

# Your day in court - your final hearing

04 October 2017

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If your matter cannot be resolved through negotiation or another form of alternative dispute resolution, it may be necessary for it to be determined by a Judge in the Family Court of Australia or the Federal Circuit Court of Australia by way of a final trial. The Judge is referred to as 'your Honour' in court.

At the final trial of your matter, we will usually travel with you to court on the first morning of the hearing, either from our offices or from your barrister's chambers. Your matter will have been allocated to a Judge who will hear your matter for the entire duration of the trial.

The trial usually commences each morning at 10.00am and usually concludes at 4.15pm each afternoon with a lunch break from 1.00pm to 2.15pm. Subject to the urgency of a matter, the matter will continue to be heard beyond 4.15pm. The barrister we have engaged in your matter will present and argue your case on your behalf. It will be necessary for you to attend personally with us on each day of the trial.

During the trial, we will have the opportunity to give evidence from you and any witnesses you rely upon. You and your witnesses may also be cross-examined by your former partner's representatives.

Some important tips to remember when giving evidence at the final trial of your matter are:

- Speak clearly and audibly at all times
- Try to remain calm and relaxed in the witness box
- Listen clearly to the questions and answer the question as asked
- If you didn't hear a question, or don't understand, ask the barrister to repeat the question
- Take your time and think about each answer
- Don't get upset or agitated
- Don't try to second guess or outsmart the barrister asking the questions
- Answer the question concisely and then stop talking – don't engage in a long dialogue with the barrister
- Don't be concerned if you feel that one of your answers is misleading or confusing – your barrister will be able to re-examine you (ask you further questions) to clarify any ambiguous matters
- Maintain eye contact with the barrister when they are talking to you or asking you questions

The Judge may ask you a question from time to time. Look at the Judge and answer the question clearly and concisely, referring to them as 'your Honour'.

We like you to be as prepared and relaxed as possible at the trial and prior to the trial, we will, together with your barrister, advise you of the following matters:

- The weaknesses and strengths of your case
- The need for you to read and be very familiar with your evidence (your affidavit)
- Your demeanor and manner in court
- The importance of listening carefully to questions and answering the questions clearly and truthfully

## **Procedures and other peculiarities that you might encounter at the trial**

At the conclusion of the trial, our barrister and your partner's barrister will make final submissions (either orally, in writing, or both) and the Judge will then retire to consider their decision.

On some occasions a decision will be given almost immediately but usually it may take several weeks or months for a decision to be handed down by the Judge. We have, on occasion, awaited judgment in some complex matters for over a year.

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*The contents of this paper are not intended to be a complete statement of the law on any subject and should not be used as a substitute for legal advice in specific fact situations. HopgoodGanim Lawyers cannot accept any liability or responsibility for loss occurring as a result of anyone acting or refraining from acting in reliance on any material contained in this paper.*

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