

## “Handling Self-Representation Frustration”

Presenters: The Honorable Daniel J. Clifford, Court of Common Pleas Montgomery County  
The Honorable J. Benjamin Nevius, Court of Common Pleas of Berks County  
Molly B. Kleinfelter, Esquire, Custody Conciliation Berks and Montgomery Counties, Support Hearing Officer Berks County  
Mark E. Zimmer, Esquire

### Discussion:

- I. **Judge Nevius** - Service in the context of Self-Represented Litigants
  - a. Affidavit of Service of Original Process by Mail, Service Form 1
  - b. Affidavit of Personal Service, Service Form 2
  - c. Acceptance of Service, Service Form 3
  - d. Certificate of Service of Legal Papers Other than Original Process, Service Form 4
  
- II. **Judge Clifford** – Ethical Issues When Dealing with a Self-Represented Party – Judicial Perspective
  
- III. **Molly Kleinfelter** – Litigating against a Self-Represented Litigant
  - a. Green v Harmony House North 15<sup>th</sup> St Housing Ass’n, Inc. 684 A.2d 1112 (Pa.Cmwlth 1996). “[E]arly on in this Commonwealth's legal history, the Supreme Court began promulgating rules of procedure consistent with the Pennsylvania Constitution. Pa. Const. art. V, § 10(c). ...“The right of self-representation is not a license ... not to comply with relevant rules of procedure and substantive law.” *Faretta v. California*, 422 U.S. 806, 834 n. 46, 95 S.Ct. 2525, 2541 n. 46, 45 L.Ed.2d 562 (1975). Our Supreme Court in *Peters Creek Sanitary Authority v. Welch*, 545 Pa. 309, 681 A.2d 167, 170 (1996) n. 5, again enunciated its position as to **pro se litigants** citing *Vann v. Unemployment Compensation Board of Review*, 508 Pa. 139, 494 A.2d 1081 (1985)(**pro se litigant** must to some extent assume the risk that his lack of legal training will prove his undoing); *Commonwealth v. Abu-Jamal*, 521 Pa. 188, 200, 555 A.2d 846, 852 (1989)(**pro se litigant** “is subject to the same rules of procedure as is a counseled defendant); he has no greater right to be heard than he would have if he were represented by an attorney” and finally, *Jones v. Rudenstein*, 401 Pa.Superior Ct. 400, 585 A.2d 520 *appeal denied*, 529 Pa. 634, 600 A.2d 954 (1991)(**pro se litigant** not absolved of complying with procedural rules).”
  - b. Kerns v Chiodo, 2010 WL 1988403(Pa.Com.Pl.) Berks County Court of Common Pleas.

- IV. **Mark Zimmer** – Ethics of handling a case with a Self-Represented Litigant
  - a. Rule 1.6 Confidentiality of Information
  - b. Rule 3.3 Candor toward the Tribunal
  - c. Rule 3.4 Fairness to Opposing Party and Counsel
  - d. Rule 3.5 Impartiality and Decorum of the Tribunal
  - e. Rule 3.7 Lawyer as Witness
  - f. Rule 4.1 Truthfulness in Statements to Others
  - g. Rule 4.2 Communication with Person Represented by Counsel
  - h. Rule 4.3 Dealing with Unrepresented Person

## Biography

Molly B. Kleinfelter, Esquire

Molly Kleinfelter began her legal career as the first law clerk for the Honorable Scott E. Lash of Berks County. In 2003, she began working in private practice with a focus on family law. She then began to work as a Custody/Support hearing officer in Berks County and worked part time in private practice. Two years ago, she was offered the opportunity to give up private practice and work as a Custody Conciliator in Montgomery County. She happily splits her time between the two courthouses. Molly is the mother of three children, two dogs, one cat and is happily married. She is an avid reader and crochets everyday.