



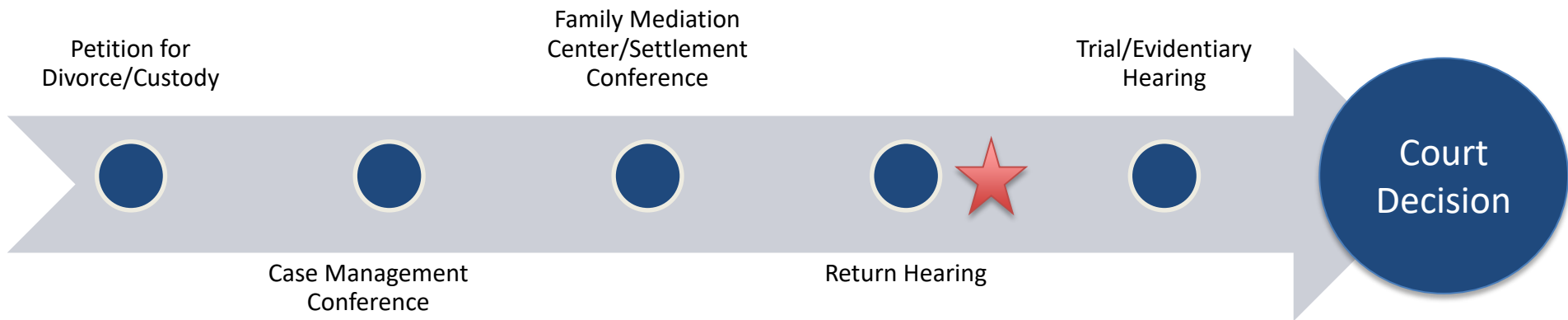
Litigation and Trial Preparation

Presented by Heather Goodlett, Esq.

*This class was developed as a pro bono offering by
Former Family Court Judge Gayle Nathan.*

*We thank her for her pro bono service in creating this class
and for teaching it for years as a volunteer.*

Case Timeline



A more detailed overview is located on page 21 of the attendee manual.

Trial v. Evidentiary Hearing

Evidentiary Hearing

Decides a particular issue –
such as custody, relocation

Trial

Decides the overall case –
usually the final divorce

Deadlines

- Case Management Order / Trial Management Order sets your deadlines (pg. 22)
 - Keeps everyone on track so trial can go forward
 - There are LOTS of deadlines: disclosing witnesses, getting documents, filing a pretrial memorandum, etc.

Discovery

- This is the process by which you build your case – and how the other side builds their case
 - Gather documents
 - Find witnesses

Getting Things From the Other Party

- Request for Production of Documents (pg. 56)
 - Asks them to give you documents they have
- Interrogatories (pg. 64)
 - Asks them to answer questions you have
- Request for Admission
 - Asks them to admit certain things
- Depositions
 - You ask them questions under oath

Getting Things From Other People

- Subpoenas Documents (to give to you) or witnesses (to appear at trial)
- SHC has a subpoena form. (pg. 34)
 1. You prepare the subpoena, bring it to the clerk to issue
 2. If you are requesting documents, you have to send a Notice of Intent to Serve Subpoena (pg.32) with the subpoena to the other party 7 days before serving it on the person/entity named in the subpoena. The other party can object and file a motion to stop you from getting the requested documents.
 3. If the other party does not object, you can then have the subpoena personally served on the person/entity it is directed to.
- Be reasonable! You will be charged for copies of the documents you ask for.

Discovery Requests From The Other Party

- You are required to respond! (usually 30 days)
- If you do not, the other side can file a motion to go back to court and force you to respond. If they are represented by counsel you can be ordered to pay their attorney fees.

Pre-Trial Preparation

- Your required disclosures (your judge might set different dates):
 - List of Witnesses (pg.28)
 - Usually due 45 days before trial
 - All of the people you plan to call to the stand at trial to testify in your favor
 - Give a short summary of what they will testify about.
 - List of Exhibits (pg. 30)
 - All of the documents you plan to introduce at trial to prove your case
 - DO NOT FILE YOUR TRIAL EXHIBITS!
 - You must give these to the other side!

Providing Your Exhibits

- Every document you plan to present at trial has to be put together in a TABBED binder. Provide a total of 5 binders with the same exhibits:
 - 1 for you
 - 1 for opposing party
 - 1 for judge
 - 1 for witness stand
 - 1 for court clerk
- Plaintiffs use numbers (Exhibit 1, 2, 3, etc.)
Defendants use letters (Exhibit A, B, C, etc.)
- Usually due a day or two before trial.

Trial Exhibits

DEFENDANT'S TRIAL EXHIBITS

Caption

Case No.

Exhibit	Description	Bate Stamp	Offered	Objected TO	Admitted
A	Photos of Damaged to Walls	001-002.			
B					
C					
D					

Trial Exhibits - HELPFUL HINTS

- Plaintiff's exhibits are always numbered.
- Defendant's exhibits are always lettered. If you use more than 26 exhibits, than double the letters. Ex. AA, BB, CC. If you use more than 52 exhibits, triple the letters. Ex. AAA, BBB, CCC.
- REMEMBER: Your exhibits need to be sequentially bated stamped within your exhibit book.

LITIGATION 001

WALTER043

PET00023

- You can make the charts in Word:
 - On a blank page, go to Insert. Look for the "Table" with the little boxes. Click on that. Put cursor in first box and drag across for the number of boxes you want. When you stop dragging the cursor, that is how many boxes you will have on your page.
 - When you start typing in the boxes and get to the last box, hit 'tab' and it will create the next row.
 - Leave the last three columns blank. The clerk in the courtroom fills them in.

Pre-Trial Memorandum / FDF

- Usually due about a week before your trial
- Pre-Trial Memorandum_(pg.41): This tells the judge where you stand on the issues that will be decided at trial.
- Financial Disclosure Form _(pg. 48)
 - You always have to file one when your financial circumstances change
 - Even if you already filed one, the judge usually wants you to file a new one before trial, especially if financial issues are being decided.

Custody Factors

NRS 125C.0035

- The wishes of the child if the child is of sufficient age and capacity;
- Any nomination by a parent
- Which parent is likely to allow the child to have frequent associations with the noncustodial parent;
- The level of conflict between the parties;
- The ability of the parents to cooperate to meet the child's needs;
- Mental and physical health of the parents;
- Physical, developmental and emotional needs of the child;
- The nature of the relationship of the child with each parent;
- The ability of the child to maintain a relationship with any sibling of the child;
- Any history of parental abuse or neglect of the child or a sibling;
- Whether a parent has committed an act of domestic violence against the child, parent of the child or person residing with the child;
- Whether the parent committed an act of abduction against the child or a sibling.

Relocation Factors

NRS 125C.007

- How the move is likely to benefit the quality of life for the child and parent
- Whether the motives of the moving parent are honorable and not intended to frustrate visitation
- Whether the motives of the non-relocating parent are honorable, and whether opposition is intended to secure a financial advantage (i.e. support)
- If there is a realistic opportunity for the non-moving parent to maintain a visitation schedule that preserves the parent-child relationship
- Whether the moving parent will comply with substitute visitation orders
- Any other factor that helps the court determine whether to allow the relocation

Alimony Factors

NRS 125.150

- The length of the marriage;
- The earning disparity between the parties;
- The spouse's need for financial support versus the other spouse's ability to pay;
- The receiving spouse's education during the marriage and current marketability;
- The receiving spouse's career prior to marriage;
- The income, earning capacity, age, and health of each spouse; and
- Whether the receiving spouse stayed at home with the children.

Seminar for Separating Parents (COPE Class)

- Required class for separating parents.
- Must use a Court-approved provider.
 - Find the current list at the [Family Law Self Help Center website](#)
 - Click on Classes and Programs
 - Click Seminar for Separating Parents (COPE Class)

Calendar Call

- This is a time for the judge to find out the status of the upcoming trial:
 - Is there any chance the parties will settle before trial?
 - How much time is needed for the trial?
 - Are the parties ready for trial?
 - Some judges “stack” their trials. Listen to the judge to hear if it’s stacked and what time your case will be called.

General Tips for Trial Day

- Arrive early.
- Bring your documents.
- Make sure your witnesses are there.
- Dress nicely.
- If on video:
 - Try to find a quiet, private place.
 - Mute yourself when not talking.

Courtroom Behavior

- Be courteous.
- Follow the directions of the courtroom marshal.
- Speak to the judge, not the other side.
- Know your rules!
 - Nevada Rules of Civil Procedure
 - NRCP 16.2 (divorce & dissolution)
 - NRCP 16.205 (custody/paternity)
 - EDCR 5 et. Seq.
- Know the laws! Nevada Revised Statutes:
 - Chapter 125: divorce/dissolution
 - Chapter 125C: custody
 - Chapter 127: paternity

Opening Statement

- Moving party goes first.
- What To Say:
 - Tell the judge about the main issues.
 - Tell the facts of your case.
 - Do not argue or get into legal details.
- PRACTICE!
 - This is your prepared statement. Read through it a number of times so that you are comfortable reciting it from memory or reading it aloud for the Court.

Questioning Witnesses

The moving party calls witnesses first.

- Direct Examination:
 - Open ended questions that help tell the story.
- Cross Examination:
 - The other party gets to ask the witness questions.
 - Usually limited to “yes” or “no” answers.
 - Limited to the subjects that were raised in direct.
- Re-Direct: the moving party asks questions again

Common Objections

- Relevance (not related to anything involved in your trial)
- Asked & Answered (repetitive)
- Argumentative
- Hearsay (a statement by a 3rd party offered for the truth of the statement) – there are lots of exceptions though!
 - NRS Chapter 51

Admitting Documents

- Your exhibits are not entered into the record unless you properly admit them.
- Use your witnesses to get the documents admitted.
 - Exhibits will already be marked by the clerk.
 - Show it to the witness and lay a foundation:
 - What is it?
 - Is this an authentic document?
 - Ask the judge to admit the exhibit.
- If you subpoenaed documents: include the Custodian of Record Affidavit that should have been executed by the entity you obtained the documents from.
 - This will allow the Court to admit the documents without testimony from a witness.

Closing Argument

- Persuade the judge to rule in your favor.
- Explain how the witnesses' testimony and the documents admitted support your case.
- Point out problems with the other side's case.

The Final Decision

- The judge may rule from the bench or take it under submission and write the final order.
 - Depends on the judge
 - Depends on how much the judge has to decide
- You may have to prepare the final order:
 - [What Happens After the Hearing YouTube Video](#)
 - [The Importance of the Final Order YouTube Video](#)

Appeals

- Why would you appeal?
- Deadlines
- Costs

Questions

