

County of Berks

CUSTODY EXCEPTIONS

FORMS AND INSTRUCTIONS

WARNING

Custody is civil litigation and is a very serious matter. It is highly recommended that you hire an attorney to represent you in any custody action. If you would like information about hiring an attorney, please call the Berks County Bar Association Lawyer Referral Service at 610-375-4591. If you choose not to hire an attorney, you may lose rights important to you. The court will expect you to follow the rules of procedure the same as though you had an attorney representing you. You should not use the information contained in this packet as a substitute for professional legal advice.

Disclaimer

Court staff is not able to give you legal advice or help you fill out/complete these forms. The information in this packet is not a substitute for professional legal advice. The Court, the Berks County Bar Association and the Self-Represented Litigants Task Force assume no responsibility and accept no liability for actions taken by users of these documents, including reliance on their contents.

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I. General Information

A. Introduction

This packet of information has been created by members of the Berks County Self-Represented Litigants Task Force. These materials are intended to assist individuals involved in a custody action by providing general information and legal forms. **IT IS HIGHLY RECOMMENDED THAT YOU HIRE AN ATTORNEY TO REPRESENT YOU IN ANY CUSTODY ACTION.** The information contained in this packet is not to be used as a substitute for professional legal advice. Even if you do not hire an attorney to begin your custody action, you can change your mind and choose to hire an attorney at any time. If you need help finding an attorney, you can contact the Berks County Bar Association Lawyer Referral Service by calling 610-375-4591.

B. Rules of Court

You can find a copy of the Berks County Local Rules of Civil Procedure and the Pennsylvania Rules of Civil Procedure at the law library located on the 10th Floor of the Courthouse or on the Court's website www.co.berks.pa.us. The rules of court applicable to custody cases include Berks County Rules of Civil Procedure (B.R.C.P.) 212.2 and 1915.1 through 1915.33 and Pennsylvania Rules of Civil Procedure (Pa. R.C.P.) 1915.1 through 1915.25 and 1930.1 through 1940.9.

C. Basic Procedure

This packet contains forms and instructions on how to file exceptions to a custody order. **There are separate packets for Custody Orders, Modification of a Custody Order, Custody Agreements, Emergency Petition for Custody, Enforcing a Custody Order, Custody Relocation, and Praecepto to Withdraw.**

D. Filing Exceptions

If the Custody Master recommends a Final Order, you have the right to file exceptions if you do not agree with his or her recommendations. The recommendation will have a notice on the front that will set forth the last day you can file exceptions. The forms for filing exceptions are attached as Forms 1, 2 and 3. In your exceptions, you need to specify the reason(s) why you disagree with the recommendations of the Custody Master. The exceptions must be filed in the Prothonotary's Office within twenty (20) days of the date of the recommendation. You must send a copy of your exceptions to all other parties. If any party files exceptions to the recommendations of the Master, then a custody trial will be scheduled.

WARNING: If you are not able to resolve your custody case at the Custody Conciliation Conference and a Trial is scheduled, you may do a great disservice to yourself and your child if you do not consult with and hire a lawyer. If you have a Trial before the Judge and do not have a lawyer representing you, you will be required to follow the Rules of Civil Procedure in presenting evidence and testimony and objecting to anything improper the other party may be trying to do the same as though you had a lawyer representing you.

E. What is a Custody Trial?

Custody Trials are custody cases decided by a Judge. A trial is a formal proceeding in a Courtroom. At a trial, the parties testify under oath. At a trial, you may present witnesses (persons who testify) and exhibits (documents) supporting your request for custody.

Prior to the actual trial, the Court will have a pre-trial conference to determine the date of trial, who the witnesses will be, what documents will be presented at trial, etc. After the actual trial, the court will enter a Final Custody Order. If either party disagrees with the Judge's decision, he or she can file an appeal to the Pennsylvania Superior Court.

These Instructions do not cover appeals or the Pennsylvania Appellate Rules of Procedure. If you disagree with a Judge's decision in your custody case, you are strongly encouraged to hire a lawyer to advise you and prepare your appeal.

II. Instructions for Filing Exceptions – FORMS 1, 2 and 3

Even if you did not have a lawyer assist you with your custody case up until this point, you may want to consider hiring an attorney to give you legal advice about filing Exceptions and to help you properly file them and prepare for the Pre-Trial Conference and the Custody Trial before the Judge.

Exceptions are filed if you do not agree with the recommended custody arrangement that the Custody/Support Master decides on. If the Master is making a custody recommendation, you have twenty (20) days to file Exceptions (objections stating that you disagree with what the Master recommended). There will be a Notice on the front of the recommended order that will tell you what date you must file your Exceptions by. After this date, the Court will sign the recommended order and make it a Final Custody Order. If you want to change a custody order that has become a Final Order, you may want to file a Petition to Modify Custody or a Petition to Relocate (there are separate packets for Modifying a Custody Order or Petitioning to Relocate) **To file Exceptions, you need to file Form 1, Form 2 AND Form 3.**

Order (Form 1)

- Put the name of the person who originally filed the custody case above “Plaintiff(s)” (the person filing Exceptions can be either the Plaintiff or the Defendant).
- Put the name of the person(s) who the custody complaint was originally filed against above “Defendant(s)”.
- Put the Docket number for your custody case next to “No.” (you can find the Docket number in caption of the completed Scheduling Order).

DO NOT FILL IN ANYTHING FURTHER ON FORM 1

The Court will fill in the date that the Order is signed by the Judge; the date, time and location for the Pre-Trial Conference; and sign the Order before copies are mailed to you and all other parties. Once you receive this signed Order, please read Berks County Rule of Civil procedure 212.2(a) carefully so that you can prepare a proper pre-trial memorandum and file it within the time frames set forth in that Rule.

Exceptions (Form 2)

- Put the name of the person who originally filed the custody case above “Plaintiff(s)” (the person filing Exceptions can be either the Plaintiff or the Defendant).
- Put the name of the person(s) who the custody complaint was originally filed against above “Defendant(s)”.
- Put the Docket number for your custody case next to “No.” (you can find the Docket number in caption of the completed Scheduling Order).
- Put your name in numbered paragraph 1. Circle plaintiff or defendant to indicate which one you are.

- In numbered paragraphs 2 through 6, put all the reasons you disagree with the Master's recommended custody order. You may have one reason or more than one reason. Not all of these paragraphs need to be completed. Be as specific as possible.
- Put the date you are filing the Form in the Prothonotary's Office on the line next to "Date".
- Sign your name on the line above "Signature".
- File this Form along with Forms 1 and 3 in the Prothonotary's Office.

Certificate of Addresses (Form 3)

When you file Exceptions, you must provide the Prothonotary's Office with a document listing the correct addresses of all the parties so that they can mail the documents to all of the parties after the Judge signs the Order – Form 1 – giving the date, time and location of the pre-trial conference.

- Put the name of the person who originally filed the custody case above "Plaintiff(s)" (the person filing Exceptions can be either the Plaintiff or the Defendant).
- Put the name of the person(s) who the custody complaint was originally filed against above "Defendant(s)".
- Put the Docket number for your custody case next to "No." (you can find the Docket number in caption of the completed Scheduling Order).
- Put the name(s) and address(es) of all the Plaintiff(s) to the right of "Atty. for Plaintiff." If the party is acting as their own attorney and representing themselves, put a comma and the words "Pro se" after that parties name.
- Put the name(s) and address(es) of all the Defendant(s) to the right of "Atty. for Defendant." If the party is acting as their own attorney and representing themselves, put a comma and the words "Pro se" after that parties name.
- Sign your name on the line above "Signature".
- File this Form along with Forms 1 and 2 in the Prothonotary's Office.

III. Forms

- A. Order of Court Scheduling the Pre-Trial Conference (Form 1)
- B. Exceptions (Form 2)
- C. Certificate of Addresses (Form 3)

PLEASE DETACH THE FOLLOWING FORMS AND FILL IN THE FORMS WHILE GOING THROUGH THE INSTRUCTIONS.

PLEASE NOTE THAT YOU MAY NEED TO FILL IN ALL 3 OF THE FORMS THAT HAVE BEEN PROVIDED.

Plaintiff(s)	:	IN THE COURT OF COMMON PLEAS
	:	OF BERKS COUNTY, PENNSYLVANIA
	:	CIVIL ACTION – LAW
vs.	:	CHILD CUSTODY
	:	No.
	:	
Defendant(s)	:	Assigned to: _____, J.

ORDER

AND NOW, on this _____ day of _____, 20____, Exceptions having been filed to the Order recommended by the Berks County Custody Master, a pre-trial conference is hereby scheduled for _____, 20____, at _____ o'clock _____M. in _____ of the Berks County Courthouse/Services Center. A pre-trial conference memorandum shall be filed in accordance with B.R.C.P. 212.2(a). The memorandum shall contain the following: (1) Summary Statement of Facts; (2) Witnesses Expected to be Called; (3) Expert Witnesses Expected to be Called; (4) Exhibits Expected to be Offered Into Evidence; (5) Legal Issues Anticipated; and (6) Special Problems.

BY THE COURT:

_____, J.

Plaintiff(s)	:	IN THE COURT OF COMMON PLEAS
	:	OF BERKS COUNTY, PENNSYLVANIA
vs.	:	CIVIL ACTION – LAW
	:	CHILD CUSTODY
	:	No.
	:	
Defendant(s)	:	Assigned to: _____, J.

EXCEPTIONS TO REPORT AND RECOMMENDATION
OF CUSTODY MASTER

1. _____ plaintiff/defendant in the above-captioned custody action, hereby excepts to the report and recommendation of the Master.

2. The Master erred in their ruling during the course of the hearing that _____

[state details of evidence admitted or excluded over objection and the basis for the error].

3. The Master erred in their factual finding that _____

[state factual finding which is objected to, identify its location in the Master's report, and state the basis for the error].

4. _____

5. _____

6. _____

Respectfully submitted,

Date: _____

Signature

Plaintiff(s) : IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
vs. : CIVIL ACTION – LAW
: CHILD CUSTODY
: No.
Defendant(s) :
: Assigned to: , J.

CERTIFICATE OF ADDRESSES

Pursuant to B.R.C.P. 207.1(f) (4), I hereby certify that the following are the parties to be served with copies of the accompanying Custody Exceptions Order and that these are their addresses to the best of my knowledge, information and belief:

Atty. for Plaintiff:

Atty. for Defendant:

(Signature)