

Preparing for a Family Court Hearing



Whether you have an attorney or represent yourself, one of the most important parts of preparing for a case in family court is to manage your expectations and embrace the maxim that:

"There are no winners in family court."

I do not mean to suggest that you will walk out of the courtroom with nothing that you hoped for. You will likely get some of your requests granted -- but so will the other side. Unlike criminal court or a civil judgement, there is no declared winner who takes all in family court -- particularly in actions involving your children. Judges must take into consideration not only what is just and fair for you, but also for the other side and what is in the best interests of any involved children. As a result of needing to balance these often very different interests, judges in family court rarely find all for one side or another (there are exceptions, like for example in an action for protection against domestic violence, or a final restraining order hearing, the judge will find that either the order is granted or denied in full, but may make dispositional decisions after that which favor either side). Instead, judges try to work out an arrangement that meets the court's goals -- fairness, justice, best interest of the children involved. You may not agree with all of the rulings that the judge makes, and you can fight some of them through appeals or certain kinds of motions.

However, when possible, one of the best ways of controlling the outcome of a legal action is negotiating a settlement agreement in advance. If both sides are willing to be flexible on some of what they want in order to go after their most important goals, this can be a great opportunity to reduce legal costs and take the control back out of the court's hands and into your own.

If settlement negotiations fail or are impossible (don't negotiate if the other person is threatening or there is such an imbalance of power that a fair agreement is impossible), then prepare a list of the MOST important two or three things that you want out of the litigation. Then write a list of two or three other VERY important things you want. Put all the other issues into a list of LESS important things that you want. Fight hard, or ask your attorney to fight hard, for the things in the VERY important category, but be willing to let go of some of the lesser issues. If you fight with equal vigor for even the smallest points, it may hurt your credibility before the court and the judge may take your wishes less seriously. That is important because although there are legal rules and case and statutory law that a judge must follow in making a ruling, his or her perception of the credibility, flexibility and character of the parties does factor in, especially when making a determination of what is in the best interests of the child.

Finally, prepare yourself for the possibility that the law is not on your side. If you have an attorney, they can advise you as to the likelihood that a judge will rule in your favor based on case and statutory law in your jurisdiction. If you do not have an attorney, you can research these issues at a local law library. If your issue is a complex one, you might want to consider hiring an attorney to help you.

Manage your expectations, determine your priorities, and know your law -- there are no winners in family court, but there are usually no outright losers either.