

**THIS EXAMPLE IS FROM A FAMILY LAW CASE, BUT THE OVERALL APPROACH FOR PREPARING AND PRESENTING YOUR CASE HOLDS TRUE FOR OTHER TYPES OF CASES AS WELL:
START AT THE VERY END WITH YOUR CLOSING ARGUMENT, AND WORK YOUR WAY BACKWARDS**

PREPARING AND PRESENTING YOUR CASE

As a Pro Se litigant, you will find it challenging to explain to the court what's going on and what you want the court to do. Any divorce tends to be overwhelming in many ways. If you can reduce all those complex and difficult issues to something the court can understand, you'll be much better off.

No one, not even the most skilled attorney, can present your case with the depth of feeling, or the familiarity with the details that you can. That intensity, energy, and command of the particulars can work to your advantage if you are thoroughly prepared, well organized, with an understanding of the principles involved.

So what are the underlying principles for property division and allocation of parental responsibilities?

Property Division – is the property division fair, reasonable and just and equitable?

- Property division cannot be unconscionable, meaning an agreement that no one in command of their faculties would make on the one hand, and which no fair and honest person accept on the other.
- Under Colorado Law, the starting point for division of marital property is 50-50
- There are equitable principles that tend to shift the 50-50 division off dead center:
 - Whoever gains the benefit should also bear the burden
 - Meaning, for example, if one party gets the Cadillac, they also get the car payments
 - Adequate resources should be available for the care of the children

Parental Responsibilities –

- Decision-making – the standard is joint decision making
 - Usually, both parents share decision-making
- Parenting Time – the standard is 50-50 with each parent
 - But that's not always practical, because of work schedules, etc

Preparing your Case:

It is best to start at the very end, and then work your way backwards:

PREPARE A LIST OF THE SPECIFIC THINGS YOU WANT THE COURT TO DO:

This is the outline for your Closing

For example:

- Property:** Real Estate divided as follows . . .
- Debts divided as follows . . .
- Assets divided as follows . . .
- Maintenance in the following amounts & duration . . .
- Children:** Parent "X" providing primary residential care for children as follows . . .
- Parent "Y" with parenting time & vacation plans as follows. . .
- Child support as follows . . .
- Support Order as follows . . .
- Any other provisions, like:**
- Restraining order issues?
- Child & Family Investigator (CFI) required?
- Who pays for legal costs?
- How are future disputes to be settled?

FACTORS THE COURT MUST CONSIDER IN MAKING ITS DECISION:

Property:

DIVISION OF PROPERTY
CRS §14-10-113 (Disposition of Property)

- **CONTRIBUTION OF EACH SPOUSE TO THE ACQUISITION OF THE MARITAL PROPERTY, INCLUDING THE CONTRIBUTION OF A SPOUSE AS HOMEMAKER**
- **VALUE OF THE PROPERTY SET APART TO EACH SPOUSE**
- **THE ECONOMIC CIRCUMSTANCES OF EACH SPOUSE AT THE TIME THE DIVISION OF PROPERTY BECOMES EFFECTIVE, INCLUDING THE DESIRABILITY OF AWARDING THE FAMILY HOME OR THE RIGHT TO LIVE THEREIN FOR REASONABLE PERIODS TO THE SPOUSE WITH WHOM THE CHILDREN RESIDE THE MAJORITY OF TIME**
- **ANY INCREASES OR DECREASES IN THE VALUE OF THE SPOUSE'S SEPARATE PROPERTY DURING THE MARRIAGE**
- **ANY DEPLETION OF SEPARATE PROPERTY FOR MARITAL PURPOSES**

Children:

DETERMINATION OF PARENTING TIME
CRS §14-10-124(a) (Best Interests of the Child)

- **WISHES OF CHILD'S PARENTS**
- **WISHES OF THE CHILD**
If sufficiently mature to express a preference
- **INTERACTION OF THE CHILD WITH PARENTS & OTHER SIBLINGS**
- **CHILD'S ADJUSTMENT TO HOME, SCHOOL AND COMMUNITY**
- **MENTAL & PHYSICAL HEALTH OF ALL INVOLVED**
But disability alone shall not be a basis to restrict
- **WHETHER PAST PATTERN OF THE PARTIES WITH THE CHILD REFLECTS A SYSTEM OF VALUES, TIME COMMITMENT & MUTUAL SUPPORT**
- **PARTIES' PHYSICAL PROXIMITY**
- **CHILD ABUSE/NEGLECT**
Whether either party committed child abuse or neglect, supported by credible evidence
- **SPOUSE ABUSE**
Whether either party committed spouse abuse, supported by credible evidence
- **ABILITY OF THE PARENTS TO PLACE THE NEEDS OF THE CHILD ABOVE THEIR OWN**

ALLOCATION OF DECISION-MAKING
CRS §14-10-124(b)(Best Interests of the Child)

- **ABILITY TO COOPERATE**
Credible evidence of ability of the parties to cooperate and make decisions jointly
- **SYSTEM OF VALUES**
Whether past pattern of the parties with the child reflects a system of values, mutual support & time commitment
- **PROMOTE FREQUENT CONTACT**
Whether the allocation of decision-making will promote more frequent contact between the child and each of the parties
- **CHILD ABUSE/NEGLECT**
Whether either party has committed child abuse or neglect, supported by credible evidence
- **SPOUSE ABUSE**
 - *Whether either party has committed spouse abuse, supported by credible evidence*
 - *If the court finds that one of the parties has been a perpetrator of spouse abuse, it shall not be in the best interests of the child to allocate mutual decision-making UNLESS*
 - *The court finds the parties are able to make decisions without physical confrontation, and without danger to the child or either of the parties.*

Next,

EXPAND YOUR LIST USING THE FACTORS THE COURT MUST CONSIDER (PREVIOUS PAGE), TO EXPLAIN WHY THE COURT SHOULD DO THOSE THINGS:

For example:

- Property: House goes to Parent "X" **because** ...
- all four children of the marriage are special-needs kids in wheelchairs
 - the house is specially modified to accommodate wheelchairs
 - Parent "X" is the primary care provider & has been for the last five years
 - Parent "X" needs the house to adequately care for the children

Now go through each thing you want the court to do, and flesh out the reasons for your request.

- To do this properly, you will need to check the factors the court must consider on the previous page.

Property:

House goes to Parent "X" **because** ...

- _____
- _____
- _____

Debts divided as follows, **because**...

- _____
- _____
- _____

Assets divided as follows, **because** ...

- _____
- _____
- _____

Maintenance in the following amounts & duration, **because**

- Financial Statement
- CRS 14-10-114 (*Maintenance*)
- _____

Children:

Parent "X" providing primary residential care of the children **because** ...

- _____
- _____
- _____

Parent "Y" with parenting time & vacation plans as follows **because** ...

- _____
- _____
- _____

Child support as follows . . . **because** ...

- Child Support Worksheet
- Financial Statement
- _____

Support Order as follows . . . **because** ...

- _____
- _____

Next, **expand your list again:**

DETAIL WHAT EVIDENCE IS NEEDED TO SHOW WHY THE COURT SHOULD DO THOSE THINGS:

This is the outline for your CASE IN CHIEF

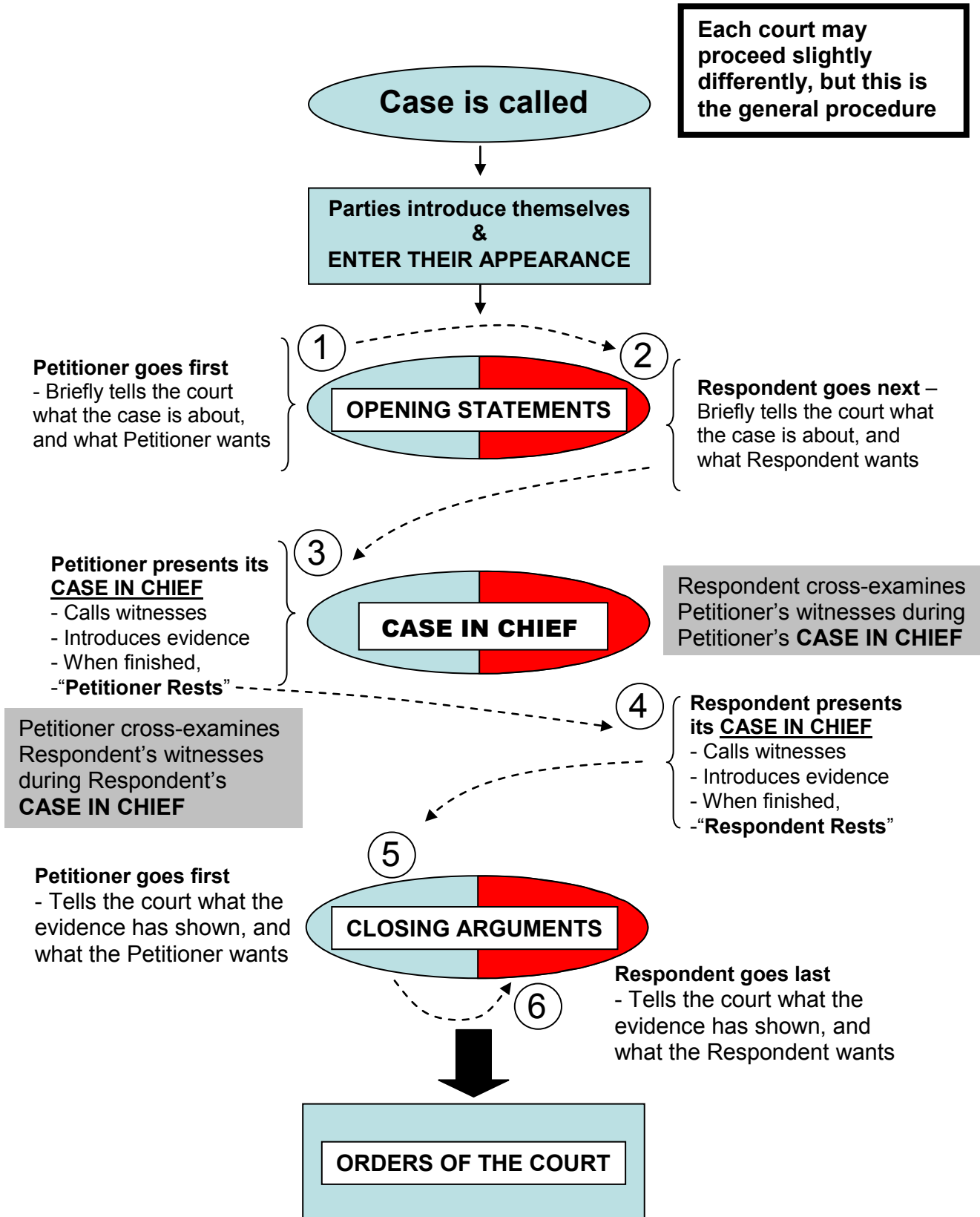
For example:

Property: <input checked="" type="checkbox"/> House goes to Parent "X" because ... <ul style="list-style-type: none">▪ all four children of the marriage are special-needs kids in wheelchairs▪ the house is specially modified to accommodate wheelchairs▪ Parent "X" is the primary care provider & has been for the last five years
What evidence is needed to show these facts & circumstances?
<input checked="" type="checkbox"/> Photographs? <input checked="" type="checkbox"/> Doctor's Statements/testimony? <input checked="" type="checkbox"/> Invoices for modifications to home

Now go through each thing you want the court to do AGAIN, but this time, list the documents, evidence and testimony which will support the each request.

Property:	<input type="checkbox"/> <u>Real Estate to be divided as follows, because ...</u> <ul style="list-style-type: none">▪ CRS §14-10-113 (<i>Disposition to Property</i>)▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> Financial Statement <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input type="checkbox"/> <u>Assets to be divided as follows, because ...</u> <ul style="list-style-type: none">▪ CRS §14-10-113 (<i>Disposition to Property</i>)▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> Financial Statement <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input type="checkbox"/> <u>Debts to be divided as follows, because ...</u> <ul style="list-style-type: none">▪ CRS §14-10-113 (<i>Disposition of Property</i>)▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> Financial Statement <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input type="checkbox"/> <u>Maintenance in the following amounts & duration, because ...</u> <ul style="list-style-type: none">▪ CRS §14-10-114 (<i>Maintenance</i>)▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> Financial Statement <input type="checkbox"/> _____ <input type="checkbox"/> _____
Children:	<input type="checkbox"/> <u>Parent "X" providing primary residential care for the children, because ...</u> <ul style="list-style-type: none">▪ _____▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input type="checkbox"/> <u>Parent "Y" parenting time & vacation plans as follows, because ...</u> <ul style="list-style-type: none">▪ _____▪ _____ - The evidence needed to show these facts & circumstances: <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input type="checkbox"/> <u>Child Support as follows, because</u> <ul style="list-style-type: none">▪ Child Support Worksheet▪ Financial Statement

GENERAL PROCEDURE FOR DOMESTIC RELATIONS HEARINGS



Opening Statement. We came at this in reverse, but now's the time to develop your opening statement:

First,

- Introduce yourself to the court,
- Tell the court when and where you were married to your spouse,
- How long you've lived in Colorado, and where you live,
- Names and ages of all the children involved,
- Describe what has been going on, in three sentences or less if you can,

- **For example,**

“The marriage is over, my wife moved out two months ago, and all three children are still living with me in the family home”

- **Another example,**

“The marriage is over, it has been a violent and abusive relationship that lasted for five years, and the one child of the marriage is living together with me at my parent's house since my husband got out of jail on the domestic violence charges”

- Finally, tell the court what you're asking for,

For example,

- “I'm here today to ask the court to:
 - order temporary child support, and
 - temporary maintenance, and
 - continued payment of the mortgage, and
 - continued car payments on the family car, and
 - I agree to parenting time for the kids with their father on alternating weekends
 - And the evidence I present today will support each of those requests”

- Let the court know you have documents for the court to consider for admission into evidence – *(hand a copy to the other party if you haven't already, and ask the court if you may bring a copy over to the judge)*

That's all there is to an opening statement – but **keep it short!!**

- who you are; and a bit about you
- what's this case is all about
- what you want today from the court

So, now you have your OPENING STATEMENT prepared,
You have an outline for your CASE IN CHIEF
And an outline for your CLOSING ARGUMENT

In presenting your CASE IN CHIEF, keep the following in mind:

Documents:

- Place all the documents you intend to present in one package,
- Label each document carefully
(Petitioner exhibits are labeled EXHIBIT ONE, TWO, THREE, etc, and
Respondent exhibits are labeled EXHIBIT A, B, C, D, etc)
- Tab your exhibits so they are easy to refer to
- Make an extra copy for the other party, plus another copy for the judge
- If you are going to ask a witness about the documents, you'll need one more copy
- Make sure you give the copies of your exhibits to the other party, and also to the judge
at the very beginning of the Hearing
(*You can give copies to the other party before the Hearing, if it is practical*)

Witnesses:

- Each of your witnesses should provide some key piece of evidence or testimony needed to show the facts & circumstances identified in the outline for your CASE IN CHIEF.
- Decide what sequence you want you witnesses to appear in, and prepare a separate list of questions for each witness, making sure you cover each piece of evidence or testimony you want the court to know about. Refer back to your outline to not miss anything.
- When you ask a witness about a document, the court will want to know how the witness is familiar with issue in question. For example, if the issue is the preparation of your tax return, the witness should explain how they are familiar with your tax return, and when they last saw it, and why they happened to be familiar with what was in the tax return. It's just helps the court to understand that a particular witness really does know what they're talking about. This helps establish the credibility of your witness.

General Tips in preparation –

Anticipate disputes! If you know that there is likely to be some question about a particular issue, be ready for it! For example, if your spouse doesn't agree with you about the value of the old pick-up truck, take copies of the Blue Book values with you to court. Be ready with documentation that supports your position, and include it in your package of documents to be admitted into evidence.

Don't try to hide bad facts! If there are some bad facts in your case, such as a DUI or some bad behavior, don't try to hide it! Far better that you have a chance to explain it, before the other party uses it as a chance to show you are hiding the truth.

Remember the purpose of the particular hearing – If the hearing is for an Initial Status Conference, that's not the time to solve all the permanent order issues. Focus on the issues before the court, and not other issues that may lie ahead, for another hearing.