PREPARING FOR YOUR DAY IN COURT

Like the average person, you will probably be nervous about your day in court. This page is provided to all litigants to help make your day in court as pleasant an experience as possible.

Below is an overview of the process, followed by some specific suggestions on Preparing For Trial and conducting your Trial.

OVERVIEW

Because of the nature of Small Claims cases, your time is limited. The court encourages litigants to prepare a concise statement in advance, summarizing the reason or response to the small claims action. All statements must be factual and subject to verification with objective proof. For example, if the defendant in an auto accident case has admitted the accident was his or her fault, tell that to the judge and say the issue is the amount of damages and not liability. In a contractor case, the plaintiff might say "Your Honor, I am suing the defendant roofing contractor for $1,000 because the work he did on my roof was defective, and it cost me $1,000 to get it right." An auto repair plaintiff might say, "Your Honor, I'm suing the defendant auto mechanic for $600 because he didn't fix a number of things on my car for which he charged me, and I have a report from the Bureau of Automotive Repair that explains what he did wrong." By providing such an overview you give the judge some guidance on what facts he or she should focus on. However, if you start out your case in a narrative style, providing what happened that caused you to contact the defendant in the first place, the number of times you called them, etc., the judge won't learn about the important issues of your case until later.

Telling your story to a judge isn't like telling a story to a friend. When you tell a story to a friend, you usually start from the beginning, give all the details, build some suspense, and then finish with an ending. In small claims court, you first want to implant in the mind of the judge the primary issue or issues in our case.

If your suit asks for an award of money, the judge will want to know exactly how the plaintiff decided on the amount claimed. If claiming interest, the plaintiff should be prepared to show exactly how it was calculated. In all cases, it is beneficial to provide the judge with a written itemization or calculation of your damages if this information is not already included in your claim form.

CHECKLIST

_____ Date, time and location of my hearing
_____ If you are the plaintiff, did you file the proof of service?
_____ Do I have all the documents gathered and in a logical order?
_____ Witnesses
_____ Notes prepared in logical ordering stating 1) why the case 2) summary 3) facts outlined?

PREPARING FOR TRIAL

Preparation starts before you go to court.

1. If you are the plaintiff, be sure you file the proof of service before the date of your hearing. If you do not, your case will be dismissed and dropped from the calendar and your case will not be called.
2. Most Small Claims cases last for 10 – 30 minutes. Your time is not unlimited;
3. Research any legal issues in your case;
4. Write an outline for your presentation
    a. This outline is for your own use
    b. Start with your strongest arguments and work yourself down to the weakest argument
5. Make and bring copies of all your court forms and Proof of Service(s);
6. Gather all supporting documents necessary for your hearing. Make copies of contracts, records, receipts, documents, etc.
    a. Preferably, you should bring the original, plus two (2) copies to court
    b. Keep the original, while providing the Judge and Defendant(s) [or Plaintiff(s)] the copies unless otherwise directed
7. If applicable, produce pictures, draw diagrams, create detail boards or have a timeline, if relevant, for your presentations;
8. Witnesses – You have two (2) options:
    a. Witnesses may appear in person [voluntarily or by Subpoena]
        i. The Small Claims Advisor can help you with the Subpoena form, SC-107, which is issued by the clerk before you can serve it on the witness – who may ask for witness fees of $35 per day, plus 20 cents per mile each way to and from court
    b. You may bring signed statements from witnesses.
    c. When providing a Statement, the Witness writes his or her statement while doing the following;
        i. On top of the first page, the Witness puts his/her contact information (address and phone number(s))
        ii. On the bottom of the last page, the Witness must include "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."
        iii. Under this statement, the Witness prints his/her name, signs his/her signature and dates the page.
9. Sit in and observe some hearings ahead of time if you can. This will help familiarize yourself with the process and/or the judge.

TRIAL

On the day of your court hearing:

1. Dress neatly and respectfully, as if you were going to a job interview;
2. Know your case number or have your case number readily available;
3. Bring **all** documents you have filed with the courts so far;
4. Have all your documents in logical order so the judge can follow you and so you can find documents quickly;
5. Have a pen and note pad to take notes;
6. Arrive at least 30 minutes early. Give yourself plenty of time in case of traffic, trains, or difficulty finding a parking place;
7. Check to see if you are on the calendar for the day (posted near the courtroom's door);
8. Turn off your cell phone when you enter the courtroom;
9. When your case is called, walk to the table in front of the judge. Witnesses may come with you at this time. **It is highly recommended to stay unemotional**.
10. When the judge asks you to present your side of the case:
    a. Present your most important points first. Let the judge know the primary issue or issues in your case. By providing an overview and not a complete narrative, you give the judge some guidance on what facts he or she should focus on;
    b. When you address the judge, act respectfully and call him or her "your honor". NEVER interrupt the judge.
    c. Speak clearly and loudly enough that the judge can hear you. Speak only when it is your turn.
    d. Summarize your point of view;
    e. Let the judge know you have a witness(es) to support your argument;
    f. If you get nervous, look at your outline/list. This will help you speak to the judge.
    g. Explain why the judge should approve (or not approve) each request;
    h. Remember, the judge is interested only in hearing the facts of your dispute. If needed, the judge will ask you for clarification;
    i. Answer all of the judge's questions and stop talking immediately if the judge interrupts you.
11. If you are asking for court orders, make sure the judge makes an order for EACH item you have asked for.
12. Do not depend on the judge to remember everything you have asked for. If something has been overlooked, tell the judge.
13. **Do not forget** to request your filing fees and costs of service. If you do not request them in court, you may not be able to recover them;
14. **Do not** leave the courtroom unsure of what the Judge ordered. If you do not understand something, say that you do not understand. Someone will try to explain it for you.

For a short, informational video please see http://kclawlib.org/media/1.html