Should I represent myself in court?

Adapted in part from shlep: the Self-Help Law ExPress, "Should I go it alone" (http://blogs.harvard.edu/shlep/should-i-go-it-alone/)

If you have been sued, or you are planning to sue someone, you may be wondering if it's possible to go to court without a lawyer. It is permitted, but it's not necessarily a good idea. Here are some things to think about before deciding to represent yourself.

Your responsibilities as a self-represented litigant

If you are representing yourself in a court case, you are expected to follow all the requirements and rules, just like an attorney. If you are unfamiliar with the process, this can be extremely challenging.

You must keep the case moving along, and respond to all paperwork and discovery requests. If you started the court case, it is your responsibility to move the case along. This includes serving the other party, gathering evidence, and scheduling the trial. Both parties must respond promptly to papers from the other party or the court; ignoring or missing deadlines can literally lose you your case.

You must be able to attend court during business hours, sometimes on short notice. You may need to take time off work, arrange for child care, or find transportation on short notice.

Expect to spend a lot of time researching, writing, and preparing your case. Learning the law and rules for your case is essential. In many cases, the amount of time needed is equivalent to a second job. If you cannot invest this time, you are wasting your efforts.

"The in propria persona [self-represented] litigant is held to the same restrictive rules of procedure as an attorney." (Bianco v. California Highway Patrol (https://scholar.google.com/scholar_case?case=8462001774133174881&q=24+Cal.+App.4th+1113&hl=en&as_sdt=4,5) (1994) 24 Cal. App.4th 1113, 1125-1126.) In propria persona, usually abbreviated "in pro per," is a Latin phrase for "appearing on his or her own behalf."

You must keep detailed, well-organized records. Keep a copy of all documents and information filed with the court or exchanged with the other party.

You will need to remain objective. You may feel that the other party has wronged you, or you may be facing an emotional or even dangerous situation such as domestic violence. You will need to communicate with the other party regularly and be polite and productive; a lawyer can speak for you and act as a buffer between parties.

You must not get frustrated by rules you think are unfair or should not apply to you. All types of cases are controlled by rules and procedures. These rules in place to give everyone a level playing field, but it's not always obvious why. Though a rule may seem silly, outdated, or even wrong, it must be followed to make sure cases are all treated alike.

Five good reasons *not* to represent yourself

1. **If you tend to run "a little late" for meetings and deadlines.** If you miss deadlines or court hearings, even by a little bit, it may cost you your case.
2. **If public speaking makes you sweat.** If you represent yourself, you will need to speak and respond to questions clearly and calmly in front of the judge, court staff, the other party, and possibly a jury and audience. If the thought of public speaking makes you panic, you will probably not succeed.
3. **If filing your tax returns is an annual nightmare.** Court forms can be complicated, much like income tax returns. Reading instructions, following steps, and paying attention to detail are necessary to complete court forms.
4. **If the thought of writing a research paper brings back bad, bad memories.** People are often surprised and dismayed to find that in a real case (unlike "Judge Judy") most of the case is fought on paper. To be successful, you will need to spend a lot of time researching and writing persuasive papers explaining your facts and the law.
5. **If losing the case would be catastrophic.** If the case involves a large amount of money or property, or other people (like children), losing it will have a big effect on you. Using a lawyer will make these cases less confusing and upsetting, and prevent mistakes that could be difficult or impossible to correct after the case is over.

But I'm not a lawyer!

Court procedures and the law are often obscure and may even seem arbitrary or nonsensical, but if you represent yourself, you must learn and follow the rules, even though you are not an

attorney. Some of the issues that routinely trip up self-represented parties are:

- Problems with service: The summons and complaint must generally be served in person by a non-party; other filings may be served by mail, but still by a non-party. Self-represented litigants often send court papers themselves; assume the court will serve them automatically; fill out proofs of service incorrectly; or are stymied by inability to find the other party for service.
- Failure to take required steps: Cases can be dismissed if parties are not aware of required steps.
- Complex evidence rules and required information: Cases can be lost if parties fail to present all required information, but knowing what information is required and complying with the rules of evidence can be difficult.
- Failure to prepare court orders: The prevailing party usually writes up the order after a hearing. If the self-represented party does not know that, they may never receive an enforceable order, even if they win their case!

Legal procedures are often unintuitive and can be complex. The rules are written in unfamiliar legal language. Even with careful attention, it can be difficult to meet all of the requirements to bring a case to a successful conclusion.

Do not count on the judge to be lenient with the rules. Judges have limited flexibility in assisting pro pers, and not all judges are sympathetic. Before each step in your case, learn the rules, procedures, and expected deadlines. Consulting a book such as *"Win Your Lawsuit"* (Nolo Press) or *"Litigation by the Numbers"* (Lawdable Press) is crucial.

Finding a lawyer

If you decide to hire a lawyer, ask family or friends for a personal referral or call your county's bar association referral phone number. You can more find suggestions on ways to locate an attorney in our Sacramento Press article. (https://web.archive.org/web/20240620112157/https://www.sacramentopress.com/2010/09/01/ask-the-county-law-librarian-how-to-find-a-lawyer/)

If you cannot afford a lawyer: Unfortunately, there is no easy answer for this. You may be able to get a referral to a "pro bono" lawyer, but there is no guarantee. If losing would be genuinely disastrous, an option may be to borrow money from a family member or otherwise

arrange a loan.