

Getting Ready for a Court Hearing or Trial

Do I need a lawyer?

If you can afford to have a lawyer represent you, you should. Call your county Lawyer Referral Service, if available, for a referral, or look in the yellow pages under "Attorneys" where they list lawyers by areas of law.

Ask friends or relatives about experiences they have had with particular lawyers. Another cheaper possibility is to meet with a lawyer just to talk about your hearing or trial and preparation. You can hire a lawyer to help you get ready to represent yourself.

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- ❖ Getting ready for and taking part in a trial or hearing is complicated. There are just a few highlights here. We do not explain all the rules and procedures you must follow in court.
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What should I know about witnesses?

Hearings can determine temporary, agreed, or some procedural matters. The **trial** is where both parties present evidence and arguments for the judge to use in making a final decision.

The court generally does not allow witnesses until the trial. At hearings, the court relies on written declarations and your arguments.

Finding out who the Other Party Will Use as Witnesses: Unless your county has a case schedule, the best way to find out what witnesses the other side will call is to ask the other lawyer/party. If s/he files a "Notice for Trial Setting" or similar document, s/he must list the number of witnesses s/he plans to call, but not the names.

In some counties, both parties must follow a case schedule. The case schedule sets a date for the parties to exchange witness lists with each other. You should receive the other side's witness list by the date on the case schedule.

You must give the other party a list of the witnesses you expect to call. If you have given your list but have not gotten a witness list from the other side, write the other party a letter asking for their list. If they never give it to you, at the time of trial you can ask the judge to forbid the other side from calling any witnesses at all. Show your copy of the letter asking for a witness list.

Witnesses You Should Use: On issues of custody or visitation, one of your witnesses should be the evaluator (from Family Court services or CASA, sometimes called the "guardian ad litem" or "GAL") who investigated the case, and any counselors who have treated the children or CPS workers who will support your case. Call these people as witnesses only after you have talked to them and feel comfortable what they will tell the court will help your case.

You will also be a witness to your side of the case.

Other useful witnesses are people who are familiar with your care of the children and, if possible, the other parent's care of the children. These people might be school teachers, child care workers or neighbors. Friends and relatives can also be good witnesses.

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- ❖ The court might expect friends and relatives to support your story.
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Making Sure Your Witnesses Come to Trial: Give your witnesses as much advance notice as possible of the trial date. Then you should serve **subpoenas** on witnesses you are not sure will show up.

A subpoena allows the court to require a witness' attendance. If you subpoenaed someone who does not show up for court, the court can order a bench warrant for their arrest.

You do not need to file a copy of the subpoena with the court, but bring it with you to trial in case the witness does not show up.

Do I need to give the court any forms?

Yes. You must fill out a few before your trial. You give them to the judge and a copy to the other side when you arrive for trial.

In many counties you must fill out a financial declaration if there are any issues over child support, maintenance (alimony), or property distribution. Get this form from the court clerk's office. On the form, you will put information about your income and expenses. You should attach tax forms and paystubs. If you are asking to change child support, you must also provide check registers and bank statements.

If child support, custody, or visitation is an issue, you must also bring proposed child support worksheets and/or a proposed parenting plan. **Bring four copies of any order you are proposing.**

❖ Whenever you file something with the court, you must give the other party a copy of it.

What else should I bring to court?

A list of the names of your witnesses - File the original. Give the judge and the other party a copy.

Exhibits – if you use any, bring the originals and three copies of each document/paper/picture you want the judge to consider. Bring them to the courtroom early so the clerk can mark them. Make a list of your exhibits to keep track of them.

If your trial is about **child support** – bring your most recent pay stubs and W-2, and last year's tax return. Fill out Child Support Worksheets using the income you have and the other parent's income. Prepare a Child Support Order. Bring four copies of everything.

If your trial is about **maintenance** – bring your most recent pay stubs and W-2, last year's tax return, and a completed Financial Declaration. Bring any other documents you feel support your position about whether the court should order maintenance. Bring four copies of everything.

Write a trial memo – If you can, write a short summary of what you want and why. Break it down into sections: parenting plan, child support and maintenance, division of property, debts.

How should I handle myself in court and question witnesses?

This is stressful. Do your best to stay calm. The judge may give you choices how to present their own testimony. You can:

- ask yourself questions and then answer them OR
- tell a short story about your side of the case

Plan for whichever you choose. Write out notes for yourself about the important points in your case. Judges do not care for long testimony, especially if it is not on track with what the case is about. The judge will appreciate it if you can give a **brief clear statement** of what you want and why you

think you should have it. Summarize your main points. Then give more explanation.

You must ask your witnesses questions. You will also have a chance to question the other side's witnesses.

Write out the questions you believe are important to ask so you do not forget them. List the points you want to make to the judge so you can check them off as you make them.

You can practice with your witnesses ahead of time. Stress to them the importance of telling the truth.

In the courtroom, you start by asking the witness their name and address. If your witness is a counselor or other professional, ask:

- what their job is
- what their educational degrees are
- how long they have been doing their job

Then ask specific questions about the information they have about your case.

With the other side's witnesses, the other side will question them first. The judge will give you a chance to "cross-examine" them (ask them your own questions). **Never ask a question you do not know the answer to.** The answer may hurt your case more than help you.

You can choose not to cross-examine a witness if you think they will just repeat their direct testimony. It might be better to wait and contradict their testimony, either with your own testimony or with the testimony of one of your witnesses.

What if I need more help?

Call Northwest Justice Project to find out if your county has any free legal services available, or visit the Washington LawHelp web site at www.washingtonlawhelp.org. In King County, you can make an appointment

for a free half-hour consultation with a lawyer at one of the Neighborhood Legal Clinics. You can also contact your local bar association for more resources. Fill out all your paperwork before going in for your appointment. This way, the lawyer can better answer your questions. Our publication called [Getting Your Paperwork Ready so you can Get Help with Your Family Law Case](#) can help you get ready for your appointment.

Tips for Courtroom Behavior

- Be in the courtroom at least fifteen minutes before the trial is set to start. NEVER BE LATE.
- Your witnesses must be ready to go when they call your case for trial. If you do not need a witness for several hours, make sure they are available within ten to fifteen minutes with a quick phone call.
- Plan to be at court all morning. Your case might not be the first one called.
- **Do not bring your children.** If your children will be speaking to the judge, they should wait outside the courtroom during the trial.
- You may bring a friend for moral support. That person must not speak once they call your case.
- Go into the courtroom and sit quietly to wait for them to call your case.
- In the courtroom, do not: chew gum, eat, drink, read a newspaper, sleep, wear a hat, listen to earphones, use a cell phone, camera, or camera phone, or carry a weapon.
- Go over your paperwork before the hearing. Know your papers. If you or one of your witnesses has filed a declaration in the case, the person's

testimony must be the same as what they said in the declaration. You may use written notes or an outline during the hearing.

- Stand when the judge enters the courtroom. Listen to the court staff. They may announce other times when you need to stand.

When it is your turn to go before the judge:

- **When it is time for your hearing, the clerk or judge will probably read all the cases scheduled** for hearing at that time. When they call your name, you must answer and, if asked, tell the judge whether your case is agreed, a default, or if there will be argument.
- **When they call your case for hearing,** walk to the table or podium for lawyers in front of the judge. Stand facing the judge. The judge will tell the parties when to speak. Speak only to the judge and only when it is your turn.
- **Opening and closing statements:** You get to address the judge at both the start and end of the trial. You should summarize what you want and why. Be brief. Be clear. Be as specific as you can.
- Listen carefully.
- **Do not interrupt or speak to the other party,** even if they interrupt or speak to you. You want to appear polite and reasonable. Staying calm even when the other party is rude or lies will impress the judge. You will get your turn to prove the other party wrong.
- If you need to explain something the other party said, **wait your turn** to speak or ask to speak again.
- When you talk to the judge, start by saying "Your Honor."
- **Speak loudly and clearly so the judge** can hear you. Use words, phrases and terms you understand. Keep your hands away from your mouth. Control your emotions. **Stay calm.**
- **Do not ramble** when giving evidence to support your side of the story. You may have no more than five minutes to speak. Call the court clerk to find out the time limits for your county before you work on what you want to say.
- Stick to the FACTS.
- Do not talk about issues that do not support your case.
- **Try not to use first names** in addressing anyone in the courtroom.
- **Only one person can speak at a time.** A court reporter is taking down everything said in the courtroom. S/he can only record one speaker at a time.
- The judge will ask questions. **If you do not understand the question, say so.** Do not answer until you fully understand the question.
- Take your time when answering questions. **Give the question as much thought as you need** to understand it and come up with your answer. Explain your answer if needed.
- It is okay to admit that you do not know the answer to a question.
- If you are stating dates, times and places, **be exact. If you cannot be exact, say that** you are only estimating.
- Be polite.
- If the other party **objects** to something, do not interrupt until s/he states why. The court will then allow you to respond. Then the court will rule on the objection. Do not speak to the other party during objections.

- Do not laugh or talk about the case in the hallway or restrooms of the courthouse. The judge, other party or his/her lawyer or witnesses may see or hear you.

When the judge makes a decision:

- Control your emotions.
- Do not express either gratitude or disagreement. Do not make faces.
- Stay polite to the judge after the ruling. Ask the judge whether you or the other side should write the court order. (The judge will not write the order.) The judge must sign the order before it becomes effective.

- Before you leave court, make sure you understand what happens next. Do you need to come back for another court hearing? Do you need to do a written legal argument or proposed court order? Do you need to do anything else? Will the judge make an order as a result of the hearing? Sometimes orders are written up right away - as you wait. Or the judge may think about the case and write an order later and send it in the mail. **Politely ask if you do not understand what will happen next.**
- Do not announce in court that you plan to appeal. It is your right to appeal. But your decision to appeal does not matter to the trial court.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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