

IN THE JUSTICE COURT OF RECORD  
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA  
Before MICHAEL G. SWINGLEY, Justice of the Peace

*Pro Se* Litigant Information Sheet for **CIVIL CASES**.

▪ If you are appearing in court without the aid of an attorney, you are what is known in the legal system as a *pro se* (pro'say) litigant; that means you are appearing for yourself. You may be some what apprehensive due to your lack of familiarity with courtroom procedure and formalities. This information sheet is designed to provide you with some basic information about the procedures that will be followed in the courtroom. **This information is very general and may not apply the same in each individual case.**

A civil case is a case between the plaintiff and the defendant. The plaintiff is the person who has filed the complaint and is suing; the defendant is the person being sued. At trial the plaintiff bears the burden of proof by a preponderance of the evidence; that is, is it more likely than not that the plaintiff is entitled to judgment as a matter of law (or 51% likely)? Generally speaking a trial is divided into five stages: 1) opening statements, 2) the plaintiff's case-in-chief, 3) the defendant's case-in-chief, 4) the plaintiff's rebuttal case and 5) closing arguments.

▪ **OPENING STATEMENTS.** Opening statements are not evidence but are simply statements given by the parties to give the court a roadmap of the evidence that the parties anticipate will be presented at trial.

▪ **PLAINTIFF'S CASE-IN-CHIEF.** The plaintiff's case-in-chief begins the presentation of evidence in a case. The plaintiff calls witnesses one at a time. The witnesses are placed under oath and give testimony in response to questions from the plaintiff. The plaintiff may also introduce exhibits through the witnesses. This initial questioning of the witness is called direct examination. Following direct examination of the witness the defendant has the opportunity to cross examine (ask the witness questions). This is a time for the defendant to ask questions, not argue with the witness or make statements. The defendant may also introduce exhibits through the plaintiff's witness. When the defendant is finished with cross examination the plaintiff has the opportunity to conduct redirect examination of the witness; to ask follow-up questions to the defendant's cross examination of the witness. This process repeats itself for each witness until the plaintiff is finished presenting his/her case. When that happens the plaintiff rests or ends his or her case.

▪ **DEFENDANT'S CASE-IN-CHIEF.** If the defendant chooses to present a case, it would be presented in the same manner as the plaintiff's case-in-chief. That is the defendant would call witnesses, question them, allow the plaintiff to ask them questions, and then the defendant could do re-direct examination. The defendant could introduce exhibits, if any, through the witnesses. If the defendant chooses to testify the defendant would be subject to cross examination. This process would continue, one witness at a time until the defendant is finished presenting his or her case and then they would rest their case.

▪ **PLAINTIFF'S REBUTTAL CASE.** Following the defendant's case-in-chief the plaintiff has the opportunity to present a rebuttal case; that is to call more witnesses to rebut anything the defendant may have raised in their case-in-chief. The process works the same as the plaintiff's case-in-chief. The plaintiff gets the opportunity to present a rebuttal case because the plaintiff bears the burden of proof and must actually prove the defendant's liability.

▪ **CLOSING ARGUMENTS.** At the conclusion of the plaintiff's rebuttal case both parties are given the opportunity to present closing arguments. Closing arguments are not evidence. They are simply arguments or statements designed to help the court make a decision. In closing argument you would argue the facts and the law as to why you should win. The plaintiff argues first, then the defendant, then the plaintiff has the opportunity to make a final rebuttal argument. The case is then submitted to the court for decision.