

## 法庭審訊或聆訊如何進行

### How is a trial or hearing conducted in court

- This leaflet is designed to provide you with a brief outline of the practice and procedure of the High Court and the District Court on how is a trial or hearing conducted in court.
- You should read Rules of the High Court (or Rules of the District Court, as the case may be) and the Practice Directions for full details.
- The Civil Justice Reform has come into effect on 2<sup>nd</sup> April 2009. You should also note those transitional arrangements that may be applicable to your case. For further information on transitional arrangements, please refer to Leaflet 12 “Civil Justice Reform: Transitional Arrangements” of this series.
- This publication is for general reference only and should not be treated as a complete or authoritative statement of law or court practice. Whilst every effort has been made to ensure that the information provided in this leaflet is accurate, it does not constitute legal or other professional advice. The Judiciary cannot be held responsible for the content of this publication.
- You may approach the Resource Centre for Unrepresented Litigants at LG1 High Court, 38 Queensway, Hong Kong for further information. However, you should note that the assistance provided at the centre is confined to procedural matters only and the staff there will not give legal advice or make any comments on the merits of your case.

## **How is a trial or hearing conducted in court**

### **The opening**

1. It is an introduction of the case to the court. Each side may give its own introduction to the judge before it calls its witnesses to give evidence. It is not absolutely necessary to have an opening. For cases where the facts are very complicated and there are many witnesses, it will be helpful for the parties to give an introduction of their case to the judge before the judge hears the evidence. For simple cases, the opening may be dispensed with and the parties may commence by calling the witnesses to give evidence. The judge will give direction as to whether or not it is necessary to have an opening of the case.

### **Evidence**

#### 2. *Examination in chief*

At the trial, the Court will hear evidence of witnesses and submissions (arguments or speeches from lawyers for the parties or the parties themselves only if they have no lawyers to act for them) of the parties. Usually, the plaintiff who has the burden of proof will first open the case. He may give evidence himself and call witnesses to give evidence. Alternatively, he may just call his witnesses to give evidence. This process is called examination in chief by the plaintiff.

#### 3. *Cross-examination*

The defendant may put questions to each of the plaintiff's witnesses after they have given evidence. This process is called cross-examination by the defendant.

4. *Re-examination*

After cross-examination by the defendant, the plaintiff may put questions to the witness to clarify the matters raised in the cross-examination only. This process is called re-examination by the plaintiff.

5. After all witnesses of the plaintiff have given evidence, the defendant may give evidence himself and call witnesses to give evidence. Alternatively, the defendant may just call witnesses to give evidence, without giving evidence himself. The plaintiff may cross-examine (ask questions) each of the defence witnesses after they have given evidence. The defendant may re-examine (ask questions for clarification) the witness after cross-examination by the plaintiff.

**Final submission**

6. After all witnesses have given evidence, the defendant has the right to make final submissions (speeches) to the court. The plaintiff will follow the defendant and make final submissions (speeches) to the court.

7. The Court may adjourn the case (postpone the hearing) to another date if further information and/or evidence are needed.

8. At the end of the trial, the Court may pass judgment or it may pass / hand down judgment in written form at a later date.

### **Trial or hearing not involving oral evidence**

9. In case of a hearing where no witness is called to give oral evidence, the plaintiff will make the speech and argue the case first, followed by the defendant. The plaintiff will have the right to make a reply speech to the arguments put forward by the defendant.

10. After hearing the submissions, the court may make the order or pass judgment or it may pass / hand down the order or the judgment in written form at a later date.

11. This form of hearing is common in the Court of Appeal or the Court of Final Appeal because appeal courts usually hear arguments on law. They do not hear evidence because the facts had already been decided by the trial court, which had heard the evidence of the witnesses. Only in exceptional circumstances will the appeal court hear oral evidence from the parties.

12. In actions begun by originating summons, it is also common not to have oral evidence at the trial or substantive hearing. The evidence is contained in affidavits (or affirmations).

13. The above are the usual procedures for the trial or hearing. The judge can always give other directions. You must follow the directions of the judge.

Judiciary  
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