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FREE PLAYBOOK

Preparing for Trial

Your case. Your evidence. Your moment.

Trial prep from start to finish: evidence organization, witness preparation, opening and closing statements, cross-examination basics, and courtroom strategy.

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Document. Organize. Prepare for court.

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Who This Playbook Is For

Parents headed to a contested trial, whether you have an attorney or are representing yourself. This is the advanced playbook for when settlement failed and you need to present your case.

Trial vs. Hearing: What Is Actually Happening

Many parents use "trial" and "hearing" interchangeably, but they are very different proceedings. Understanding what you are walking into changes how you prepare.

Key Differences

- Hearings are shorter (15 min to 2 hours), often on a single issue like temporary custody
- Trials are longer (half day to multiple days), deciding contested issues with full evidence
- Hearings may not allow witnesses; trials almost always do
- Trials follow formal rules of evidence; hearings may be more relaxed
- A trial results in a final order; a hearing often results in a temporary order

What to Expect at a Custody Trial

- Both sides present opening statements
- The petitioner presents their case first (witnesses, exhibits, testimony)
- The respondent presents their case second
- Both sides may cross-examine the other's witnesses
- Closing arguments summarize each side's position
- The judge issues a ruling (sometimes immediately, sometimes weeks later)

PRO TIP

Ask the court clerk or your attorney exactly what type of proceeding you have scheduled. The preparation is dramatically different for a 20-minute hearing vs. a 2-day trial.

Building Your Trial Binder

Your trial binder is the most important physical object you will bring to court. It contains everything you need to present your case, organized so you can find anything in seconds under pressure.

Trial Binder Structure

- Tab 1: Case summary (one page with key facts and what you are asking for)
- Tab 2: Timeline of events (chronological, with dates and evidence references)
- Tab 3: Exhibits list (numbered, with copies for judge and opposing party)
- Tab 4: Witness list and outlines of what each witness will say
- Tab 5: Questions for cross-examination of opposing witnesses
- Tab 6: Opening and closing statement notes
- Tab 7: Applicable law (statutes and case law relevant to your issues)

Binder Best Practices

- Use tabbed dividers with clear labels
- Make three copies: one for you, one for the judge, one for opposing party
- Number every page
- Highlight the most important evidence in each section
- Practice finding documents quickly under time pressure

PRO TIP

The judge notices preparation. A parent with a clean, organized binder signals competence. A parent shuffling through a stack of loose papers signals chaos. Perception matters.

Organizing Exhibits the Court Wants to See

Exhibits are your evidence. Text messages, emails, photos, school records, medical records, police reports. The court has specific rules about how exhibits must be presented. Follow them exactly.

Exhibit Preparation Rules

- Number each exhibit sequentially (Exhibit 1, Exhibit 2, etc.)
- Include a cover sheet for each exhibit with a brief description
- Ensure all documents are legible (enlarge small text if needed)
- Redact sensitive information (Social Security numbers, account numbers)
- Screenshots must show the date, time, and sender clearly
- Create an exhibit list with the number, description, and what it proves

Types of Exhibits That Win Cases

- Communication logs showing patterns of behavior
- Calendar tracking missed parenting time with dates and documentation
- School records showing attendance, grades, and teacher concerns
- Medical records documenting injuries or mental health impact
- Financial records showing failure to pay support or hidden income
- Photos or videos documenting conditions (timestamped)

PRO TIP

Quality beats quantity. Twenty well-organized, clearly relevant exhibits are more powerful than 200 pages of everything you could find. Judges have limited time and patience.

Preparing Your Testimony

You will likely be the most important witness in your own case. Your testimony must be clear, factual, and focused. Rambling or emotional testimony undermines even the strongest evidence.

Testimony Preparation Framework

- Write out your key points (but do not read from a script in court)
- Organize testimony by topic, not chronologically
- For each point, know which exhibit supports it
- Practice saying difficult things out loud, calmly
- Prepare for the emotional moments (they will happen)

What Judges Want to Hear

- Specific facts with dates, not vague complaints
- How the situation affects the child (not how it affects you)
- What you have done to support the child's relationship with both parents
- Your proposed parenting plan and why it serves the child's best interest
- Honest acknowledgment of your own imperfections

PRO TIP

Practice your testimony with someone who will push back. Have them interrupt you, ask hostile questions, and challenge your statements. If you only practice in front of a mirror, you are not prepared.

Witness Preparation and Subpoenas

Witnesses can make or break your case. Choosing the right witnesses, preparing them properly, and understanding the subpoena process gives you a significant advantage.

Choosing Your Witnesses

- Teachers and school counselors (child's behavior, attendance, parent involvement)
- Therapists or counselors (with proper releases)
- Coaches, activity leaders, or mentors
- Family members who have witnessed specific incidents
- Neighbors who can speak to home conditions or parenting
- Expert witnesses (custody evaluators, psychologists) if budget allows

Subpoena Basics

- A subpoena legally compels a witness to appear
- File the subpoena with the court and have it served on the witness
- Give witnesses as much advance notice as possible (minimum 2 weeks)
- A subpoena duces tecum compels a witness to bring specific documents
- Witnesses can be subpoenaed for deposition (pretrial) or trial

PRO TIP

Never put a witness on the stand if you do not know what they will say. Have a preliminary conversation with every potential witness. If their testimony could hurt you, do not call them.

Cross-Examination Basics for Pro Se Parents

Cross-examination is where cases are won and lost. If you are representing yourself, you have the right to cross-examine the other parent and their witnesses. It is a skill that takes practice.

Cross-Examination Rules

- Ask only leading questions (questions that suggest the answer: "You were late on March 5th, correct?")
- Never ask a question you do not know the answer to
- Keep questions short and direct (one fact per question)
- Do not argue with the witness. Ask the question, get the answer, move on.
- Have your questions written out in advance

Common Cross-Examination Goals

- Establish the witness was not present for events they testified about
- Show inconsistencies between testimony and prior statements
- Highlight facts the witness admitted that support your case
- Demonstrate bias (close relationship with the other parent)
- Lock in admissions that support your arguments

PRO TIP

The biggest mistake in cross-examination is asking one question too many. Once you get the answer you want, stop. Do not give the witness a chance to explain or take it back.

Opening and Closing Statements

Your opening statement is the judge's first impression of your case. Your closing statement is the last thing the judge hears before making a decision. Both must be clear, concise, and compelling.

Opening Statement Structure

- Introduce yourself and your children briefly
- State what you are asking for in one sentence
- Preview your strongest 3-4 pieces of evidence
- Tell the judge what the evidence will show (use this phrase)
- Keep it under 5 minutes. Judges appreciate brevity.

Closing Statement Structure

- Summarize the key evidence that was presented
- Connect each piece of evidence to the "best interest" factors
- Address weaknesses in your case honestly
- Highlight the strongest points of your case
- End by clearly stating what you are asking the judge to do

PRO TIP

Write your closing statement before the trial starts. You will adjust it based on what happens, but having a framework keeps you organized. Waiting until after testimony to write it leads to rambling.

The 10 Trial Mistakes That Lose Custody Cases

After observing hundreds of custody cases, certain mistakes appear over and over. Avoiding these gives you a significant edge, because the other parent will probably make at least three of them.

Mistakes 1-5

- 1. Badmouthing the other parent to the judge (shows poor judgment)
- 2. Being unprepared (shuffling papers, forgetting dates, rambling)
- 3. Getting emotional or angry on the stand (shows instability)
- 4. Lying or exaggerating (one caught lie destroys all credibility)
- 5. Ignoring the judge's questions or instructions (shows disrespect)

Mistakes 6-10

- 6. Bringing irrelevant evidence (wastes time and annoys the judge)
- 7. Not following courtroom rules (dress code, phone, late arrival)
- 8. Failing to propose a specific parenting plan (judges want solutions)
- 9. Making the case about you instead of the child
- 10. Not having witnesses or evidence to support your claims (words alone are not enough)

PRO TIP

The parent who appears calm, prepared, and focused on the child's best interest almost always wins over the parent who appears angry, disorganized, or focused on punishing the other parent.

Day-of Logistics and Courtroom Protocol

Trial day is stressful. Having a plan for the logistics removes one layer of anxiety and lets you focus on presenting your case. These details matter more than you think.

Before You Arrive

- Confirm the courtroom number, time, and parking the day before
- Arrive 30-45 minutes early (security lines, finding the courtroom)
- Bring snacks and water (trials can last all day with short breaks)
- Charge your phone but set it to silent before entering
- Have all binders, exhibits, and copies organized in your bag the night before

Courtroom Rules

- Stand when the judge enters and leaves
- Address the judge as "Your Honor"
- Do not interrupt anyone, especially the judge
- Do not make faces, shake your head, or react visibly to testimony
- Dress professionally: business casual at minimum, suit if possible
- Turn off your phone completely or leave it in your car

PRO TIP

Bring a support person who can sit in the gallery. They cannot speak, but having someone there for you reduces anxiety. Choose someone who will stay calm and composed.

EVIDEXI

This playbook teaches the framework.

The app helps you do it daily.

Evidexi helps you document, organize, and prepare for court, all in one place.

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- Log incidents with timestamps and details
- Organize evidence by category and date
- Track custody schedule and violations
- Generate court-ready reports
- Keep everything secure and private

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