



LEGAL AID
SOCIETY OF HAWAI'I



HOW TO REPRESENT YOURSELF IN COURT OR HEARING

This booklet 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 booklet does not at all include all 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 Hawaii hotline at (808)536-4302.

Please visit our Website at www.legalaidhawaii.org

© Copyright November 1999, Legal Aid Society of Hawai'i.
All rights reserved. These materials may not be reproduced without written permission of the Legal Aid Society of Hawai'i. Under no circumstances are persons receiving these brochures to be charged for copies without written permission of the Legal Aid Society of Hawai'i. This publication is designed to provide general information and should not be utilized as a substitute for professional legal service. Updated 12/14/2015 by AmeriCorps Project Kaulike Member. **H1.How to Represent Yourself In Court or Hearing, Updated 3/15/2017**



This brochure was created
through the AmeriCorps
Project Laulima at the
Legal Aid Society of Hawaii



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 booklet can help you prepare your case for court/hearing.

WHAT IS THE FIRST STEP?

Read the hearing notice or court appearance notice very carefully.

The notice should tell you:

- A. The **date, time, and place of the hearing and instructions telling you what to do**. If you DO NOT show up, the judge or the hearing's officer may issue a default judgment against you.

A default judgment means that you lose the case and will not be able to get back into court to explain your side of the story.

- B. The **issues to be covered** at the hearing or court appearance.

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

You should do your very best to attend the hearing as scheduled because some hearing dates/time will NOT be changed. You should follow the suggestions below to have the hearing time changed, but please remember, there is no promise that your hearing date/time will be changed.

Reschedule your time right away!

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 and ask them to reschedule your hearing.

If you will be representing yourself in a court proceeding, call the 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.

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

A. Identify the issues

Think about all the important issues in your case.

The court will give you a limited amount of time to present your side, so use your time wisely. 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.

Another great strategy is to 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 why you think you are right.

B. Stick to the issues

Select and collect your evidence, interview witnesses, and write your arguments **based on the issues**. The judge or hearing officer will NOT be interested in anything but evidence which relates to the issues. The judge or hearing officer will cut you off if your time has expired, even if you haven't told the whole story.

3 suggestions to help you **stick to the issues**:

1. Know what you are trying to prove.
2. Make only important points.
3. Do not confuse the issues with irrelevant information.
4. Know facts that are relevant to the case.

C. Collect Evidence

Collect evidence (supporting documents and witnesses) that can help you prove to the judge that you are right.

Good evidence wins cases.

You can start collecting evidence by:

- Interviewing people who have something to say that will help your case.
- Reviewing all important documents and records that relate to the issues in 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

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 documents 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 for the court and 2 copies for yourself and your opponent. It may hurt your case if you don't produce supportive evidence that you may have or can get.

E. **Select witnesses you wish to use at trial**

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.

Example 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. You can't force or coach your witness 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 witnesses' knowledge of the event, you may decide if 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 have 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 the 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, 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. Hawaii Sheriff's Office. You must provide the person's **correct name and place** where it can be served. **They will not serve a subpoena if no specific current address is provided.**
2. By registered mail – **return receipt requested**. 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 witnesses.

You must properly serve the person(s) and 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 not be enforceable, or the hearing might be postponed until the subpoena is served.

WHAT WILL HAPPEN AT THE COURT OR HEARING?

A. Order of trial or hearing

1. **Each side** will give an opening statement or an introduction. It should include what you will prove at trial.
2. The **plaintiff** will call and conduct a direct examination of his or her witnesses.
3. After each of the plaintiff's witnesses, the **defendant** will have a chance to cross examine each witness.
4. The witnesses may also be subject to "re-direct" or "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. At any time, the judge or hearing's officer can ask questions.
8. The trial or hearing will end with closing arguments on **both sides**—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?”

It is an introduction to the judge or hearing's officer. It introduces your case and identifies all the relevant issues. 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: 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?

You must conduct a direct examination for YOUR 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 similar. Your witness will be more believable if allowed to explain important events in his own words.

Example of non-leading questions: **USE ON DIRECT**

- “Tell me in your own words what you and Joe did to clean his apartment.” “What happened next?”

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

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 to cross examine my opponent's witness.

Cross examination – asking questions to your opponent's witnesses. On cross, you are allowed to lead the witness.

Leading questions suggests the answer in the question itself. Leading questions usually have a yes or a no answer to them.

Example 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?”

Don’t submit evidence against yourself or ask questions which may weaken your case. 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 argument should **summarize** all the evidence you presented at trial. You must 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 hearing’s officer’s mind, so be persuasive, clear, and use the evidence to back up your arguments.

LAST MINUTE TIPS ON TRIAL 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. Be clear and concise.

- Don't fight every point your opponent makes. Always remember the key issues in the case.
- Above all, be confident; remember that facts and evidence win cases.