

McFARLING



LAW GROUP

WHAT TO EXPECT AT A HEARING AND HOW TO BEHAVE

There are many different types of hearings. Status checks, case management conferences, return hearings, motion hearings, and evidentiary hearings to name a few. It is important to know some of the differences between the types of hearing as this can prepare you for what to expect.

Motion Hearing, Case Management Conference or Status Check Hearings: When a party files a Motion this triggers the setting of an argument hearing. The opposing party has the opportunity to file an Opposition to the Motion and then the original party can file a Reply to the Opposition. If the Parties are sent to mediation, a status check or return hearing will be scheduled to occur after the mediation. If no one files a motion, the court will schedule a Case Management Conference which is a hearing similar to a motion or status check hearing. All of these types of hearing can be called argument hearings as generally only the attorneys speak and the judge only takes arguments, not actual evidence. As a result, the things the judge can do at such hearings are limited. *Most argument hearings are limited to certain issues or timeframes. This is not the time to litigate your entire case.*

The argument hearing that follows a motion varies depending on the facts and circumstances of the case as well the presiding judge. Every judge is different. Some already have a decision before we walk in the door. Others allow extensive argument from each attorney. Others will ask questions of the parties themselves. Some judges are very consistent in their procedure and some vary from hearing to hearing. The most common scenario is that the attorney who filed the motion will argue, the other attorney will argue, and then the judge will issue his/her orders. Ask your attorney before the hearing what your particular judge is likely to do procedurally during the hearing.

It is important to remember that louder is not better. Some attorneys make a show of going into Court and re-enacting their favorite courtroom scenes. Keep in mind that the judge has seen all of these theatrics before and will not be moved. You have to trust that your attorney knows when and what to argue and knows when to remain silent. Most skilled and experienced attorneys do not act in this manner as they have gained the respect of the Court through their legal knowledge.

What we Expect from You

Attend your hearing:

In Person - You should attend court in person, if at all possible to do so.

By Telephone - If you cannot attend in person, you should appear over the telephone. Tell the legal assistant assigned to your case if you want to appear by phone and she will file the paperwork to get this set up with the court.

Client Behavior in the courtroom:

- Do not bring food or drinks to court.

- Do not bring children to the court.
- Be in court 10-15 minutes prior to your hearing time. You have to allow time to park, walk to court, pass by the metal detector and find your court room.
- Once you find your courtroom, look around for your attorney. You should be arriving before your attorney. If your attorney is not there yet and the Marshall comes out of the courtroom to check people in, then check in with the Marshall and let him/her know your attorney has not yet arrived. Then wait OUTSIDE the courtroom for your attorney to arrive. Your attorney will likely not arrive until a few minutes before the scheduled hearing time unless you have scheduled for time to discuss your case before the hearing with the attorney.
- Dress as if you were going to a job interview or as if you would go to church.
- Cover all tattoos, if any. Do not wear sunglasses and hats. Do not wear sleeveless shirts or shorts.
- Turn off your cell phone(s) and/or pager(s) before you enter the courtroom.
- Speak only when asked to speak. Keep eye contact with the judge if you are asked to speak. Speak loud and clear but do not scream. Do not get argumentative or defensive. Only answer the question being asked. Don't change the subject.
- If you need to tell your attorney something relevant to the hearing that you did not tell her prior to attending the hearing, you may write a note and pass it to the attorney quickly. Your attorney should already know everything that he/she needs to know before the hearing begins. DO NOT try talking to the attorney during the hearing when other people are already talking. It makes it impossible to follow what is going on in the hearing.
- During the entire hearing, sit still and calmly in your seat with respectful body language. The other attorney might say awful and untrue things about you during the hearing. DO NOT RESPOND verbally or physically to what they are saying.

A client can do catastrophic things to their case through their conduct at a hearing. For instance, if the judge or bailiff has to tell you to be quiet the judge may consider your inability to control yourself when assessing character in a custody case. Court appearances can be high pressure situations but so can parenting; the judge could make the correlation.

Evidentiary Hearing or Trial: This is a trial with formal rules of evidence and testimony of the parties and witnesses. Exhibits will be introduced for admission and the process will be very structured.

What we Expect from You and your witnesses

Attend the evidentiary hearing/trial:

In Person - You and any witnesses will be required to attend and testify in person under oath.