**The 3 Stages of a Trial**

1. **Opening Statements**

Each party may give an opening statement, in which s/he briefly explain what orders s/he believes the judge should make and why. Each party presents a “road map” of what s/he believes the evidence in the case will prove.

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1. **Presentation of Evidence**

The party who initially requested the court hearing has the first opportunity to present information to the judge (called evidence). Afterwards, the other party presents their evidence. Evidence usually is in the form of witnesses testifying or in the form of exhibits.

1. **Witness Testimony**

Each party can ask witnesses to testify regarding what they know about the facts involved in the case. Parties usually are their own witnesses as well and can testify to what they know about the facts of the case. This is not an opportunity to make arguments, but instead is a chance for the party to present facts to the judge. Parties also can require the other party to testify and answer their questions.

Starting with the party that initially requested the hearing, s/he “calls” witnesses to the stand and asks each witness questions to which the witness must respond (unless the judge finds the questions objectionable, as discussed below). This period of questioning is called **direct examination.**

When the first party is done asking questions, the other party begins **cross-examination**, during which s/he can ask the witness questions about the topics that have already been covered during direct examination.

The first party then can ask more questions (called **re-direct**), if necessary,and the other party also can ask more questions (called **re-cross**), until neither party has any more questions or until the judge decides to close questioning.

After the first party calls all of his or her witnesses, the other party has the opportunity to call witnesses, following the same process noted above. This process continues until all witnesses have testified.

1. **Submitting Exhibits**

In addition to witness testimony, each party can submit exhibits (i.e., give the judge documents, photos, and other sources of information to be considered in deciding the case). To submit an exhibit, the party first must introduce the exhibit, have someone testify to what the exhibit is, and ask the judge to “move [or enter] the exhibit into evidence” (i.e., allow the exhibit to be considered by the judge in deciding the case).

A common way to do so is the following:

***PARTY:*** *I am presenting the witness with a document I have marked as Exhibit A. Do you recognize Exhibit A?*

***WITNESS:*** *Yes.*

***PARTY:*** *What is Exhibit A?*

***WITNESS:*** *It is Billy’s medical record from December 13, 2013.*

***PARTY:*** *How do you know what it is?*

***WITNESS:*** *I prepared the record myself.*

***PARTY:*** *Your honor, I’d like to move Exhibit A into evidence.*

The judge legally only can consider exhibits that have been moved into evidence. See the section on Exhibit Binders below for more information on organizing your exhibits.

1. **Closing Statements**

After both sides have “rested” (i.e., finished presenting their evidence), each side has the opportunity to make a closing statement. This is the final argument to the judge for why the judge should rule in that person’s favor. In organizing a closing argument, it’s sometimes helpful to think in terms of the following:

* What you want the judge to order?
* What arguments support these orders?
* What evidence best supports each argument?

Try to make your closing statement clear and concise, and be specific about what you are asking the judge to do. After both sides give their closing statements, the judge will make whatever orders s/he believes is appropriate.

**Common Objections**

Sometimes parties try to present evidence to the judge that s/he cannot review, usually because the evidence is not relevant to the issues in the case or there is no way to prove that the evidence is authentic (e.g., that someone hasn’t tampered with a document so that it no longer accurately states the facts). This evidence is not admissible.

If you believe that the other side is presenting evidence that is not relevant or authentic, you can make an “objection,” by standing up and stating “objection” and stating the grounds upon which the evidence is not valid. **Please note that believing that the witness is being untruthful is not a legal objection.** Some common objections are the following:

1. **Relevance**

All evidence presented in court must be relevant to the issues in the case.

1. **Foundation**

There must be a sufficient reason for believing that the evidence presented is authentic. A party stating that the other party has bipolar disorder generally is a statement that lacks foundation, since the party likely has no specialized training (as would a psychologist) to make that diagnosis. Similarly, if a friend of one party says the party is a bad parent, but the friend has never seen the that party interact with the child, then there is no foundation for making that statement. Only evidence that has a sufficient basis for believing it to be authentic (i.e., a sufficient foundation) is admissible.

1. **Hearsay**

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Hearsay is an out of court statement offered for the truth of the matter asserted. For instance, if a party says a friend said that the other party is mistreating the children, s/he is offering hearsay, as the friend is not in court to testify to that information. A letter (or declaration) written by a friend also is hearsay, unless that person is in court to confirm the truth of the statements in the declaration. Hearsay evidence (absent an exception) is not admissible.

**Requirements for Trials**

1. **Exhibits Binders**

At least 10 calendar days prior to the trial date, the parties should attempt to meet and exchange all exhibits they intend to introduce at the trial.

Each party must bring 4 exhibits binders to the trial (one with originals for the clerk and three with copies for the judge and for each party). Each exhibit must be marked with an exhibit sticker and preferably separated by tabs within each binder. Stickers can be placed on the originals and then copied to avoid needing additional stickers for each set of copies of exhibits. Additionally, an Exhibit List should be included at the front of each binder, listing on the exhibits in the order that they appear in the binders.

The clerk’s office and self-help center have sample exhibit lists to use as a guide. Exhibit stickers can be purchased from an office supply store. It’s acceptable to use mailing labels cut down to a size small enough to fit on the corner of your exhibits.

See El Dorado Superior Court Local Rule 8.20.03 for more information.

1. **Statement of Issues, Contentions, and Proposed Disposition of the Case**

At least 10 calendar days before the Mandatory Settlement Conference (MSC), if one is scheduled, or the trial date, each party must file and serve on the other party a Statement of Issues, Contentions, and Proposed Disposition of the Case, in which the party explains what issues need to be resolved at the trial and how that party would like them resolved. If an MSC is scheduled, file 2 additional copies.

Local Form F-92 is sample of this form, which you may use. It is not necessary to address all topics on this form; only address the topics that will be discussed at your trial. You can write “N/A” in the other sections.

See El Dorado Superior Court Local Rule 8.19.00 for more information.

**Self-Help Legal Services**

For more information about the divorce process, feel free to take advantage of the following free self-help legal services offered by the Office of the Family Law Facilitator. **Note: The Family Law Facilitator cannot represent you or give you legal advice.**

**Walk-in Clinics**

Location: El Dorado Superior Court

495 Main Street, Placerville, CA

First-come, First-serve

Tuesdays: 9 a.m. to 2 p.m.

Wednesdays: 9 a.m. to 2 p.m.

Fridays: 9 a.m. to 12 p.m.

**Divorce, Legal Separation, and**

**Nullity Workshops**

Location: El Dorado County Law Library

550 Main Street, Placerville, CA

Initial Petition/Response Workshop (Step 1):

Thursdays at 9 a.m.

Financial Disclosures Workshop (Step 2):

Thursdays at 11 a.m.

**“Represent Yourself” Workshop**

Location: El Dorado Superior Court

495 Main Street, Placerville, CA

Tuesdays at 2:30 p.m.

Learn about the court process and how to gather evidence (i.e., conduct discovery), develop a legal strategy, write declarations, and advocate for yourself in court.

**Final Judgment Workshop**

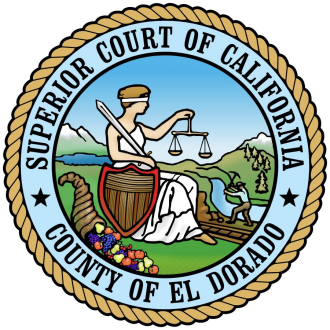
Contact the Family Law Facilitator for an appointment.

**Gary Slossberg, Family Law Facilitator**

**495 Main Street, Placerville, CA 95667**

**(530) 621-6433• gslossberg@eldoradocourt.org**

**For court forms, visit www.courts.ca.gov.**



SUPERIOR COURT OF CALIFORNIA

COUNTY OF EL DORADO

**HOW DO I PREPARE FOR MY TRIAL OR**

**CONTESTED HEARING?**

Trials (also called contested or evidentiary hearings) are court dates at which both sides have a chance to present evidence (such as witness testimony, documents, photos, and other sources of information) and make arguments based on this evidence to convince the judge to decide in their favor. This brochure explains the basics of a trial, the required documents that must be filed, and how to prepare for a trial.