



Legal Aid
Society of
Hawai`i

How to Represent Yourself

This brochure provides basic information on how to represent yourself at a court or administrative hearing. It is only meant as a general overview of the court or hearing system. This pamphlet is by no means exhaustive of your rights and responsibilities when representing yourself in court. It does not replace legal advice or counsel. Whenever possible legal counsel should be retained.

For more information on your matter, call Legal Aid Society of Hawai`i's hotline at (808) 536-4302.

Please visit our Web site at <http://www.legalaidhawaii.org>

This pamphlet will guide you through the basics of representing yourself in court before a judge or in an administrative hearing before a hearing officer. Note that there are preliminary steps you must take **before** actually getting to court or the administrative hearing. Once you have done the necessary steps to get a court or hearing date, this pamphlet can help you prepare your case for court/hearing.

I. WHAT IS THE FIRST STEP?

The first step in representing yourself is to **READ THE HEARING NOTICE OR COURT APPEARANCE NOTICE VERY CAREFULLY**. The notice should tell you:

1. The date, time, and place of the hearing and instructions telling you what to do. You **MUST** show up at the specified date, time, and place. If you don't show up, the judge or hearing's officer may issue a default judgment against you. A default judgment will mean that you lose the case and will not be able to get back into court to explain your side of the story.
2. The issues to be covered at the hearing or court appearance.

II. WHAT IF I CAN'T ATTEND AT THE SCHEDULED TIME?

If you can't get to the hearing or court at the scheduled time, **reschedule your time right away**. That means calling the court or agency immediately to see if there is another date available. You have a better chance of rescheduling the hearing if you ask **before** the hearing, **NOT after**.

If you will be representing yourself at a hearing, call the agency up and ask them to reschedule your hearing.

If you will be representing yourself in a court proceeding, call the court clerk's office and ask them how to get a continuance in your case. A continuance means that you are asking for a later court date.

III. HOW DO I PREPARE MY CASE BEFORE MY COURT OR HEARING DATE?

A. Identify the Issues

First, sit down and think about all the possible issues in your case. The court will give you a limited amount of time to present your side, so you will want to budget your time to make sure you can hit **all** the important issues. People often emphasize the wrong issues or try to change the issue by smearing their opponent or by producing information which has nothing to do with the issues of the case. These common tactics are mistakes.

When identifying issues in your case, a good place to start is to think about the other side's arguments against you. In other words, make a list of what your opponent would say about the case and why they think they are right. Once you have determined your opponent's arguments, make a list about why you disagree with your opponent and think you are right.

B. Stick to the Issues

Once you have identified all the issues, you should make sure that you **STICK TO THE ISSUES**. As you select and collect your evidence, interview witnesses, and write your arguments, you should always **STICK TO THE ISSUES**. The judge or hearing's officer will NOT be interested in anything but evidence which relates to the issues. If you do not stick to the issues, chances are you will not be able to tell your whole story in court. The judge will cut you off if your time has expired, even if you haven't told the whole story. Therefore, the best strategy is to know what the issues are and **STICK TO THEM**.

Here are 3 suggestions to help you **STICK TO THE ISSUES**:

1. Know what you are trying to prove.
2. Make only the **essential** points.
3. Don't confuse the issues with irrelevant information.

C. Collect Evidence

Once you have identified the issues, the next step is to collect evidence which will help prove your case. Good evidence wins cases. Evidence is supporting documents and witnesses that will help you prove to the judge that you are right. You can start collecting evidence by:

- * Reviewing all important documents and records that relate to the issues in your case. Read each document and decide if it will help your case.
- * Interviewing people who have something to say that will help your case.
- * Collecting evidence for your case while the facts are fresh in your mind. Your case will suffer if people forget the facts, witnesses move, and documents are lost. In other words: Evidence grows old quickly.

Remember: DO NOT submit evidence against yourself which may weaken your case.

D. Select Documents to Use as Evidence

The relevant documents can be anything that will help prove your case. Turn in the documents to the court or hearing's office -- turn in the **document itself** and not a summary or description of it.

Examples of Documentary Evidence:

- *Photographs before and after
- *Signed contracts
- *Signed deeds
- *Canceled checks
- *Bank statements
- *Letters/correspondence

You should call the court or hearing office and ask them how you can formally bring in documents to use as evidence or how you can introduce exhibits. You will probably need the original document and 2 copies. The original is for the court and the copies are for yourself and the other side. It may hurt your case if you don't produce supportive evidence like documents that you may have or can get.

E. Select Witnesses You Wish to Use at Trial

The weight of evidence is not determined by the amount of testimony. In other words, you don't need many different witnesses to testify about the same facts. **Bring the witnesses with the most reliable first-hand knowledge.**

First-hand knowledge means that the witness saw something that helps prove your case or is an expert you have consulted about a particular subject.

Examples of First Hand Knowledge:

- "I saw the whole incident and here's what happened."
- "I was there when Joe was cleaning the apartment and he left it in good condition."

The judge or hearing's officer will **NOT** be interested in the testimony of a person who is repeating secondhand or generalized information. Character witnesses don't help. They may say you are honest, but they usually don't know the facts of the case.

Examples of Secondhand Information: **DO NOT USE THESE WITNESSES**

- "I know Joe is a good, safe driver and would never have done anything reckless."
- "I heard from Sarah that Joe left the apartment in good condition and I believe her."

It may help your case if you talk with your witnesses before going to the hearing or court. You can't coach or force your witnesses to give false testimony. However, witnesses often unknowingly may give the wrong impression, or stray from the facts of the case. Talk to your witnesses to see what they would say if they went to court for you.

After discussing your witness' knowledge of the event, you may decide you don't want that person to testify. It is better to decide before the hearing. Don't wait until the witness is in the middle of testimony when you realize the testimony will not help you.

F. Can I Make my Witnesses Show Up at Court? Can I Get a Document I Don't Have?

You will have **one** reasonable opportunity to present your evidence. So -- PLAN AHEAD and FOLLOW THROUGH.

If you want to call a witness that you don't think will show up, you can subpoena that witness. A subpoena is an official court document which requires the witness to show up at court or the hearing.

If you want to obtain a document you don't have **and** you know who does, you can get a subpoena duces tecum. The subpoena duces tecum is an official court document which requires the person who has the document to give a copy to you. (Some exceptions apply such as privileged information)

You can obtain the form by calling either the court or hearings office you will appear at. Once you get the correct form, fill it out and follow the instructions.

Then you will have to serve the subpoena or subpoena duces tecum to the respective person(s). There are two ways you can serve them:

1. The Hawaii Sheriff's Office can serve your subpoena or subpoena duces tecum. You must provide the person's **correct name and place** where the subpoena or subpoena duces tecum can be served. The Hawaii Sheriff's Office will NOT serve a subpoena if no specific current address is provided.
2. You can serve by registered mail -- return receipt requested. Registered mail means the mail will be delivered only to the person it is addressed to and a signed receipt will be returned to you. Keep the signed receipt and bring it to court in case the judge asks if you properly served the witness.

You will be solely responsible for correctly serving the person(s). This means that you must properly serve the person(s) and you must pay all the expenses related to proper service. If the person(s) is not properly served, the court cannot make them show up to testify or bring the documents you want.

Remember: Witnesses should be notified ahead of time that they are required to attend a hearing. You **must allow at least 7 days for the subpoena to be served**. If you wait until the last minute to subpoena a witness, the subpoena may be unenforceable, or the hearing might be postponed until the subpoena is served.

III. WHAT WILL HAPPEN AT THE COURT OR HEARING?

A. Order of Trial or Hearing

1. Each side will give an **opening statement**. The opening statement should include what you will prove at trial. It is like an introduction to what is to come.
2. The person who first filed in court or the **plaintiff** will call and conduct a **direct examination** of his or her witnesses.
3. After each of plaintiff's witnesses the person who is defending against plaintiff's claim or the **defendant** will have a chance to **cross examine** each witness.
4. The witnesses may also be subject to "re-direct" and "re-cross."
5. After plaintiff finishes with all of his/her witnesses and evidence, the **defendant** will be able to call and conduct a **direct examination** of his/her witnesses.
6. After each of defendant's witnesses the **plaintiff** will have a chance to **cross examine** each witness.
7. And again witnesses are subject to "re-direct" and "re-cross."
8. At any time the judge or hearing's officer can ask questions.
9. Lastly, the trial or hearing will end with closing arguments. **Closing arguments** summarizes the evidence and tells the judge or hearings officer what you want and why you should get it.

B. What is an “Opening Statement?”

An opening statement is an introduction to the judge or hearing’s officer. In your opening statement you should introduce your case and identify all the relevant issues in your case. It is probably a good idea to highlight the issues and tell the judge how you will prove them in your favor.

Caution: Do not spend a lot of time on the opening statement. Remember evidence wins cases, not fancy speeches.

Remember: The plaintiff will give his/her opening statement first, followed by the defendant. Judges sometimes will delete the opening statement, so be ready for any possibility.

C. How do I Conduct a “Direct Examination” of my Witnesses?

If you call a witness for your side, you must conduct a direct examination of that witness. Direct examination means that you must ask your witness questions in a non-leading manner.

Non-leading questions are questions which can be answered by stating a fact, rather than answering "yes" or "no." Your questions should call for one key fact at a time. It is also best to ask a series of questions leading up to the crucial fact of the case. When you reach that point, simply ask your witness: "What happened next?" or something like that. Your witness will be more believable if allowed to explain important events in his own words.

Examples of permissible "non-leading" questions: **USE ON DIRECT**

- "Tell me in your own words what you and Joe did to clean his apartment."
... "What happened next?"
- "Doctor, in your expert opinion why can't Sally work?"

If you ask your witness questions that require a "yes" or "no" answer, you are probably asking leading questions, and the hearing’s officer or Judge may stop you. Leading questions are allowed on cross examination but are not allowed on direct examination.

Examples of "leading" questions: **DO NOT USE ON DIRECT**

- "So you and Joe cleaned the kitchen, bathroom, and bedrooms, is that correct?"
- "Doctor, Sally can't even get out of bed, nonetheless work every day, right?"

If a friendly witness doesn't testify in the same words you would use, don't ask him to change his testimony (unless he made an obvious misstatement which can be easily corrected). Asking your witness to change his/her testimony usually causes confusion, and makes him repeat the part you are unhappy with.

D. How do I Conduct a “Cross Examination” of my Opponent’s Witnesses?

Cross examination is when you question the other side's witnesses. On cross you are allowed to lead the witness. Leading questions suggests the answer in the question itself. In other words, leading questions usually have a “yes” or “no” answer to them.

Examples of permissible "leading" questions: **USE ON CROSS**

- "You stated that the apartment was as clean as possible yet you still will not return Joe's security deposit, isn't that true?"
- "Doctor, you stated that Sally cannot get out of bed, yet isn't it true that she comes to your office twice a week?"

Don't submit evidence against yourself or ask questions which may weaken your case. If the opposing witness gives an answer that makes a point in your favor, don't push your luck. Don't ask follow-up questions like: "In other words, Mr. Witness, are you saying that..."

The first rule of cross examining an unfriendly witness is: If you don't know what to ask, don't ask. Don't ask an unfriendly witness to repeat his testimony -- he is unlikely to say anything that will help your case.

Remember: Don't argue with any witness over his previous testimony or highlight what the witness already said against you.

E. What are "Closing Arguments?"

Your closing arguments should summarize all the evidence you presented at trial. You should tell the court what you want and why you should get it. Make sure your arguments are supported by the evidence. Your closing arguments should be strong and persuasive, but reasonable.

Remember: This is the last impression left in the judge's or hearings officer's mind, so be persuasive, clear, and use the evidence to back up your arguments.

IV. LAST MINUTE TIPS ON THE TRIAL DAY OR HEARING DAY

- *Arrive early. Collect your thoughts and have enough time to set up.
- *Make sure all your witnesses will be on time.
- *Make sure you have all your evidentiary documents in order.
- *Have a checklist of the major points you wish to bring up in the hearing or court
- *Always be courteous to the hearings officer, judge, witnesses, and opposing counsel
- *Don't try to dazzle anyone. Speak in simple English, and be clear and concise
- *Don't fight every point your opponent makes. Always remember the **key issues in the case.**
- *Above all remember: **facts and evidence win cases!**