

Handout for *Pro Se* Defendant / Bench Trial

From *Montana Judges' Benchbook Municipal, Justice, City Courts* p. 55

The Judge will announce the case and give a general review of the trial process.

Opening Statements

First by the Prosecution

Then by the Defense (You)

An opening statement should be an overview of what your side expects to show by the testimony of its witnesses.

It is **not testimony** and can be waived without affecting your case.

First, Witnesses for the Prosecution

The State or City will call a witness who will be placed under oath.

- (a) The prosecution will question the witness.
- (b) You may question the witness about information just covered in (a).
- (c) The prosecution may question the witness again, although this can be omitted.
- (d) You may question the witness again, **provided that the prosecution did so in (c).**

This procedure will be followed for each witness. The prosecution will rest its case after all of its witnesses have testified.

Then, Witnesses for the Defense (You)

The Defense (you) will call a witness who will be placed under oath.

- (a) The defense will question the witness.
- (b) The prosecution may question the witness about information just covered in (a).
- (c) The defense may question the witness again, although this can be omitted.
- (d) The prosecution may question the witness again, **provided that the defense did so in (c).**

This procedure will be followed for each witness. The defense **may** rest its case after all of its witnesses have testified **if you are not testifying on your own behalf.**

Testifying On Your Own Behalf

If you decide to testify on your own behalf, come forward and be sworn.

Remember that you will be required to answer questions from the prosecution.

- (a) The defendant (you) will testify.
- (b) The prosecution will question you.
- (c) You may add items forgotten before, if relevant.
- (d) The prosecution may question you again.

After you have testified, you will rest your case.

You still have the right to remain silent, and this right

CANNOT BE HELD AGAINST YOU.

Rebuttal Witnesses

The prosecution may call additional (rebuttal) witnesses.

Closing Statements

First by the Prosecution (initial)
This may be waived.

Then by the Defense (You)

Then by the Prosecution (final)

A closing statement is **not testimony**, nor is testimony allowed in one. The Court **will not** make a decision based closing or opening statements. The statement is simply a conclusion of the testimony and evidence already presented. E.g. "From the testimony given here today, I ask the Court to find me not guilty of this charge. Thank you."

Judge's Ruling

The Court will make a decision.

Be Sure To Show Up

The trial may proceed without you. You may also be arrested.

*****FAILURE TO APPEAR FOR TRIAL may result in a warrant for your arrest, and the trial may be held in your absence.**

Resources

www.mtias.org www.montanalawhelp.org