

## THE SELF-REPRESENTED HAVE A VOICE IN JUSTICE OF THE PEACE COURT

An article for “Delaware Docket”

Walk into the courtroom unprepared, prepare to lose. Walk into the courtroom without a clue, be prepared to lose the case and your faith in the judicial system.

Although every litigant will not be represented by legal counsel, every litigant has the right to enter the courtroom to air their grievance, but may have no meaningful voice...a conundrum.

In the civil division of the Justice of the Peace Court, nearly every case has at least one *pro se* litigant. Most know little of technique, tactic, rules of evidence, legal theory or the law. They are aware of their own perception of right and wrong. Knowing little of the legal process and caring less about form, the Self-represented enter the courthouse to be heard.

The phrase attributed to Justice of the Peace Court, “where justice begins” belies the expectations of the litigants who will file or defend against the nearly 40,000 civil cases to be adjudicated in the court’s civil division this year alone. Those litigants expect justice to be carried from beginning to end. Justices of the Peace routinely find themselves torn between legal etiquette, procedure and rules, and the absolute right of litigants to present their cases in the pursuit of justice. It is a balancing act.

An average 1,000 civil cases are filed each month at Justice of the Peace Court 12 in suburban New Castle County. Many cases could be settled outside of court with effective and reasonable communication between the parties. But many cases develop around issues that should be litigated. With half of the civil caseload falling into the landlord/tenant summary possession category, the stakes range from a person’s displacement from their home and a judgment that might prevent them from buying their own home to an owner’s right to protect his property and earnings.

To help Self-represented landlords and tenants decide whether to seek remedy or redress outside of court, and to assist those who file or defend cases present their stories in a meaningful way in the courtroom, the Justice of the Peace Court initiated a pilot outreach program to educate landlords and tenants.

Lean on staff but heavy on volunteers, the “Seminars for the Self-represented in Landlord/Tenant Issues” presents interactive programs monthly. Members of the private bar, nonprofit legal assistance providers, the Administrative Office of the Courts, the Justice of the Peace Court and others volunteer to plan, prepare and conduct the seminars. Apartment complex managers cooperate to provide a meeting room and distribute invitations to each tenant. AOC staffers prepare flyers and service the event. The court organizes the event and provides refreshments. The program is conducted by a judge with two attorneys, one presenting a landlord perspective, the other the tenants’, to review the landlord/tenant code and impress upon the attendees the obligation of good

faith dealing. Volunteers distribute seminar material, take notes and help attendees complete questionnaires.

Participants are further schooled in preparation for trial on a variety of potential issues, which also eases the trial court's burden. Describing trial as "show and tell time", presenters not only instruct on presentation of witnesses and evidence, but also rehearsal, demeanor and focus. Case specific questions arise and potential litigants are advised to seek guidance from an attorney. But much of the presentation is information which, if heeded, will prevent actions which might lead to litigation. Considerations before entering a lease or first occupying a rental unit, an understanding not only of rights but obligations, and remedies if the other party breaches a duty or obligation, are core issues discussed.

"This is an amazing cooperative effort bringing landlords and tenants into a room to explain their duties, one to the other. Advocates of one side are not only presenting a perspective but are also learning another perspective in a non-adversarial exchange of ideas," reflects Chief Magistrate Alan G. Davis.

"Our court, in adjudicating scores of thousands of actions brought by or defended by the Self-represented must and will assure that justice is done," Davis continued. "This educational program is one tool that we will use to help assure that litigants have a meaningful voice. If it proves cost-effective and successful, we will expand it. That will require more volunteer attorneys and judges. The communities that we have reached are overwhelmingly receptive. We need to reach more".