

# Steps in a Trial



Prepared by the \_\_\_\_\_ County Family Law  
Courthouse Facilitator Program

and

The Administrative Office of the Courts

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This information is not intended to serve as a substitute for legal advice from an attorney. **This handout gives only a few highlights - it does not describe all of the complicated rules and procedures you are required to follow in court.** Local court rules and procedures should be consulted well before trial to make sure that all pre-trial preparation steps are followed carefully. Most local court rules can be found at

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.local&group=superior](http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=superior)

If you fail to comply with rules and procedures your evidence or witnesses may be excluded.

Only an attorney can provide advice about a party's rights and responsibilities. Because legal proceedings like trials are very complex, it is strongly recommended that parties obtain legal advice. Some lawyers offer limited services, including help with trial preparations. Sometimes this kind of help is called "unbundled" legal services.

The Administrative Office of the Courts and the authors do not warrant that the information herein is complete or accurate and do not assume and hereby disclaim any liability to any person for any loss or damage caused by errors, inaccuracies, or omissions that may appear in this guide. Laws and interpretations of laws change frequently, and the material contained in this guide carries with it important legal consequences. Users of this material are solely responsible for determining the applicability of any information contained in this guide to their situation and are strongly encouraged to seek professional legal and other expert assistance in resolving their family law issues.



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## BEFORE THE TRIAL EVEN BEGINS. . .

**Preparation:** There are many steps to take to prepare for a trial.

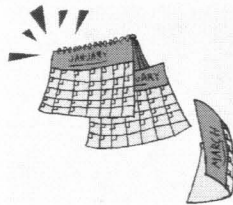
- You should consult with an attorney as soon as you know there will be a trial in your case.



- You may also read "Pre-trial Preparations." For example, many courts issue a "Case Schedule" with a deadline for identifying witnesses and giving the witnesses' names to the other party. If you do not follow this schedule, the other party may object to the Judge hearing your witnesses.

- You may also refer to a glossary that will explain some trial terms.

Another step in trial preparation is following Evidence Rule 904 (ER 904) Admissibility of Documents. It is easier to get your evidence "admitted in to evidence" (considered by the Judge) if you follow ER 904. The rule states that you may send the other party copies of your proposed documentary evidence at least 30 days prior to trial and file with the Clerk's office only a list of the documents you sent to the other party, along with proof of mailing. Unless the other party objects 14 days before trial, usually the Judge will admit the evidence.



**Dress:** Wear appropriate clothing. T-shirts with derogatory slogans, tank tops, halter tops and clothing with holes are not appropriate for appearing in court. Clothing should be neat and clean. Dress like you would if you were going to a job interview.



### Behavior:

- Do not get angry.
- Do not interrupt the other party, a witness or the Judge.
- Speak clearly so the court reporter can take down your testimony and questions.
- Stand whenever you are talking unless you are testifying



from the witness stand.

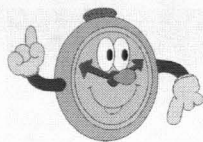
- Ask the Judge for permission to move up to the witness stand or to the Clerk.  
One way to do this is, "May I approach the Bench, Your Honor?" or "May I approach the witness, Your Honor?"





### Attendance at Court:

- Do not bring any minor children.
- Show up early every day of trial.
- Allow extra time for traveling, parking, and going through security.
- Do not chew gum or tobacco.
- Do not bring beverages or food into the courtroom.
- Most courts do not allow recording devices or cameras.
- Cell phones and other electronic devices must be turned off.



## THE TRIAL . . .

### Step 1 – Opening of the Court

1. The Court Clerk starts or “opens” Court by announcing that the Court is ready to begin.
2. The Court Clerk announces, “All rise.”
3. As the Judge enters the room, those present in the courtroom stand.
4. The Clerk introduces the Judge.
5. The Judge directs attendees to be seated.
6. The Judge announces the case and asks if the parties are ready to proceed.
7. Both parties should stand and respond, “Yes, Your Honor, I am ready to proceed.”
8. The Judge may make some opening remarks to tell both parties how the trial will proceed.



### Step 2 – Moving Party’s Opening Statement

The moving party (the party that filed the petition that is being heard) begins by introducing himself or herself and telling the court the important information about the case. This includes an overview of the issues of the case, and what the moving party’s witnesses and evidence will prove. The moving party requests that the Court decide these issues in the moving party’s favor.



### Step 3 – Responding Party’s Opening Statement

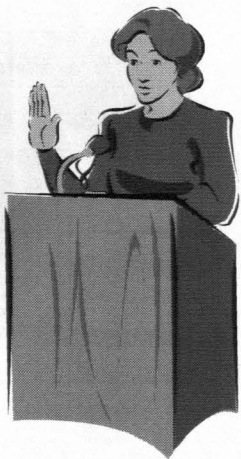
The responding party (the party who is responding to the petition) begins by introducing himself or herself and telling the court the important information about the case from his/her point of view. This includes an overview of the issues of the case, and what responding party’s witnesses and evidence will prove. The responding party requests that the court decide these issues in his/her favor.



*Note: The responding party may request to make his/her opening statement after the moving party has completed his/her case.*

#### Step 4 – Moving Party's Direct Examination of Witnesses

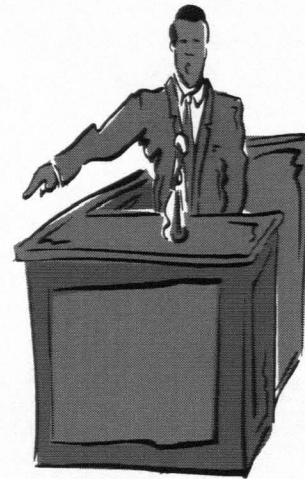
1. The moving party calls the witnesses for his/her side, one at a time.
2. The witness steps to the witness stand, next to the Judge.
3. The Judge or Clerk instructs the witness to raise his/her right hand and swears in the witness.
4. The Judge or Clerk tells the witness to sit down.
5. The moving party asks the witness to state and spell his or her name and his/her relationship to the parties.
6. The moving party then asks questions, one at a time.



“Leading” questions, which contain the answer that the moving party wants, are NOT allowed in direct examination of the moving party's witnesses.

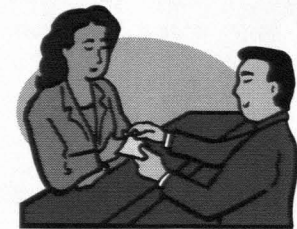
For example, you may not ask, “Isn't it true you saw him/her slap our son October 1<sup>st</sup>?” Instead, ask, “When you were at my house

October 1<sup>st</sup>, did you see anything that caused you concern about the parenting of my son?”



If the witness is an expert witness (for example, Doctor, Counselor, Domestic Violence Evaluator, Guardian ad Litem), the moving party asks the witness about their education and professional background that relates to the matter they are testifying about. Once this information is given, the moving party asks the Court to qualify the person as an expert. When the Court qualifies the witness as an expert, the moving party starts asking questions.

- The moving party may want to testify to tell the judge directly what has happened in support of his/her side of the case.
- The judge may direct the moving party to simply and clearly narrate the events that took place to support his/her case.
- Sometimes the judge may ask clarifying questions to make sure the testimony is understandable and complete.



Witnesses must wait outside the courtroom until they are called to testify. The judge will let the witnesses

know whether they may remain in the courtroom after they are done testifying.

### Step 5 – Exhibits

If a document or piece of physical evidence can help explain the moving party's case, it may be entered into evidence.

- If it is a document, the moving party gives the original to the clerk of court so it can be marked. Then the party gives a copy to the responding party.
- If it is a piece of physical evidence (like a doll), the moving party shows it to the responding party.



The moving party takes the document or object to the witness, asking the witness to identify it.

Once it is identified, the moving party asks the Court to admit it into evidence.

The marked document or object is given to the Clerk for safekeeping.

*Note: The Court may decide to mark all exhibits before trial begins, to save time. The exhibits or physical evidence is then ready for identification and admission into evidence through the appropriate witnesses. See "Preparation" above for information about Evidence Rule 904, which may help get documents entered into evidence. You may want to make two copies of any exhibits you plan to introduce, one copy for you and one copy for the responding party. You may also want to prepare an Exhibit List to help you keep track of what has been admitted. See "Pre-trial*

*Preparations" for more suggestions about preparing for trial ahead of time.*

### Step 6 – Objections

The responding party may object to questions the moving party asks, or to the answer provided by the witness, or to the admission of evidence (and vice versa). There are many reasons evidentiary objections may be made.

To make an objection:

- Stand up and politely tell the Judge that you object.
- State the exact grounds of your objection, using a one-sentence explanation.
- The other party will get to respond to your objection – let him or her speak without interruption.
- Remain standing until the Judge rules on the objection and accept the Judge's ruling gracefully.
- Remember you can only object based on the Rules of Evidence, not because you disagree with the questions or answer.



The Rules of Evidence may be found at your local law library or at [www.courts.wa.gov/court\\_rules/](http://www.courts.wa.gov/court_rules/).



### Step 7 – Cross Examination



The responding party is given the chance to ask questions of the moving party's witnesses after the moving party has questioned them. These questions may be leading questions, such as "Isn't it true you were at the grocery store at 3:00AM?"

All questions must relate to only the same topics covered in the direct examination of the witness.

### Step 8 – Redirect

After the cross-examination of the witness is done, the moving party gets one last chance to ask his or her witnesses questions, to clarify any uncertainty that may have been caused during the cross examination. Questions may not go beyond the topics covered in the cross examination.



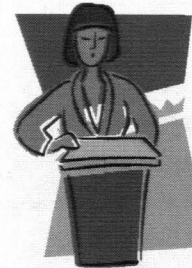
### Step 9 – Moving party Rests

When the moving party has called all of his/her witnesses and introduced and admitted all evidence, the moving party tells the court, "The moving party rests, Your Honor."

**(If the Responding party saved his/her opening statement, it is given now.)**

### Step 10 – Responding party's Case

It is now turn for the responding party to call his/her witnesses, one at a time, and to introduce and admit into evidence any documents or physical objects that help explain his/her case.



The moving party is allowed to object in the same manner the responding party does, as explained above.

The responding party must qualify expert witnesses as experts, just as the moving party does, as explained above.

The moving party is allowed to cross-examine witnesses, and the responding party has one last chance to question the witness on redirect.

At the close of the responding party's case, the responding party says, "The responding party rests, Your Honor."

### Step 11 – Closing Arguments

When both parties have rested, it is time for closing arguments. The moving party and responding party, in turn, sum up the main points that help their case. The Court will tell the parties how much time they have for the closing argument.

The moving party may ask the Judge for permission to save some time to rebut what the responding party says in his/her closing argument.

When the rebuttal is done, the case is over and the Judge will make a decision.

### Step 12 – The Court’s Ruling

The Judge may give the ruling right away, or may tell the parties to wait a few minutes while the Judge makes his ruling, or may tell the parties to come back another day for the ruling.

It is very helpful to have a friend or relative in the courtroom to make careful notes about the Judge’s ruling since you will need to put the rulings in court orders that you prepare.

A copy of the transcript of the Judge’s ruling or the entire trial may be purchased. Arrangements for the transcript can be made through the court administration office.



### Step 13 – Preparation of Orders

Once the ruling is made, the Judge will tell one of the parties, usually the moving party, to prepare the final

orders according to the decisions the Judge made. What those final orders are depends on the kind of case. For example, if the case is a divorce with minor children, 5 documents need to be prepared for signature by the judge:

1. Findings of Facts and Conclusions of Law
2. Decree of Dissolution
3. Parenting Plan
4. Child Support Worksheets
5. Order of Child Support

and another document is prepared to file in the Clerk’s office, “Residential Time Summary Report.” These and other forms you will need to prepare may be found at [www.courts.wa.gov/forms/](http://www.courts.wa.gov/forms/).

If your county has a courthouse facilitator program, the facilitator can help identify what documents are needed for the different kinds of family law cases.



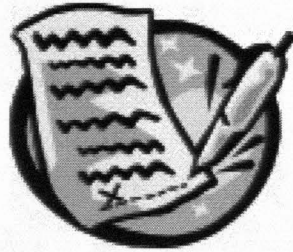
When the orders have been prepared, the moving party provides a copy of them to the responding party for review.

- If the responding party agrees with the orders, he or she will sign each of the documents in the space provided.
- If the responding party doesn’t agree, the moving party must schedule a hearing before the trial Judge and give notice to the responding party of the time and date of the hearing. The courthouse facilitator can help schedule that hearing.



## Step 14 – Presentation of Orders

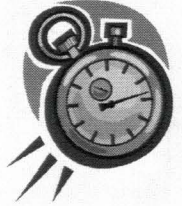
- The orders are presented to the trial Judge for signing. If necessary, the Judge will decide on any disagreements in the paperwork.
- The Judge will sign the orders.
- The Clerk keeps the originals and will give parties instructions for getting copies of the signed documents.
- Because the originals are kept by the Court, it is a good idea to make copies ahead of time. You may still want to purchase a “certified” or official copy of the orders with the Judge’s signature.
- If you asked the Judge to change your name, agencies such as the Department of Licensing will require a certified copy of your Decree of Dissolution to change their records.



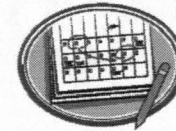
## Step 15 – Appeal

Appeals from a Judge’s final rulings are heard in a different court, called the Court of Appeals. Different rules and procedures apply.

It is very important to know that **time is limited for filing an appeal**. If you want to appeal the Judge’s decision in your case, you must take action promptly.



It is a good idea to consult with an attorney BEFORE your trial, so you know what to do as soon as your trial is over, if you want to appeal.



If you miss your appeal deadlines, your case cannot be appealed.

The courthouse facilitator cannot help you with an appeal of your case to the Court of Appeals.

Some forms you may need to use in an appeal are available on the Courts’ Web site at [http://www.courts.wa.gov/appellate\\_trial\\_courts/div1/ca/seproc/?category=scoa](http://www.courts.wa.gov/appellate_trial_courts/div1/ca/seproc/?category=scoa).

**It cannot be stressed enough that getting legal advice as soon as possible is a very good idea, as the deadlines for appeals are stringently enforced.**