

# Trial Overview

## Going to Trial without an Attorney

Trying a case without representation can be a confusing process. Attorneys have been trained in the trial process and how to address the court, ways to question witnesses, and how to bring evidence (paperwork, photos, etc.) to the attention of the court. The court suggests you seek representation for trial because of that experience and knowledge.

This handout is an attempt by the court to help you understand the trial process, should you decide to continue without counsel. This handout cannot possibly cover everything, but it should help you to know where to look.

### **Important Terms**

Guardian Ad Litem [GALs]	Expert witnesses who are appointed by the court to give an opinion relating to the best interest of the children.
Parties	The people involved in the case. Typically this is the husband and wife or mother and father.
Petitioner	The person that filed the case.
Respondent	The person who was served with the case or joined in the petition.
RCW	Revised Code of Washington. Available at: <a href="http://apps.leg.wa.gov/RCW/default.aspx">http://apps.leg.wa.gov/RCW/default.aspx</a>
WAC	Washington Administrative Code. Available at: <a href="http://apps.leg.wa.gov/wac/default.aspx">http://apps.leg.wa.gov/wac/default.aspx</a>

### **Rules of Evidence**

If you are going to try your own case, you need a basic understanding of the rules of evidence. If you don't, you may find that some of your best "evidence" is being excluded because of the other side's objection. The judge rules on all objections.

Rules of evidence restrict the kinds of questions you can ask and determine what can and can't be told or shown to the judge. The rules govern the introduction of physical evidence (for example, a picture of your house), clerical evidence (a checkbook or insurance policy) and statements by witnesses. This is why you should read these rules carefully. We suggest you consult the law library, under "**Washington Rules of Evidence**," or ask a lawyer or paralegal about potential evidence problems before the trial. The law librarians should be able to point you to the Rules of Evidence. The Rules of Evidence are also available online at:  
[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=ga&set=ER](http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=ER)

Hearsay is the most common rule of evidence that stops the introduction of evidence. Essentially hearsay is when a witness repeats statements made by other people. There are many exceptions to hearsay (for example you can repeat what the other party has said) and you should read carefully those exceptions in the Rules of Evidence.

## **Opening Statements**

Each side gets to make a brief opening statement of what they want from the court. This is your chance to describe the testimony you expect to get from your witnesses, your documents, and then outline what you would like to see from the court. It is a roadmap of what you will present during trial. The respondent has the opportunity to give their opening statements at the beginning, or after the petitioner has finished calling witnesses. As petitioner, you get to present your case first after opening statements.

## **Direct Examination and Cross Examination**

Witnesses are questioned one at a time by you or your lawyer. This is called *direct examination*. Witnesses might be people who saw the event, or a relative or friend who knows you, your spouse, your children, or experts proving certain scientific, medical or technical points.

After you question each of your witnesses, the other side gets to question them. This is called *cross-examination*. If you then want to ask the same witness something else to rebut what was implied under cross-examination, it's called *re-direct*. The other side then has an opportunity to ask further questions after the re-direct if it's related to the re-direct, this is called *re-cross*.

After you have questioned your witnesses, the respondent calls its witnesses and the process of direct examination followed by cross-examination is repeated. Often the respondent will save its opening statement until now, when it begins presenting its case but that decision is up to you.

During both direct and cross-examination, *objections* can be raised if the side asking the questions is inquiring into something not permitted by the court's rules of evidence.

## **Closing Arguments**

Closing arguments are similar to opening statements. In a closing argument you get to tell the court again what you would like the outcome to be and how the witnesses and physical evidence supports that outcome. The petitioner goes first on closing arguments; the respondent then has the opportunity to give their closing arguments; and finally the petitioner gets to have the last word in response.

## **Be Prepared**

Prepare a statement of what you want the court to do. This will help organize both your opening and closing argument. FIND THE LAW (SEE BELOW) THE JUDGE WILL USE AND ADDRESS THE FACTORS IN THE LAW IN YOUR CASE. Prepare a list of witnesses and evidence or documents. Next to each witness write what the witness can tell the court about from their own observations, what they saw and anything they heard the parties say to them (this is a hearsay exception). This will guide your questions for that witness.

In a dissolution or divorce case documents are very important to guide your testimony and evidence. The pretrial information form in the local rule Pierce County Local Rule [PCLR] 16 should be prepared with the backup documents that you use to find your values. This is Form E, available at: <http://www.co.pierce.wa.us/DocumentCenter/View/22828>

## LAW

### ***Property***

In a dissolution, the court is required by law to list all the parties property and debts and the value of those property and debts. The court must know if the property is **community or separate**. Generally, community is all property earned or purchased after marriage. Property is separate if it existed before marriage, after separation or was given to you, like an inheritance. Income from separate property stays separate property unless it was mixed up with or produced by other community property or efforts.

### ***Spousal Maintenance***

The law relating to spousal maintenance is found in RCW 26.09.090. This lists the factors the court will balance in deciding to award spousal maintenance.

### ***Children***

The law relating to children and a first permanent parenting plan is found in RCW 26.09.187. This is the law used in dissolutions and paternity residential schedules.

The law relating to a modification of a permanent parenting plan is found in RCW 26.09.260.

The law relating to a relocation hearing is found in RCW 26.09.430- RCW 26.09.480.

The law relating to a non-parental custody is found in RCW 26.10.

The law relating to a residential schedule where the parties were not married is RCW 26.26. A good overview of Parentage and Parenting Plans for Unmarried Parents in Washington is available at: <https://www.washingtonlawhelp.org/resource/parentage-and-parenting-plans-for-unmarried-p?ref=RyX28>

### ***Child Support***

The law relating to child support is found in RCW 26.19 and in RCW 26.09.

If the state has been providing benefits to your child the Division of Child Support must be notified about your case and approve the child support order. See WAC 388-14A-8400.

If you are already paying child support under an administrative order you may simplify your case by asking the court to confirm that order.