

## HANDOUT / PROCEDURE FOR CIVIL BENCH TRIAL

1. The Judge will announce the case and may make general comments.
2. Both parties may make an opening statement. This statement is not testimony. The opening statement must be an overview of what is expected to be shown by the testimony of the case. The statement is not testimony and can be waived without any affect on your case. **NOTHING IN THE OPENING STATEMENT WILL BE CONSIDERED IN THE COURT'S DECISION.** Both the Plaintiff and the Defendant may testify as their own witness.
3. The Plaintiff will call a witness to the stand. The Judge will administer the oath.
  - (a) The Plaintiff will question the witness.
  - (b) The Defendant may question the witness about the information just covered.
  - (c) The Plaintiff may question the witness again. (Can be omitted)
  - (d) The Defendant may question the witness again, IF THE PLAINTIFF DID under (c), above.

This procedure will be followed for each witness. The Plaintiff will then rest his/her/their case. After all the Plaintiff's witnesses have testified and all evidence is submitted, the Judge may dismiss the case at this time, if the Plaintiff has not met the standards of proof and upon motion of the Defendant.
4. The Defendant may call a witness to the stand and follow the same procedure, as listed above, with the exception that the Defendant will question his witnesses first. The Plaintiff will question next, etc. The Defendant will then rest his/her/their case after all the Defense witnesses have testified and all Defense evidence is submitted.
5. The Plaintiff may call additional (rebuttal) witnesses.
6. The Judge may question any witnesses throughout the trial.
7. Physical evidence such as contracts, rental agreements, photos, and other papers need to be submitted during the presentation of your side of the case. All documents must have "foundation" before being admitted as evidence by the Court. Foundation means that there must be a witness, in court, who can testify as to the authenticity of the document, i.e., the keeper of the business records, author or co-author of a contract, person who actually took the photos. Statements and letters, even notarized, **are not allowed** as evidence. Personal sworn testimony is always the best evidence.
8. The Plaintiff will make an initial closing statement and the Defendant will follow. This statement is not testimony, nor is it a rehash of the testimony. This statement is simply a conclusion of the testimony and evidence already presented. Since the closing statement is not testimony, it may be waived without any effect on your case. **NOTHING IN THE CLOSING STATEMENTS WILL BE CONSIDERED IN THE COURT'S DECISION.**
9. The Judge will make a decision based on the preponderance of the evidence presented at trial.

**FAILURE TO APPEAR FOR TRIAL** may result in dismissal of your claim or a judgment being filed against you.