



If you have not reached an agreement with the other party, you will be given a date for a trial. At your trial, a judge will hear testimony from you and the other party and any relevant witnesses you bring to court.

Traditional trial procedure

The judge will decide your case based on the facts proved by the evidence in the trial and the law that applies to those facts. The judge at your trial may follow the traditional trial procedure set out here. But the *Small Claims Rules* allow judges to change the trial procedure when they consider it appropriate. The judge might use a simpler procedure to make sure people without a lawyer are able to present their case fairly and effectively.

The traditional trial procedure works like this:

1. The parties may make a brief opening statement explaining the orders they want the judge to make and why. This is a good time to tell the judge if you have a book of documents to present
2. The claimant testifies and then the defendant may question (cross examine) them
3. The claimant presents any other witnesses they have brought to court. For each witness, the claimant questions them first and then the defendant may cross examine them
4. If the defendant decides to provide evidence, they may testify and then the claimant may cross examine them
5. The defendant presents any other witnesses they have brought to court. For each witness, the defendant questions them first and then the claimant may cross examine them
6. After all the witnesses have testified, each party may briefly summarize their case in a

closing statement and point out the weaknesses in the other party's case

Modified trial procedure

A judge may make changes to traditional court procedure to meet the needs of people conducting their own trials. These changes might include:

- Having parties testify from their places at the table at the front of the courtroom, with each party having a chance to respond to the other and ask relevant questions
- Postponing cross examination until both parties have testified
- The judge may ask questions to help the parties cover necessary facts

A judge will usually explain trial procedure when the trial starts, unless both parties have lawyers.

It is best to prepare questions to cross-examine the other party and their witnesses, if you can. Then when the judge discusses trial procedure, you can let them know you have prepared cross examination. If you do not feel able to cross examine, you can tell the judge that.

Your testimony

Use your notes as a checklist for the things you want to say and the documents, photos, or objects that you want to present during your testimony.

During your testimony go through the documents you want to present as evidence. Explain why each document is important to your case. For example, "At page 4 of my book of documents is the invoice I received from the defendant. At page 5 is a receipt showing I paid the invoice."

Your witnesses' evidence

Before the trial, write out the questions you will ask each witness to bring out all the facts. If a witness has provided or knows about any documents, ask the witness to identify the document and explain what it is.

Cross examination

Before the trial, review the other party's *Notice of Claim* or *Reply* and witness summaries. Write out the questions you think you may want to ask the other party and their witnesses. As they testify, make notes of any other questions you want to ask and any you do not need to ask.

Opening and closing statements

Prepare your opening and closing statements before the trial begins. Adjust your closing statement to include specific notes you made during the trial about things you didn't anticipate.

Decision

The judge must decide each case on the facts proven by admissible evidence in the trial and the law that applies to those facts.

In a small claims trial you must prove facts on the balance of probabilities. Proving something on the balance of probabilities means it's more likely it happened than that it did not happen.

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