



10 Steps for Presenting Evidence in Court

SELF-REPRESENTED LITIGANTS SERIES

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When you go to court, you will give information (called “evidence”) to a judge who will decide your case.

This evidence may include information you or someone else tells to the judge (“testimony”) as well as items like email and text messages, documents, photos, and objects (“exhibits”).

If you don’t have an attorney, you will need to gather and present your evidence in the proper way. Courts have rules about evidence so that judges will make decisions based on good information, not gossip and guesswork. Although the rules can be confusing, they are designed to protect your rights, and you can use them to help you plan

for your court appearance.

Even though courts work differently, this publication will introduce you to the nuts and bolts of presenting evidence at a hearing. As you read it, please consider the kind of help you might want as you prepare and present your case. Please feel free to contact the Resource Center on Domestic Violence: Child Protection and Custody at **800-527-3223** or visit the website at www.rcdvcpc.org for information and referrals. The Resource Center staff cannot represent you or give you legal advice, but they can help answer questions and connect you with nearby help.

Learn what help is available.

01

You can locate different kinds of assistance as you prepare. You may be able to find an attorney to represent you or give you advice about how to represent yourself. Many courts provide instructions and forms on their websites as well as information on the services available through the court's self-help center. The office of the clerk of court can answer questions and give you information on court procedures. Your local domestic violence advocacy program will help you locate these and other resources. In addition, an advocate may be available to go with you to court and help with safety planning.

You may also want to call The Resource Center on Domestic Violence at **1-800-527-3223** for information and referrals or visit the Resource Center's website at <http://www.rcdvcpc.org>. For more ideas and tips on where to find help, please see the Resource Center's guide on "10 Ways to Find Help with Your Case" available on the website.

Decide what you want from the court and what you need to show.

02

The information you present to the judge depends on what you want from the court and the law of your state.

For example, if you want a protective order, a state law ("statute") will explain what a judge can order and what you would need to show. If you want custody of your child, you should check state law to find the factors the judge will consider and whether any special laws (called "presumptions") apply to cases involving domestic abuse.

As noted above, your court may have a self-help center or a website with information and forms that will help you understand the law that applies to your case. The Domestic Violence Resource Center has charts that explain what your state law says on certain issues. To locate the charts, please visit the website at <http://www.rcdvcpc.org> or call **1-800-527-3223**. You can also find state-specific legal information on the WomensLaw.org website sponsored by the National Network to End Domestic Violence at <http://www.womenslaw.org/index.php>. Once you understand

what you have to show the judge, you can start to prepare your case.

Identify potential evidence.

03

Because you know the most about your situation, you are in the best position to identify evidence that you already have or that might be available. The information you provide to the court can come from a variety of sources. You and other people may talk to the judge in court (“testify”) or you might show the judge things like objects, messages, photos, and documents (“exhibits”).

Below are a few examples of evidence:

Testimony from people including you, individuals who witnessed events, police officers, teachers, child care providers, neighbors, relatives, friends, nurses, doctors, your children

Exhibits including:

- ☐ Photographs (such as pictures of injuries or damaged property)
- ☐ Voicemail and video recordings (such as threatening messages)

- ☐ Communications (such as email, text messages, letters, Facebook posts)
- ☐ Objects (such as broken furniture, weapons)
- ☐ Public and business records (such as school and medical records, police reports)

Select the evidence that proves what you need to show.

04

Review the information you identified and pick out the evidence that will convince the judge of the points

you need to explain. Choose evidence that relates directly (is “relevant”) to what you need to show (“prove”). For example, if you are explaining how you were abused, information about your injuries will be more important than how many years of school you completed.

You can use more than one piece of evidence to prove the same point. For example, if you are showing that your partner physically harmed you, you could prove this through your testimony, testimony of witnesses who saw or heard the abuse, pictures of your

injuries, pictures of broken furniture, medical records, and/or police reports. Your testimony alone may be enough to prove your point, but if you use additional evidence your case will be even more convincing.

You may find it useful to prepare a chart like the one below. A blank chart is available in Appendix A, near the end of this publication.

What you want the court to order	Legal requirements/factors	Relevant evidence
Order for child to live with you	Impact of domestic abuse on child (one of the “best interests” custody factors in many states)	Your testimony Testimony of witnesses Pictures of injuries Testimony of child’s therapist Medical records Police reports
No-contact order	Fear of further abuse	Your testimony Testimony of neighbor who heard threats Email message with threat Proof of past incidents of abuse

Select the evidence that a judge can rely on.

05

Some evidence is better than other evidence. As you review your list of potential evidence, select the

information that is the most trustworthy (“reliable”).

Judges want to hear testimony from people with first-hand knowledge – witnesses who actually saw and heard important events. For example, if you are proving that you were abused, testimony from someone who saw the abuse happen will be more convincing than stories from someone who wasn’t there and only heard about the abuse later. Witnesses (including you) should explain that they saw, heard, and experienced what you are trying to show. (Note that if you plan to ask a child to testify, you should check on the special rules that may apply to their testimony.)

Judges also need to know that papers and objects (called “exhibits”) are genuine – that they are what they appear to be and are not made up. Courts have special procedures for this that are discussed in the next section.

Review how to present exhibits in court.

06

Before a judge allows (“admits”) your exhibits into the court record, you will have to explain why they are

reliable and worth considering. Courts have rules designed to help you do this, and if you follow them, the judge is more likely to look at and believe your information. (If you don’t follow the steps for an exhibit, the judge will not use it when deciding your case.)

Appendix B contains some examples of how to show that your exhibits are reliable. It includes instructions for presenting photographs, email messages, text messages, websites or social media, voicemail recordings, video recordings, handwritten notes or letters, objects, and records. Courts have different rules about how exhibits are presented and you should check on the way it’s done in your court.

Planning ahead is key, and that’s why you need to understand how to handle exhibits before you select and gather them. You may have to spend time and money obtaining exhibits in the right form, and this could influence your decisions about which ones to

use at your hearing. For example, for some exhibits (like photos and objects) you can provide the required explanations when you testify. Other exhibits (like text messages, voice mail messages, and webpages) may need to be put on electronic storage devices or transcribed. Some documents and papers may have to be stamped as authentic and trustworthy (“certified”) by an official person.

Gather the evidence you will present.

07

You already have some evidence you need and you may be able to gather more.

For example, you can testify during the hearing, and you may also ask witnesses to come to court with you and testify. You may have photos, email messages, and text messages. If you need certified copies of papers like medical records or police reports, you can contact the offices that keep them and ask how to obtain certified copies and how much it will cost.

If witnesses won’t come to court or people won’t give you the exhibits you need, the court can make them

do so using special papers (called “subpoenas”). The clerk’s office at your court can tell you how to have subpoenas issued. Be sure to ask about how long it takes, what parts of the process you are responsible for, and what fees you might have to pay.

Prepare the exhibits you will submit.

08

Appendix B shows how to prepare and present photographs, email messages, text messages,

websites or social media, voicemail recordings, video recordings, handwritten notes or letters, objects, and records. If you plan to use exhibits, you should carefully review the steps and ask yourself the following questions:

- ☐ Is the exhibit in the proper form (print, transcription, screenshot, on storage device, certified copy)?
- ☐ Do you need to provide it to the other party ahead of time?
- ☐ Have you made enough copies?
- ☐ Does someone other than you need to testify?

The other party will have an opportunity to point out concerns (make an “objection”) about admitting your exhibits into the court record. If that happens, you should ask why the objection is being made. You will probably have an opportunity to respond before the judge rules. If the judge doesn’t admit the exhibit, you may be able to fix the problem with additional testimony.

Organize your presentation.

09

Being prepared and organized will help you feel confident in the courtroom. You may want to prepare a notebook or file containing the following:

- ☐ What you want the court to order
- ☐ What you need to prove to obtain it
- ☐ Your list of witnesses
- ☐ The points that each witness (including you) will testify about
- ☐ A list of exhibits
- ☐ The procedures to have each exhibit admitted into evidence
- ☐ The exhibits
- ☐ A summary of your major points

Organize your materials in a way that makes sense to you. You should practice presenting your case so that you will be more comfortable answering questions and talking with the judge.

Try to watch a hearing.

10

Before you have your hearing you may be able to watch a hearing at your court.

Attending a hearing will help you feel more at ease with court procedures and language. Below are some things to watch for:

- ☐ Where you and the other party will sit (at separate tables near the front of the courtroom)
- ☐ Instructions you will be given by court staff about when to stand up and sit down (such as “all rise” when the judge enters the courtroom)
- ☐ How to address the judge (“Your Honor”)
- ☐ Whether to stand up when talking to the judge (stand unless the judge tells you not to)
- ☐ How to invite your witnesses to testify (“Your Honor, I call XXXX as my next witness”)

- ❑ When you and other witnesses will be sworn to tell the truth (a court staff person will administer the “oath” before a witness starts to testify)
- ❑ How to make eye contact with the judge while you testify
- ❑ When and how to ask questions of the other party and the other party’s witnesses (“cross-examination”)
- ❑ When and how the other party can ask you and your witnesses questions (“cross-examination”)
- ❑ How to offer your exhibits as evidence (see Appendix B)
- ❑ When and how you and the other party can object to evidence (“Your Honor, I object because...”)

Watching a hearing will give you an idea of how you will feel in the courtroom. You can imagine yourself testifying in front

of your partner and answering questions that your partner may ask you on cross-examination. If you are troubled by facing your partner or appearing in court, you should arrange for a domestic violence advocate or support person to attend your hearing with you. (Please refer back to the first page of this publication for resources on finding help.)

Although you may not have much experience in court, you know your situation better than anyone else. You will be a knowledgeable and persuasive witness for yourself and your children. Planning ahead puts you in the best position to explain what you want to the judge and use evidence to prove why you need it.

**We wish the best for you
and your children.**

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Appendix A

Identifying Possible Evidence

What you want the court to order	Legal requirements/factors	Relevant evidence
Example: Order for child to live with you	Example: Impact of domestic abuse on child (one of the “best interests” custody factors in many states)	Your testimony Testimony of witnesses Pictures of injuries Testimony of child’s therapist Medical records Police reports
Example: No-contact order	Example: Fear of further abuse	Your testimony Testimony of neighbor who heard threats Email message with threat Proof of past incidents of abuse

Appendix B Exhibits

Below are a few examples of the questions and procedures to follow so that a judge will allow your exhibits to be admitted into the court record. The instructions assume that you will be the witness introducing a photo, e-mail message, text message, website or social media, voicemail, video recording, handwritten note or letter, and/or object. (Note that for public and business records, you may need a witness other than you, or a certified copy.)

Exhibit: photograph (printed)

Witness: you

1. Ask the court clerk to mark the printed photo with an exhibit number (the clerk will know how to do this).
2. Show it to the other party (or his or her attorney) and show it to the judge.
- 3. Explain that the exhibit is a photo and what it is in the photo (person, scene, etc.).**
- 4. Explain that you were familiar with what is in the photo at the time of the relevant event.**
- 5. Explain that the photo is a fair and accurate representation of the scene, person, etc., at the time of the event.**
6. Ask the judge to admit the photo into evidence.
7. If admitted, explain how the photo supports what you are showing.

Tips:

- ☐ Print the photo you will bring to court.
- ☐ You may want to print three copies of the photo – one to give to the other party, one to admit into evidence, and one for you to keep.
- ☐ You do not need to be the person who took the photo.

Exhibit: email message (printed)

Witness: you

1. Ask the court clerk to mark a printed copy of the email message with an exhibit number.
2. Show it to the other party (or his or her attorney) and show it to the judge.
- 3. Explain that the exhibit is an email message.**
- 4. Identify the date, the address it was sent from, and the address it was sent to.**
- 5. Explain that you recognize the email message and that you sent or received it.**
- 6. Explain that it is a complete and accurate copy of the email message.**
7. Ask the judge to admit the email message into evidence.
8. If admitted, explain how the email message supports what you are showing.

Tips:

- ☐ Print the email message you will bring to court.
- ☐ You may want to print three copies of the message – one to give to the other party, one to admit into evidence, and one for you to keep.

Exhibit: text message (printed, photographed, or transcribed)

Witness: you

1. Ask the court clerk to mark a printed copy, photograph, or transcript of the text message with an exhibit number.
2. Show it to the other party (or his or her attorney) and show it to the judge.
- 3. Explain that the exhibit is a text message.**
- 4. Explain whether you sent or received the text and identify the phone number the text was sent from and the phone number where it was received.**
- 5. Explain how you printed, photographed, or transcribed the text.**
- 6. Explain that it is a complete and accurate copy of the text message.**
7. Ask the judge to admit the text message into evidence.
8. If admitted, explain how the text message supports what you are showing.

Tips:

- ☐ You should decide ahead of time whether to print the text messages, photograph them, or transcribe them (type or write exactly what they say). You will not be able to show them on your phone.
- ☐ You may want to bring three copies of the text message – one to give to the other party, one to admit into evidence, and one for you to keep.

Exhibit: handwritten note or letter

Witness: you

1. Ask the court clerk to mark the document with an exhibit number.
2. Show it to the other party (or his or her attorney) and to the judge.
- 3. Explain that the exhibit is a handwritten note or letter.**
- 4. Explain that you are familiar with the handwriting of the alleged writer and how you became familiar with the person's writing.**
- 5. Explain that you believe that the exhibit contains the person's handwriting.**
6. Ask the judge to admit the handwritten document into evidence.
7. If admitted, explain how the note or letter supports what you are showing.

Tips:

- ☐ You can bring three copies of the note or letter – one to give to the other party, one to admit into evidence (the original), and one for you to keep.

Exhibit: website or social media (printed screenshot)

Witness: you

1. Ask the court clerk to mark a printed copy of the screenshot with an exhibit number.
2. Show it to the other party (or his or her attorney) and show it to the judge.
- 3. Explain that the exhibit is a printed screenshot of a website.**
- 4. Explain when and how you visited the website.**
- 5. Describe the website and how you recognized it.**
- 6. Explain that you took the screenshot, including the date and time.**
- 7. Explain that it is a true and accurate copy of what you saw on the screen.**
8. Ask the judge to admit the printed screenshot into evidence.
9. If admitted, explain how the screenshot supports what you are showing.

Tips:

- ☐ You should print the screenshot to bring to court. You cannot show the website or social media on your phone or computer.
- ☐ You may want to print three copies of the screenshot – one to give to the other party, one to admit into evidence, and one for you to keep.

Exhibit: voicemail recording (on storage device or transcript)

Witness: you

1. Provide a copy of the recording on a storage device (and the transcript if you intend to use one) to the other party (or his or her attorney) in advance of the court date.
2. Ask the court clerk to mark the storage device and/or transcript with an exhibit number.
3. Tell the judge how and when the other party (or his or her attorney) received a copy of the recording (and transcript if you use one) and show it to the judge.
- 4. Explain that you are familiar with the voice of the person who was allegedly recorded.**
- 5. Explain that you listened to the recording and whose voice you heard.**
- 6. If transcribed, explain how you made the transcription.**
- 7. If transcribed, explain that it is a complete and accurate transcription of the recording.**
8. Ask the judge to admit the recording or transcript into evidence.
9. If admitted, explain how the voice mail recording supports what you are showing.

Tips:

- ☐ You will need to transfer the recording to a storage device such as a memory stick or CD that you can give to the other party and leave at the court. If you use a transcript, you will need to prepare and print it.
- ☐ Provide a copy of the recording (and transcript if you create one) to the other party as far ahead of the hearing as possible.

Exhibit: video recording (on storage device)

Witness: you

1. Provide the other party (or his or her attorney) with a copy of the video recording in advance of the court date.
2. Ask the court clerk to mark the storage device containing the video with an exhibit number.
3. Tell the judge when and how a copy was provided to the other party (or his or her attorney).
- 4. Explain that you observed the relevant event(s).**
- 5. Explain that you have seen the video.**
- 6. Explain that the events are accurately and completely recorded on the video.**
7. Ask the judge to admit the video recording into evidence.
8. If admitted, explain how the video supports what you are showing.

Tips:

- ☐ You will need to transfer the video to a storage device such as a memory stick or CD that you can give to the other party and leave at the court.
- ☐ Provide a copy of the video to the other party as far ahead of the hearing as possible.
- ☐ You do not need to be the person who recorded the video.

Exhibit: physical objects (clothing, weapons, household items, etc.)

Witness: you

1. Ask the court clerk to mark the object with an exhibit number.
2. Show it to the other party (or his or her attorney) and show it to the judge.
- 3. Identify the object and explain how you recognize it.**
- 4. Explain that you know what the object looked like on the relevant date.**
- 5. Explain that the object is in the same or substantially same condition as at the relevant time.**
6. Ask the judge to admit the object into evidence.
7. If admitted, explain how the object supports what you are showing.

Tips:

- ☐ If the object is not unusual in any way, you may need to explain that it has been in your possession since the events in question.

Exhibit: public and business records (medical, school, police reports, etc.)

Witness: a person who keeps the records or is otherwise familiar with them

1. Ask the court clerk to mark the record with an exhibit number.
2. Show it to the other party (or his or her attorney) and to the judge.
- 3. Hand it to the witness and ask the witness to identify the record.**
- 4. Ask if the witness is familiar with or keeps such records.**
- 5. Ask the witness if the record was made at or near the relevant time.**
- 6. Ask if the record was made from information provided by someone with first-hand knowledge.**
- 7. Ask the witness if the record was made in the regular practice of the business activity.**
- 8. Ask the witness if the record was kept in the course of a regularly conducted business activity.**
9. Ask the judge to admit the record into evidence.
10. If admitted, proceed with the questions you want to ask about it.

Tip:

- ☐ Some public records may be admitted without testimony if a certified copy is presented to the judge. If your court allows this, you would need to obtain and possibly pay for the certified copy.