



The National Self-Represented Litigants Project

# So you're representing yourself

A primer to help you get ready to represent yourself in family or civil court



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# A note of support

If you are reading this, you are considering representing yourself in court without the assistance of a lawyer – or perhaps you’ve already begun.

However you reached this decision, **you should know that you are not alone** – many Canadians are now coming to court without a lawyer, most often because of the high cost of legal services.

If you’re going to be a self-represented litigant in family or civil court, this primer has a lot of important information for you, created with input from a number of legal experts. We hope that the information is presented in a way that is accessible and useful, and that it assists and supports you at each stage of the process.

We’ve created this primer for Canadians in different parts of the country who are bringing forward a number of legal actions. To be helpful to all, we’ve included practical advice to get you oriented, but the advice is also general enough to be useful in different courts and regions.

You will need to do additional research to learn what rules and laws apply to your particular situation. As a starting point, we’ve included Online Resources for Courts Across Canada at the end of this primer.

Representing yourself is stressful and difficult, but **the advice and tips here will help you to navigate the process**. If you want to connect with other SRLs who are in a similar situation to yourself, I encourage you to join our [Facebook group](#).

Good luck!

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## So you’re representing yourself

### A primer to **help you get ready to represent yourself in family or civil court**

You’ve made a big decision to represent yourself in family or civil court. We created this legal “primer” to help you get started.

The tips we’ve included are based on years of experience from legal experts, and other self-represented litigants who have done what you’re about to do.

You’ll also get tips on how to manage the inevitable stress along the way.

#### **How to get started:**

1. Read this primer quickly, from beginning to end.
2. Then read it more carefully, while taking action.
3. When you’re ready, read the other NSRLP primers we suggest.



You’ll notice that we use the legal term **“self-represented litigant”** for what you’re about to do. It’s a bit of a mouthful, so sometimes we use **SRL for short**. And sometimes we refer to **people representing themselves**.

# A bird's eye view of the journey

The journey of representing yourself in civil or family court can be organized into the following general steps. Our primers take you through the whole journey.

## This primer covers Step 1.

### Step 1: Get ready and start the legal process

This is where you'll get mentally and emotionally prepared, get organized – and complete and file your documents to start the process.

### Step 2: Research and prepare your arguments

Our primers for step 2 show you how to read and interpret case law. Use the CanLII database to do legal research and prepare your evidence for the court. These primers also give you helpful and realistic perspectives on negotiation and settlement, and how to ask for accommodations.

### Step 3: Present your case in court

These primers will help you present your case in the physical courtroom. You'll learn the written and unwritten rules and etiquette that you must follow to be as effective in court as you can be.



See our full list of primers on page 11.



## Things to remember before you dive in

**What you're doing is big.** It may feel overwhelming at first. *That's normal.* Just take it one page at a time. And remember:



### You have choices

When representing yourself, you still have the option to work with a **lawyer or a mediator** at different stages as your case unfolds. If you need some expert input, consult NSRLP's Directory of Professionals Assisting SRLs for lawyers, paralegals, and others who work on a coaching or limited scope basis with people who are mostly representing themselves.



### You don't have to go into court alone

You have a number of options to have a family member, friend, or a court companion (called a McKenzie friend) **sit with you in the courtroom**. For more information, read our primer ***A Courtroom Companion ("McKenzie friend")***.



### You have access to others like yourself

Our [Facebook group](#) is a great place to **connect with other SRLs** who can share their stories and offer support.

**So let's begin!** First up are tips to help you get ready for the journey. These are mindsets and personal habits you can adopt that will help you be effective in court, and manage the inevitable stress along the way.

Then we'll share what you need to do to file the documents to start the legal process.



# Prepare for the journey

This section is about adopting a realistic mindset for this process, and adopting self-care strategies that'll help with the inevitable stress.

## Get into a successful mindset

SRLs have consistently told us: **what you're about to embark upon will be challenging**. Here are some tips that will make representing yourself in court easier.

### Stay calm and unemotional

SRLs tell us that they're more effective and feel more confident when they follow the "rules of engagement" in the courtroom.

By rules, we mean both the **technical rules** of the courtroom, which we'll get to, and some **unwritten rules** as well.



An important unwritten rule is to stay calm, centered, and unemotional while in court (though you'll probably be feeling very emotional, understandably).

In the words of SRLs who have been through it:

*"Have all your points in order before you go into court and keep your emotion out of it."*

*"Three of the five judges I appeared in front of commended me on my presentations, even though the courts really don't want self reps. It's hard but you have to wait your turn to speak and present yourself without emotion. When you do that, you can play on their field."*

At first, not showing your emotion may seem like a daunting task. But we encourage you to do your best – and save your emotion till later.

### When faced with delays, be patient

*"Expect you are going to be in court for a while – get used to it."*



There's no way around it: the legal process is often a long one.

On any given day, you won't be able to control or 100% anticipate how long you'll be at the courthouse. It'll depend on the number of cases being heard that day, how long they take, and other events (such as who seeks an adjournment, who is a no-show) that you can't predict.

Here are some things you can do to ensure delays aren't disruptive:

- Clear your schedule for the full day when you have a court appearance;
- Re-schedule any conflicting appointments or commitments;
- Stay stoic about the wait and don't let it upset you;
- Bring other reading or work with you to occupy your time.

Unfortunately, you can't control the realities of the courtroom. What you *can* control is how you react.

### Expect to see many different judges

Sometimes – for example in courts with "case management" systems – the same judge will be assigned to hear each stage of your case. But be aware that you may not get the same judge each time you're in court. This can be frustrating. But as many SRLs tell us, it's part of the reality of the courtroom.



There is a way you can manage this challenge. We've included tips on how to present yourself to a "new" judge in the primer ***Coping with the Courtroom***.

## Talk to other SRLs

As many SRLs have told us, no one really understands what it's like to represent yourself, except another SRL.

If you'd find it helpful to connect with others who have represented themselves, join our public [Facebook group](#). It's a safe place to get support from people who know what you're going through.

## Stay realistic

Some SRLs have expressed intense frustration that despite their hours of research and preparation, the outcome they receive from the court hasn't turned out the way they had hoped or expected. You can manage this by doing your very best, and then reminding yourself that there are a lot of factors in play in court decisions. At the same time, stay open to settlement.

## Prepare for uncertainty

As human beings, we're programmed to want certainty. But as experienced lawyers will tell you, no amount of research can bring certainty in a court of law. To you, it may seem cut and dried. But in reality, once the hearing begins, all bets are off.

The law empowers a judge to choose from a wide range of outcomes, based on what each party presents in court, and their own discretion. Judges are required to apply the legal principles, but applying the law always involves their own judgments.

For example, family judges must make decisions "in the best interests of the child" where there is a dispute over their care and/or residence. There are a number of given factors in case law and statute. For example:

- The child's preferences, if these can be ascertained;
- The length of time the child has spent in each spouse's home;
- Each spouse's plan for raising the child;
- Each spouse's ability and willingness to provide the child with guidance and education, the necessities of life, and any special needs of the child.

The judge must weigh the factors in each case, and decide their relative importance. So when you're representing yourself, you'll need to be prepared to face uncertainty.

This may be difficult to accept, and it may feel unfair. But it's the hard reality of litigation. And the better you can adapt your mindset and expectations to the reality of the courtroom, the less stressful the process will be for you.

## Keep your points simple and focused

You're naturally immersed in all the many details of your case. After all, it's your life!

But when you're in court, do not try to tell the entire story of your case all at once. It's more effective to be clear, brief, and stay on point. As one SRL put it:

**"Be patient. Don't go into the courtroom and start battling. Don't make funny faces in the courtroom. Don't try to draw the whole picture at once."**

## Stay open to opposing counsel

It's increasingly common for family and civil cases to involve representation on one side, but not the other. If this is the case for you, stay open to opposing counsel: they aren't the enemy. In fact, they can help you resolve your case.

Some SRLs have even told us that their relationship with opposing counsel became as significant to resolving their case as their relationship with the other party.

Though opposing counsel is working for the "other side", they also have a duty to treat you fairly. And they should be open to finding common ground. So be open to building a constructive working relationship. It'll be an important factor in the progress and resolution of your case.

Over the years, we've gathered a great deal of information, from both SRLs and opposing counsel, about the difficulties they experience working together, and how to overcome them.



We've summarized what we've learned in our primer ***Working with opposing counsel***. Before you go into court, you might want to put this on your reading list.



## Continually assess the possibility of settlement

More than 95% of family and civil cases settle before a final trial. Often this occurs right before trial, after an enormous amount of time and effort has already been spent.

Be smart about considering settlement options *early* in the process. Balance the pros and cons:

- **If you don't settle before trial**, you may win more in the final judgement. But you also risk "losing" at trial, being awarded less than the earlier settlement offer, and even having to pay the other party's legal costs!
- **If you do settle before trial**, you may not get everything you wanted. But you may get enough to make it worthwhile. And, you may avoid a long, exhausting battle and months of uncertainty, with potentially greater costs.

Don't be surprised if your ideas about settlement change over time. Whatever you ultimately choose, **it's important to continually revisit the possibility of settling**. This also includes assessing whether or not you think the other party will accept an offer to settle from you.



As you work through the process, make sure to read our primer **Settlement Smarts**.

## Consider using a professional mediator

Deciding whether or not to settle is a very personal decision. **If you're ready to explore a settlement**, a professional mediator can help. There may even be a pro bono mediation service in your courthouse.

You can find your local mediation program or service providers by asking:

- The court registry;
- Duty Counsel;
- Pro Bono information services in your courthouse, such as the Family Legal Information Centre (FLIC) or the Pro Bono Ontario centre

## Make self-care a priority

Preparing for court is not easy or straightforward. It can be very stressful. In addition to having a realistic and successful mindset, it's also important to protect your health and well-being during this highly emotional period in your life.

We realize that the following may seem obvious, but just in case you're the type of person who might burn themselves out, we encourage you to take care of yourself. *Yes, it's that important.*

## Get a good night's sleep

Some SRLs have told us that they felt they needed to stay up very late preparing for a hearing the following day. Then when they went into court, they were exhausted and not as clear as they could be.

Appearing in court is a big deal. You may be tempted to push yourself in this way, but please don't. Adequate sleep is the fuel to a healthy mind and physical well-being. Exhaustion may cause you to get impatient, frustrated, and irrational, which may impact your decisions in court.

Instead of depriving yourself of sleep the night before, start working on your case in advance. Balance the real value of your anxious "last-minute preparations" against the importance of adequate rest.

## Eat healthy and exercise


If you're nervous or anxious, you may not feel like eating breakfast on the morning of your hearing. But please don't skip eating.

If your body is well-nourished, you will be better equipped to deal with stress. Eating a healthy breakfast will help your energy levels throughout the day and keep your mind clear.

Exercise is also a good way to release tension and stress. Schedule a few periods of physical activity into your week. A brisk, twenty minute walk each day can do wonders.

## Make time for relaxation

Between periods of working on your case and physical activity, make sure you schedule time for relaxation and activities you enjoy. This will help you stay calm and positive.

 Think about reading our **Considering Mindfulness: How you can use Mindfulness to increase your focus and relieve the stress of representing yourself** primer. We've included simple instructions, plus links to videos of gentle, relaxing exercises that you can do at home.

Recent neuroscience research demonstrates that Mindfulness helps significantly:

- reduce stress;
- regulate emotions;
- increase focus and attention;
- improve memory – and more.

Consider making Mindfulness part of your daily routine. It has the potential to not only make you more relaxed and effective in court, but long after.



### How to instantly banish overwhelm

Has this happened to you? You're trying to get some much-needed relaxation or exercise, and your mind won't stop spinning with the things you have to do. When that happens, stop what you're doing. Write it down on a post-it note. Put the note on your computer, or where you'll find it later. Then turn your mind off, and go back to relaxing!

## Get support from family and friends

Challenges in life are inevitable, and representing yourself in court is a special type of challenge. Support from your family and friends is vital during this time.

During the build-up to your court date and as your case proceeds, make sure that you:

- Surround yourself with positive people who will support and comfort you;
- Seek out relationships that will help you to relax and feel "normal";
- Take time for your children (if you have them), your family, friends, and pets;
- Consider if you need additional support (a court companion known as a McKenzie friend may be a good idea. Read our primer **A Courtroom Companion (McKenzie Friend)** for more information.



# Get organized

## Learn the lessons from other SRLs

*Prediction: you're about to get really organized! SRLs have told us that doing the following helped them achieve good results.*

### Become a checklist ninja!


We're having a bit of fun with this heading. But checklists are great at breaking down overwhelming tasks into smaller, more manageable steps. Done consistently, they can help you reduce anxiety and be *seriously* prepared.

Here are some checklist tips:

- Create more than one checklist. *Reading list. Forms and documents list. Questions for Duty Counsel. Research list.*
- Don't just list everything you need to do – check off when tasks are done! This helps you see your progress.
- When you think of something and you're not home, text or email yourself, or even leave yourself a voicemail. Then you can deal with it later.



**Don't stop here – be creative!** Create one large checklist, or more than one. Find the system that works for you.

 We have prepared a starter checklist template you can use if you like. Go to [representingyourselfcanada.com](http://representingyourselfcanada.com) and you'll find it on the SRL resources page.

## Take control of your calendar

Make it a priority to master your electronic calendar program, or use a printed calendar.

Printed calendars may seem old school. But the advantage is that you can organize your calendar by using a folder for each month and inserting important printed forms or documents into the appropriate month they are needed. Be sure you give yourself a lot of time to complete them before deadlines. Using this method will make it easy to keep everything in order for when you sit down to complete and review your documents.


Here's how you can use your calendar to stay organized – see what works for you – and then stick to it!

- On important dates or deadlines, **free yourself up from other commitments**;
- Use **electronic reminders** for important dates or deadlines;
- Consider using a program like **Beeminder.com** to manage tasks and deadlines.

## Get familiar with the online resources available

These change frequently, and are often specific to a particular province or area of law. To find something that might work for you, consult [NSRLP's National and Provincial Resources](#) available on our website.

## Sign up to our Facebook page

 Sign up now while you think of it! The Facebook group is called [The National Self-Represented Litigants Project](#)

## Familiarise yourself with the resources available in the courthouse

Depending on your courthouse, services may include Duty Counsel (see page 9), Family Duty Counsel, *pro bono* services offered by local lawyers (for example Pro Bono Ontario or Pro Bono Access BC), mediation or dispute resolution services, and other legal information services (for example in Ontario & Alberta, Family Law Information Services). Other services not located in the courthouse which may be available in your town or centre include Family Justice Centres in BC, or community legal clinics across Canada.


## Make your own templates of the court forms

Some provincial websites provide form templates in Word or PDF formats and you should check out what is available. As your case unfolds, you might have to fill out some court forms more than once. Consider creating a permanent electronic template of the forms you use when you file. SRLs tell us that this saves them time obtaining more forms from the court. Or if you don't have access to a computer or know how to create an electronic template, take a few photocopies of each form before filling them out.

As well as court forms, you may want to create a template for what you are asking the court to do, for example an order in a family case.

## Arrange to have support in court

Being in court can be intimidating and overwhelming. Having a family member, friend, or other support person there to sit with you might help you feel more at ease and calm your nerves.

 **Keep in mind that different judges take different approaches and some are more strict than others.**

- **Family members or friends in the public seating area** – Anyone can sit in the public seating area at the back of the courtroom. You don't have to ask a judge's permission for this.
- **Have a family member or friend sit up front with you** – Some judges can be strict about this. To be safe, always ask the judge for permission first. And keep in mind that if that person is going to be called as a witness, the judge may not allow them to sit with you. You might want to choose someone who is not going to be a witness.

- **Arrange for a court companion** (known as a McKenzie friend) to sit beside you when you present your case.



First read the article: [What is a McKenzie friend](#). Then if you decide to go ahead with this, refer to our primer ***A Courtroom Companion (McKenzie friend)***.

## Arrange for disability access

Do this as far in advance of your court date as possible.

If you need disability access in order to use the courthouse comfortably, and/or for your court appearance(s), contact the Accessibility Coordinator at the courthouse where your case is filed. Not all courthouses have an Accessibility Coordinator, but some will.



For more detailed information and support, read our ***A guide for SRLs with disabilities: Understanding your rights and requesting the assistance you need***.

## Duty Counsel

On the day of your trial, you can get free advice and guidance on court procedures from Duty Counsel at the courthouse (subject to eligibility; this information should be on your provincial court website, or you can inquire at the Duty Counsel office). So before your court date, you'll want to make a list of questions for Duty Counsel.

Many SRLs report good experiences with Duty Counsel. They are professionals who are experienced at helping people representing themselves. Ask around at the courthouse for Duty Counsel's office if you cannot find it.

**"I went to Duty Counsel to try to present my case so I could properly follow procedure to try to get things settled. She reviewed my materials and made recommendations that were helpful. Talking with Duty Counsel helped me confirm that I was understanding what was going on. I have no previous knowledge of the procedure or the language. The fact that I did my homework was a step in the right direction."**

## Learn the physical set up of the courtroom (or chambers)

To ease your nervousness, make time to visit the court you'll be appearing in, before your court date.

**Where the judge sits** – In the courtroom, the judge usually sits on a dais, which is a platform at the front of the courtroom. So they will be sitting "higher" than you.

**Where you'll sit** – In front of the judge, there will be two tables, one for each party. These are called counsel tables. You will sit at a table, with your support person, if you have one. And the other party will sit at the other table with their lawyer, if they have one.

**Where you'll speak** – There's usually a stand with a microphone at the front of the courtroom. This is where you'll be doing most of your speaking and presenting.

**Others who may be there** – There may be a court reporter, a registrar, and a court clerk in the courtroom:

- The **court reporter** takes notes during the hearing.
- The **registrar** wears a gown. They pass files back and forth between you and the judge, and provide you with any final endorsement (the judge's order).
- The **court clerk** doesn't wear a gown. In some courts, the clerk will also act as the reporter.

**Be aware, most hearings are public** – Most family court cases are open to the public, and just a few proceedings are closed and held "in camera". This means that you may see people walking in and out of the courtroom during your hearing. Also, be aware that everything said is recorded.

## Attend and observe other hearings

If you can, attend other public hearings and trials before your first court appearance. Although cases naturally differ from one another, you'll still get a sense of what to expect. Many SRLs have told us that this was very useful to them, and helped to settle their nerves somewhat.

To find out what's happening at your courthouse, ask at the front counter about the upcoming hearing schedule. You might also be able to check the "Daily Court List" of hearings online.

Try to attend a hearing that's dealing with a situation similar to yours. This way, you can observe the procedures used. For example, if you have a witness in your case, you may want to attend one or more hearings where there are witnesses.

We encourage you to take some time to attend some hearings. It'll help you see how judges and lawyers interact. Plus it'll show you how to put your witness on the stand, how to ask questions, and how to object, for example.

## Confirm your court's hours of operation

Courtroom hours vary across the country. So you'll want to confirm the hours at your local courthouse before your court date. You can either check their hours online, or call the courthouse directly.

Generally, trials and hearings are scheduled from 9:30 or 10:00 a.m. until 4:30 p.m. The court usually takes a break for lunch at 1:00 p.m. There may also be a break in the morning and another in the afternoon.




# Start the legal process

**Ready to get started? This section will give you general information about filing the forms and documents to start the legal process.**

The documents that you will need to file to start the legal process vary throughout Canada. They also vary depending on the type of legal action you are bringing forward.

## For specific information on what forms you need to file for your region, court and type of case, we suggest that you:

- **Consult the online resources provided by courts in your province or territory.** As a starting point, use *Online Resources for Courts across Canada*, found below.
-  **Go to your local courthouse** and ask at either the court registry, or at an in-court information or *pro bono* (volunteer) service. For a list of national and provincial resources on the NSRLP website, [click here](#).

In some cases, you may need to do additional research to learn what applies to your situation.



### Tip: Before you file, visit the court registry in person

Get familiar with the physical registry before you file. Ask if there will be a staff person there to check over your documents before you file them (a "Navigator").

## Online Resources for Courts Across Canada

A list of all provincial court websites:

- British Columbia – <https://www.bccourts.ca/>
- Alberta – <https://www.albertacourts.ca/pc/home>
- Saskatchewan – <https://sasklawcourts.ca/>
- Manitoba – <http://www.manitobacourts.mb.ca/>
- Ontario – <http://www.ontariocourts.ca/ocj/>
- Quebec – [http://www.tribunaux.qc.ca/mjq\\_en/c-quebec/index-cq.html](http://www.tribunaux.qc.ca/mjq_en/c-quebec/index-cq.html)
- New Brunswick – <https://www.courtsnb-coursnb.ca/content/cour/en.html>
- PEI – <http://www.courts.pe.ca/index.php?number=1051070>
- Nova Scotia – <https://www.courts.ns.ca/>
- Nunavut – <https://www.nunavutcourts.ca/>
- Northwest Territories – <https://www.nwtcourts.ca/en/>
- Yukon – <http://www.yukoncourts.ca/courts/territorial.html>



# A list of the primers we offer

## Here are the primers we currently offer

 They're free for you to download here: <https://representingyourselfcanada.com/our-srl-resources/>

### Step 1: Getting ready and starting the legal process





-  **So you're representing yourself:** A primer to help you get ready to represent yourself in family or civil court
-  **A guide for SRLs with disabilities:** Understanding your rights and requesting the assistance you need
-  **A Courtroom Companion (McKenzie Friend)**
-  **The McKenzie Friend: Canadian cases and additional research**
-  **Considering Mindfulness:** How you can use Mindfulness to increase your focus and relieve the stress of representing yourself

### Step 2: Doing your research and preparing your arguments

#### Doing Your Research

-  **Part 1:** Understanding precedent and navigating the CanLII legal database (available in English and French)
-  **Part 2:** Assessing CanLII case reports, and using them to build your legal argument
-  **Reference Guide:** Legal definitions, court abbreviations and Canada's court systems-at-a glance
-  **Critical Judicial Decisions for Self-Represented Litigants:** Using important case law that establishes rights for self-represented litigants and how the justice system should protect you from bias
-  **Settlement Smarts** Tips on effectively using negotiation, mediation and Judge-led settlement processes
-  **What you need to know about affidavits**

### Step 3: Presenting your case in court

-  **Coping with the courtroom:** A primer to help you navigate the written (and unwritten rules) of the courtroom
-  **How to order a court transcript**
-  **Working with opposing counsel:** Building constructive working relationships between self-represented litigants and opposing counsel
-  **Tips from the bench:** Advice for SRLs, and the judges who work with them

To keep up with what's happening at the National Self-Represented Litigants Project (NSRLP), visit **RepresentingYourselfCanada.com**.

If you have comments for us, or suggestions for ways to improve our primers, let us know at [representingyourself@gmail.com](mailto:representingyourself@gmail.com).