing the same to him/her at _____,
(address of service)
at _____ o'clock ____ .m.
(time of service)

I verify that the statements made in this Affidavit are true and correct. I understand that
false statements herein are made subject to the penalties of 18 Pa. CS. §4904 relating to unsworn
falsification to authorities.

Dated: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	No. CI-
	:	
_____	:	
Defendant	:	

ACCEPTANCE OF SERVICE

I, _____, Respondent in the above-captioned action depose and say that on this date, I hereby accept service of the Custody Modification Petition and Order (setting a conference date).

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. CS. §4904 relating to unsworn falsification to authorities.

Dated: _____

Respondent

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff	:	
	:	
vs.	:	No. CI-
	:	
Defendant	:	

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA)	
)	SS:
COUNTY OF LANCASTER)	

I, _____ (Petitioner), being duly affirmed according to law, depose and says that:

1. On _____ (date), a copy of the Custody Modification Petition and Order (setting a conference date), in the above-captioned matter was mailed to the Respondent by Certified Mail, Return Receipt Requested, Deliver to Addressee Only, at the Respondent's last known address, as indicated on the attached mailing receipt.

2. That on _____ (date), the Respondent received the aforesaid Petition and Order and the mailing receipt and return receipt card evidencing the same are attached hereto and made a part hereof.

Affirmed and subscribed)	
)	
before me this ____ day of)	
)	Petitioner
_____, 20__.)	
)	
_____ Notary Public)	
My Commission Expires:)	

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

	:	
Plaintiff	:	
	:	
vs.	:	No. CI-
	:	
	:	
Defendant	:	

AFFIDAVIT OF SIGNATURE

COMMONWEALTH OF PENNSYLVANIA)
) SS:
 COUNTY OF LANCASTER)

_____ (Petitioner), being duly affirmed according to law, deposes and says that he/she has examined the signature on the Return Receipt of the Post Office Department signed by _____ (Respondent), and that he/she is familiar with the signature of the said Respondent, and that the signature on that card is the signature of the said Respondent.

Affirmed and subscribed)
)
 before me this ____ day)
)
 of _____, 20__)
)
 _____)
)
 Notary Public)

Petitioner

My Commission Expires:

ATTACH CERTIFIED MAILING SLIP AND GREEN RETURN RECEIPT CARD HERETO

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant
: : : : :
: : : : :
: : : : :
: : : : :

No. CI-

UNCONTESTED MOTION FOR CONTINUANCE AND WAIVER OF
CUSTODY CASE TIME REQUIREMENTS

Motion is hereby made to continue the above-captioned case scheduled on Date: _____
(date) Time: _____ (time), , Officer/Judge: _____ (name), for a
_____ (Conference or hearing), for reason(s) as follows:
_____ (state reason).

Signature of applying Counsel of Pro Se

Date

Signature of opposing Counsel or Pro Se

Date

By signature of both parties, this is a waiver of the time requirements of PA Rule of Civil
Procedure 1915.4 for

_____ Initial conciliation conference
_____ Start of hearing
_____ Completion of hearing

ORDER

AND NOW, this ___ day of _____, 20___, the Motion is granted. The custody
_____ conference or _____ hearing is rescheduled to Date: _____, 20 __,
Time: _____, Place: _____, Officer/Judge: _____.

BY THE COURT:

J.

cc:

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	CI-
	:	
_____	:	
Defendant	:	

PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:

Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa. R.C.P. 1915.4-4.

The parties' initial in-person contact with the court (conference with a conference officer or judge, conciliation or mediation) occurred on _____.

Plaintiff/Defendant/Attorney for Plaintiff/Defendant

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
: No. CI-
:
:

CUSTODY PRETRIAL MEMORANDUM

Submitted by _____ (Plaintiff or Defendant).

I. A concise statement of the custody question at issue and proposal resolution.

II. A list of any contempt issues.

III. A list of fact and expert witnesses, their relationship to the party and their addresses.

Expert witnesses:

Fact witnesses:

IV. A statement by the party or the party's counsel that he/she has communicated with each listed witness.

V. A list of Exhibits.

VI. A list of all deposition transcripts to be used in lieu of testimony and a statement of all known objections thereto.

VII. A statement of all stipulations sought from opposing parties.

VIII. A statement of any special requests such as a special time for a witness, courtroom needs, etc.

By: _____

(Plaintiff/Defendant)

(Address)

(Address)

(Telephone No.)

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff
vs. _____
Defendant

:
:
:
: No. CI-
:
:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, a true and correct copy of the foregoing Custody Pretrial Statement was served by first class mail to the following:

_____ (Plaintiff/Defendant)

_____ (Address)

_____ (Address)

By: _____
_____ (Plaintiff/Defendant)
_____ (Address)
_____ (Address)
_____ (Telephone No.)

Dated: _____

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
v.	:	Docket No.
	:	
_____	:	
Defendant	:	

ORDER GRANTING SHARED LEGAL CUSTODY AND PRIMARY PHYSICAL CUSTODY /PARTIAL PHYSICAL CUSTODY

AND NOW, this ____ day of _____, _____, the Court enters this Custody Order regarding the Child/Children of the parties, _____

_____ (name(s) and date(s) of birth of child/children) as follows:

1. The parties shall have shared legal custody of the child/children such that each party shall have the right to participate in the major decisions affecting the child/children, including, but not limited to, medical, religious and educational decisions. The parties shall provide each other advance information on a timely basis regarding the child/children's school programs and events.

2. _____ is granted primary physical custody of the child/children.

3. _____ is granted partial physical custody of the child/children as

follows: _____

Or, the parties shall equally share physical custody as (cross off the paragraphs 2 and 3 above): _____

4. Holidays and special days:

(a) (1) The parties shall alternate Easter, Memorial Day, Independence Day, Labor Day, and Thanksgiving Day.

(2) In even-numbered years, _____ shall have custody on Easter, Memorial Day, and Independence Day, and _____ shall have custody on Labor Day and Thanksgiving Day. In odd-numbered years, the schedule shall reverse.

Or, as follows (cross off the paragraph above):

(3) The times for such periods of holiday custody shall be from _____ until _____.

(b) (1) Mother shall have physical custody of the child/children on Mother's Day, and Father shall have physical custody of the child/children on Father's Day.

(2) The times for such periods of special day physical custody shall be from _____ until _____.

5. Christmas:

(a) The Christmas holiday shall consist of two blocks of time. Block 1 shall extend from Christmas Eve (December 24) at 12:00 noon until Christmas Day (December 25) at 12:00 noon. Block 2 shall extend from Christmas Day (December 25) at 12:00 noon until December 26 at 12:00 noon.

Or, as follows (cross off the paragraph above):

(b) The blocks of time shall alternate between the parties from year to year, with _____ having physical custody of the child/children for block 1 in even-numbered years and _____ having physical custody of the child/children for block 2. In odd-numbered years, the schedule shall reverse.

6. Vacation:

(a) Each party shall be entitled to two (2) non-consecutive weeks of uninterrupted partial physical/vacation custody with the child/children each year.

(b) Vacation weeks shall be scheduled to avoid encroaching upon the non-vacationing party's holiday periods of physical custody of the child/children and shall incorporate the vacationing party's regular weekend period of physical custody of the child/children.

(c) Each party shall provide the other party with written notice at least thirty (30) days in advance of any week which is chosen for vacation.

7. Precedence:

Holiday periods of physical custody of the child/children, special day periods of physical custody of the child/children, and vacation weeks of physical custody of the child/children shall take precedence over all other scheduled periods of physical custody of the child/children.

8. Transportation:

The party receiving the child/children shall provide the transportation for each custody exchange.

Or, as follows (cross off the paragraph above):

9. Each party shall immediately notify the other by telephone of any serious illness or other emergency that may arise while the child/children are in his or her custody.

10. Each party shall permit reasonable telephone access to the child/children by the other party while the child/children are in his or her physical custody.

11. Each party shall encourage the child/children to love and respect the other party.

12. Each party is prohibited from stating, or allowing third parties to state, derogatory, critical or uncomplimentary remarks about the other party whenever the child/children are present to hear such statements, regardless of whether such derogatory remarks or name calling is spoken directly to the child/children or whether the party did not intend the child/children to hear the statements.

13. Each party shall encourage the child/children to have significant contact with the other party.

14. Each party shall make certain that the child/children are ready on time for the transfer of physical custody from one party to the other.

15. Each party is encouraged to accommodate the reasonable requests of the other party for alterations of any agreed upon schedule, as the circumstances and the best interest of the child/children requires.

FUTURE RELOCATION

IF YOU ARE PROPOSING TO RELOCATE TO ANOTHER AREA WITH THE CHILDREN NAMED IN THIS ACTION, YOU MUST COMPLY WITH THE REQUIREMENTS OF SECTION 5337 OF THE PENNSYLVANIA CUSTODY LAW WHICH INCLUDES SENDING NOTICE OF YOUR PROPOSED MOVE TO EVERY OTHER INDIVIDUAL WHO HAS CUSTODY RIGHTS TO THE CHILDREN AND PROVIDING SPECIFIC INFORMATION CONCERNING YOUR RELOCATION. THE LAW MAY BE FOUND AT 23 Pa. C.S.A. § 5337. IF YOU DO NOT COMPLY WITH THE NOTICE PROVISION OR PROVIDE THE REQUIRED INFORMATION, THE COURT HAS THE ABILITY TO CONSIDER YOUR FAILURE AS AN ELEMENT IN THE CUSTODY OR RELOCATION DECISION.

BY THE COURT:

JUDGE

Attest:

Copies to:

APPENDIX A

VIII. SPECIAL RELIEF

CAN I GET THE COURT TO RULE ON PARTICULAR DISAGREEMENTS I HAVE WITH THE OTHER PARTY ABOUT MY CHILD(REN) BEFORE MY CASE GETS TO THE STAGE OF THE CONCILIATION CONFERENCE OR THE COURT HEARING?

For some kinds of disagreements, yes. For others, no, because they are matters for parties to decide, not the court system. This is called “special relief” (see *Pennsylvania Rule of Civil Procedure* 1915.13). Examples of special relief are:

- requesting the court to grant a continuance of a custody conference or hearing when the other party does not agree;
- requesting that an expert, such as a licensed psychologist (paid for by the parties, not the court system), becomes involved in the case by performing an evaluation of both parents, and sometimes other adult household members, preparing a report, and testifying at the hearing (see *Pennsylvania Rule of Civil Procedure* 1915.8);
- if you are requesting a change to the existing custody order prior to the custody conference. (**CAUTION:** If you request such a temporary order, there is no guarantee that the resulting order will be the custody arrangement you requested if the court is convinced by the other parent that a different temporary order is more appropriate.); and
- requesting that the other parent follow the provision of a temporary custody, such as honoring any agreed upon vacation schedule, etc.

HOW DO I MAKE REQUESTS FOR THESE TYPES OF “SPECIAL RELIEF”?

Such requests must be prepared as a formal pleading, similar to a custody complaint, with the full caption at the top, signature verification at the end, and the relief you are requesting in numbered paragraphs in the body of the petition.

MAY I JUST MAIL IN A SPECIAL RELIEF PETITION OR STOP BY A JUDGE’S CHAMBERS TO PRESENT AND DISCUSS MY REQUEST FOR A TEMPORARY CUSTODY ORDER, OR TO HAVE A CUSTODY EVALUATION ORDERED, ETC.?

NO. All requests for special relief, including orders for temporary custody until the first custody conciliation conference is held, must be presented in Family Business Court.

The Lancaster County Court of Common Pleas has adopted the concept of “One Judge/One Family” for assignment of family court cases. The judge is assigned pursuant to the first letter of the first Defendant's last name.

Refer to the Lancaster County Court of Common Pleas website: www.co.lancaster.pa.us/courtcal/Public/CourtCalendar.aspx to learn which judge is assigned to your case and what time and day of the week that judge holds Family Business Court.

When you have determined the assigned judge, the courtroom, and the time and the day of the week that the assigned judge holds Family Business Court, you must send the other parent (or the other party), a complete copy of the formal petition you intend to present, including the relief you are requesting and a cover Notice of Intention to Present (Appendix form 1) to the other parent or party of the courtroom, date and time when you will be presenting your petition to the judge.

This advance copy of your intended presentation must be provided to the other party **FIVE DAYS BEFORE YOU PRESENT YOUR REQUEST TO THE COURT.**

For instance, if your assigned judge holds Family Business Court on Thursday mornings, the other party must have been provided with a copy of your petition by the previous Friday, either by first class mail or by personally handing a copy of what you intend to present in court to the other party(s). Service of the Notice of Intention to Present does not accomplish service (see definition, p. 5) of the custody complaint. Per Pa. R.C.P. 76, someone other than yourself must serve the other party with the “original process”, meaning the complaint or petition beginning the action.

Prior to the day you present your request for “special relief,” you must bring an original to the Prothonotary's office and a copy for every other party in the case, including yourself. After the judge signs an order, all copies will be processed in the Prothonotary's office and returned to you by mail for you to serve the time-stamped copies of your petition or complaint and any order on all parties (see definition of service, p. 5). There may be additional filing fees required to process your special relief petition and requested order. Check with the Prothonotary's office to determine whether filing fees for those pleadings are required. You must also provide envelopes with the correct pre-paid postage addressed to each party.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

_____	:	
Plaintiff	:	
	:	
vs.	:	No. CI-_____
	:	Custody
_____	:	
Defendant	:	

NOTICE OF INTENTION TO PRESENT

To: _____ (other party/ies name/es)

You are hereby notified that the attached Petition and the preceding proposed Order will be presented in Family Business Court before the Honorable _____ (Judge's name) on _____ (date), at _____ (time) __.m. in Courtroom No. _____ of the Lancaster County Courthouse, 50 N. Duke Street, Lancaster, PA 17602.

You may appear in person or by a lawyer at the time and place set forth.

Your failure to appear in person or by a lawyer at the time and place set forth may result in the Court granting the relief requested in the attached Petition in the form of the preceding proposed Order, or other relief, without further notice to you.

Dated: _____
signed by Pro Se Party

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, a true and correct copy of the foregoing Petition was served by _____ (mail/personal service) to the following:

_____ (party name/s)

_____ (address)

Dated: _____

_____ signed by Pro Se Party