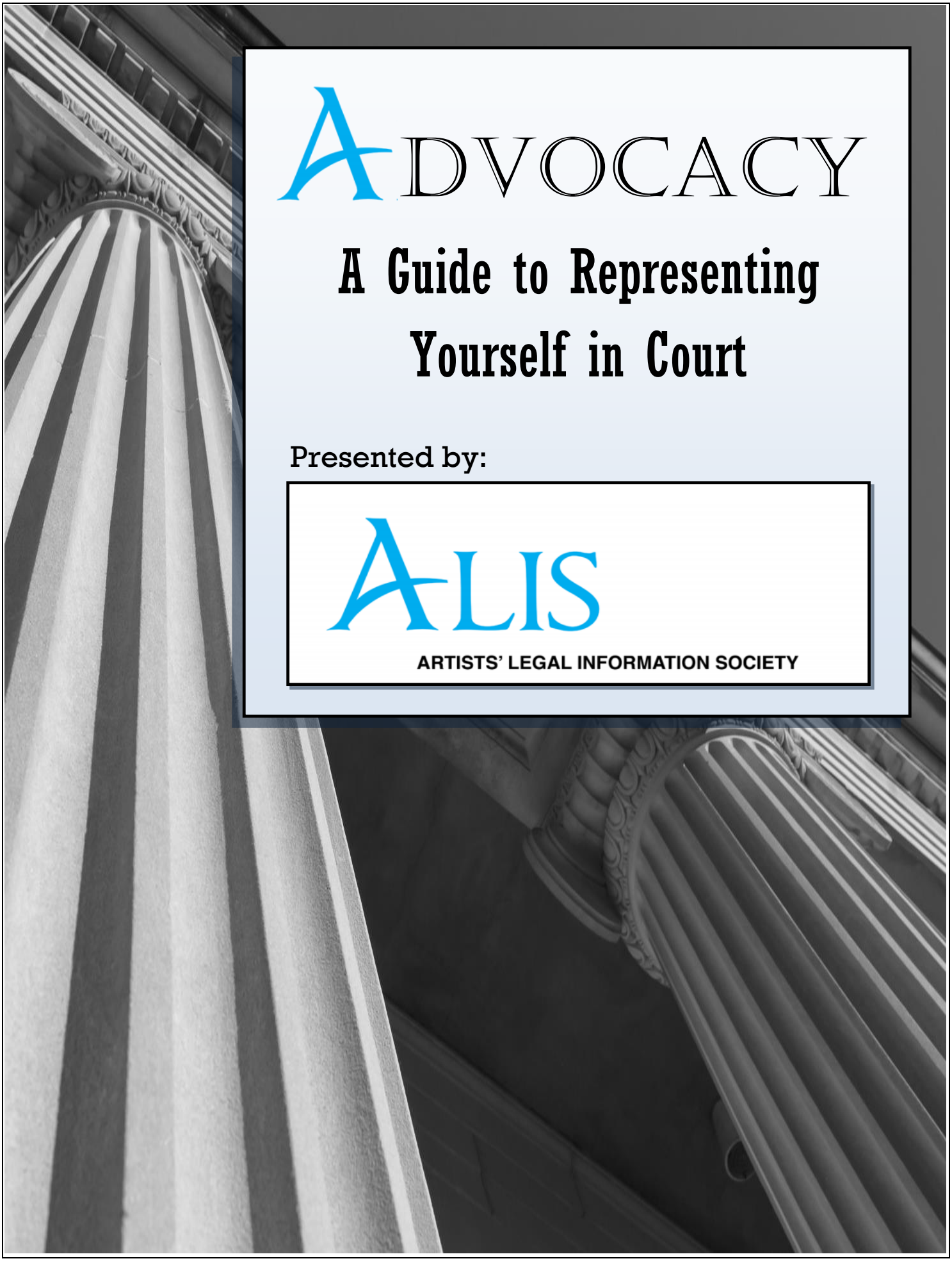

ADVOCACY

A Guide to Representing Yourself in Court

Presented by:

ALIS

ARTISTS' LEGAL INFORMATION SOCIETY

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ARTISTS' LEGAL INFORMATION SOCIETY

Artists' Legal Information Society (ALIS) is a not-for-profit society which provides artists with legal resources and information. Our goal is to help all artists understand their legal problems and provide a framework for navigating obstacles.

Visit **nsalis.com** to learn more about us.

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Self Advocacy Guide: A Guide to Representing Yourself in Court

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This Guide is intended for legal information purposes only. If you need legal advice, please seek assistance from a lawyer.

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1. Introduction

The basic information contained in this Self Advocacy Guide will help you better represent yourself. This Guide will introduce you to basic skills of trial advocacy which will help you be better prepared to present your case. While the information contained in this Guide is not specific to any level of court, it is ideally suited for someone representing themselves before the Small Claims Court.

However, a word of caution: if your freedom, your livelihood, the custody of your children, or a sum of money that will greatly affect your wellbeing is at stake, **you should speak to a lawyer immediately**.

This Guide is not a substitute for legal advice.

A. What is trial advocacy?

Trial advocacy is a specialized form of storytelling. Its aim is to persuade the judge of your story. The trial is the performance.

Each story is told by presenting documents, pictures, movies and witnesses before a judge. A judge in the Small Claims Court is called an "adjudicator". The judge's first task will be to make sure the process is fair and that everyone involved has a chance to tell their side of the story. This is achieved by applying the rules of procedure and evidence. Once the stories are told, the judge will apply the law to the facts and give a decision in favour of one or the other party.

This Guide is designed to provide you with basic tools to present your story as smoothly and effectively as possible. Being familiar with the setting is always a good idea, and the first step towards improving your trial advocacy skills.

B. Courtroom

Courtrooms are generally open to the public. You can view criminal or civil trials in communities throughout the Province, in real time, without making an appointment.

Most trials are conducted during regular working hours, although many Small Claims Court hearings are scheduled in the evenings.

It is always a good idea to visit the courtroom in which your matter will be heard. If you have time, you can speak to the Small Claims Court staff to find out who will be hearing your matter and if your adjudicator has other matters scheduled prior to your hearing.

If so, you should attend the hearing and observe how it is conducted. Knowing exactly what to expect will help calm your nerves and make you better prepared for when it's your turn to perform.

A Provincial Court trial is probably the best place to observe trial advocacy first hand. The Provincial Court hears criminal cases and summary offence charges, such as traffic ticket fines. Criminal cases usually involve the presentation of witnesses and other forms of evidence, which will give you a broad perspective on what can happen in a courtroom. Most importantly, these trials often involve the most interesting stories!

C. Preparation

In trial advocacy, preparation is key. While experience is helpful, it cannot replace preparation. Most disputes that end up in court involve an element of fact, because the parties cannot agree about an aspect of what happened. It is important to know the facts (especially the facts that help you), so that you know what evidence you need in order to prove the facts. **If you cannot support your facts with evidence, you will not win.**

Being prepared means knowing everything there is to know about the facts and the law that affects your case. This means you may need to do research, review documents, gather evidence and prepare your witnesses. However, before you get started, you will need a plan.

2. Theory of the Case

A theory of the case is your story, adapted to the legal issues that are involved in your situation. By asking yourself "what happened?", "why did it happen?" and "what does it mean to me?" you should be able to create a simple and straightforward theory of your case.

For example:

- **Fact:** Mr. Gallery owes you a commission for one of your paintings sold in his shop.
- **Story:** Mr. Gallery owes you money and will not pay.
- **Theory:** Mr. Gallery sold your painting but failed to pay your commission pursuant to the terms of the contract.

Your theory should be logical and premised on uncontested and/or easily provable facts.

In the example above, you will need to show:

- Mr. Gallery sold your painting.
- Mr. Gallery did not pay your commission.
- Terms of the contract that set out your right to a commission.

You must always keep in mind that you are in court to obtain a **legal remedy**.

Therefore, your theory should identify what legal basis will entitle you to a decision in your favour. In the example above, the claim is based in contract and a failure to follow its terms. This is called a breach of contract.

Practice Tip

Simplicity always wins the day. Your theory should be short and concise. Each case will be different, but the theory should be as short as one sentence and no more than a paragraph for complex matters involving more than one legal issue.

If your theory relies on proving deceit, ignoring common sense, or asks the judge to make harsh judgments, you may wish to reconsider and simplify your theory. If your theory requires you to prove an element such as deceit, make sure you will have the evidence to prove it before you file your claim. Your theory will evolve as the case develops.

Practice Tip

In Small Claims Court, the parties may not know what evidence the other side intends to rely on until the actual hearing. There is normally no requirement to exchange documents or witness lists prior to the hearing in Small Claims Court.

It is important to remain flexible as the evidence unfolds. Your theory is your guide, and it is an invaluable resource to help you make countless decisions about what documents to present, what questions to ask and ultimately what arguments to make. However, evidence trumps theory every time.

For example:

- You may find out that Mr. Gallery claims he did not sell the painting. He noticed it was damaged and took it down. Mr. Gallery claims the painting was damaged when it was given to him and wants you to take it back.

- Your theory however, relies on the terms of the contract signed by both parties. The contract states that the painting was in good condition on the date it was consigned to Mr. Gallery, and any damage to the painting is his responsibility.

In the example above, if you ignore Mr. Gallery's evidence that he did not sell your painting and you instead argue that he is lying, you could ultimately lose. The Court may not have any reason to disbelieve the evidence. Why would Mr. Gallery lie if he could easily prove his story by showing the court the damaged painting? Common sense tells us that Mr. Gallery is likely telling the truth and your theory simply needs to be adjusted as follows:

- ~~Mr. Gallery sold my painting but~~ **My painting was damaged while consigned to Mr. Gallery and he** failed to pay my commission pursuant to the terms of the contract.

Notice that the legal issue does not change nor does the remedy you seek. Your theory simply adapts to reflect the evidence.

When unsure about how to formulate your theory, remind yourself of the theme to your case.

3. Theme

The theme is the **moral force** of your argument. It is what will pull at the judge's heartstrings, and it might help him or her side in your favour, all else being equal. It is the justice of your cause, the equity, the fairness.

Without a theory to support it, your theme is pure theatre and will seldom be effective. However, Courts can be swayed to adopt a theory that is draped in justice rather than accepting what may be legally correct.

Your theme can be inserted throughout your presentation to reinforce the message.

The theme is an opportunity to be creative, as it has no independent legal weight. It is simply a tool of persuasion. In the example above, it might be:

- As an artist, every penny counts.
- Rich gallery owner preys on starving artist.

Which do you prefer?

Both examples could work, but you should always consider the context. If Mr. Gallery has a habit of stiffing his artists, the second theme may be the most effective, so long as you are able to present evidence to support it. However, if Mr. Gallery is polite and credible, the first theme may be best. It will show the justice of your cause without the need for the court to make negative findings of credibility against Mr. Gallery.

Practice Tip

Judges will generally avoid making findings of credibility unless they are required to do so to solve a legal issue. Do not focus your energy on attacking a witness' credibility unless absolutely required. These attacks are difficult to do effectively and seldom result in the desired outcome. Instead, show the court how it should arrive at the desired decision independent of witness' credibility.

Be careful not to overuse your theme or exaggerate the message, because you run the risk of distracting your judge from the legal issue at the heart of your case. With your theory of the case and theme in hand, you are ready to file your action.

4. Procedure

Every lawsuit is governed by procedures to follow, which are usually found in the "Rules of Court". These rules set out the mandatory and optional steps that litigants may take, timelines to complete the steps, and ways to resolve differences.

There are no rules of court for the Small Claims Court. Proceedings in the Small Claims Court are governed by the *Small Claims Court Act* and the Act's *Regulations*, which provide some basic information on how to proceed.

However, if your claim approaches the maximum $25,000 limit that the Small Claims Court can award, you may be able to rely on some of the procedure contained in the *Nova Scotia Rules of Civil Procedure*. If you find yourself involved in a dispute for a large claim, you should speak to Court staff and schedule a hearing to obtain direction from the Court on the procedure for exchanging documents, statements and other evidence from the parties (this process of gathering evidence is called "discovery").

A. Pleading

The first formal step for either party in a lawsuit is the pleadings. The pleadings are the documents that set out the parties' positions. The Statement of Claim is filed by the "Plaintiff" and the Statement of Defence is filed by the "Defendant" in response. Electronic forms for the Small Claims Court can be found at https://www.interactivecourtforms.ns.ca.

Practice Tip

Although the Small Claims Court Notice of Claim provides space for one block of text, separate each idea by paragraph, and aim to limit each paragraph to one or a few sentences. You can use a separate document and attach it to the Form.

The purpose of the pleadings is to frame the dispute and give each party an outline of the arguments they will advance during the hearing. The pleadings also set the parameters for what is relevant. In the context of the Small Claims Court, your pleading is your chance to make a great first impression on the adjudicator.

In most cases before the Small Claims Court, your Statement of Claim or Statement of Defence is the only document that the adjudicator will have from you before the hearing. Make it count. Use your theory of the case and your theme to draft a concise but complete statement.

Generally you draft a pleading by explaining who each party is, the event that connects them, any subsequent event that gives rise to a claim and the damages that have resulted.

If you were filing a Claim against Mr. Gallery, you might begin as follows:

1. The Plaintiff, Ms. Artist, lives at 768 Perspective Row in Bandstand, N.S.
2. The Defendant, Mr. Gallery lives at 890 Gradient Street in Bandstand, N.S.
3. The Defendant owns and operates the ArtsCents art gallery located at 351 Lower Street in Bandstand, N.S.
4. Ms. Artist is a visual artist specializing in mixed media sheep-skin art.
5. On November 3, 2013, Ms. Artist approached Mr. Gallery about hanging some of her pieces in his gallery.

The pleadings would then continue with a description of the agreement, followed by the events that led to the discovery of the missing canvas and the claim for damages.

The purpose of the pleadings is not to show how you intend to prove your allegations, it is simply to tell your story while including the relevant legal elements of your claim. You should plead any legislation or legal principles that you intend to rely on.

You do not attach evidence to pleadings.

5. Evidence

Practice Tip

Always bring three or more copies (depending on the number of other parties) of any evidence you intend to use. The original (if there is one) for the witness. One copy for you. One copy for the adjudicator. One or more copies for the other parties. This will ensure everyone is on the same page during the hearing.

Evidence is what you will use to prove the elements of your claim. For example, while you may claim that Mr. Gallery breached the contract, **you will need evidence to prove it**. Simply claiming this fact is not enough.

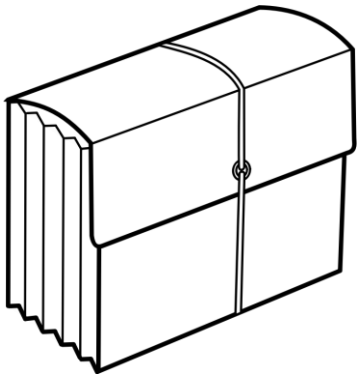
In order to show that Mr. Gallery breached the contract, the contract itself will have to be presented, if possible.

For most Small Claims Court hearings, evidence will be presented for the first time at the hearing and will be accepted even if a party objects. The adjudicator will often note the objection and accept the evidence, but will consider the weight given to it.

However, knowing how to properly present evidence is a useful skill that will ensure a better presentation of your story.

Be flexible in your approach to organization. Organize as volume dictates. If you have several pages, you may want to bind your documents or even provide electronic versions. Remember, you want to make it as easy as possible for the judge.

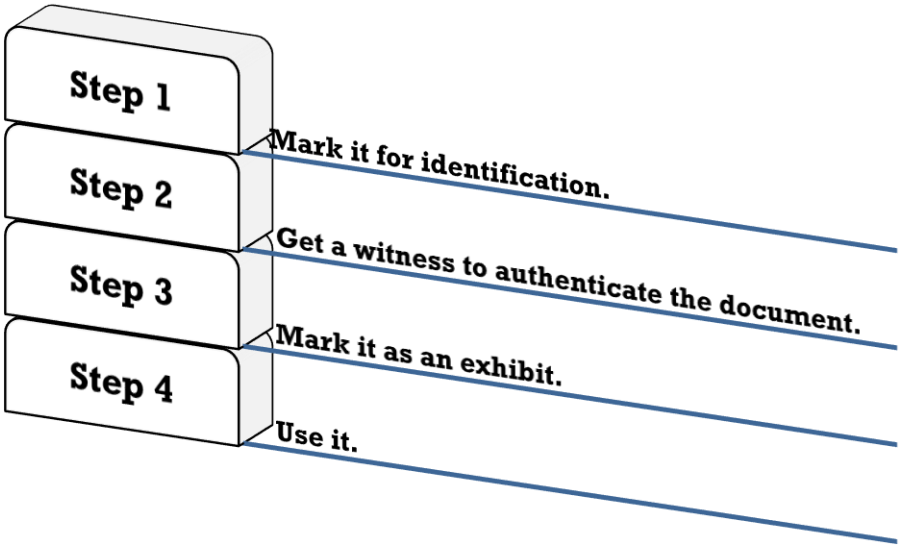
Evidence can take many forms, and includes documents, photographs and witness testimony. Each piece of evidence will require unique consideration when it is presented to the court to ensure it can be considered.



A. Presenting your Evidence

i. Documents

Documents are the most common form of evidence. There is a proper way to introduce documents and to present them during a Small Claims Court hearing. The proper way to present a document is:



Step 1: Mark it for identification

In Small Claims Court, you can usually agree to mark all the exhibits before the hearing starts and eliminate this step. The purpose of this step is simply to allow everyone to know what document is being referred to before it is accepted into evidence.

Step 2: Get a witness to authenticate the document

This can be very easy to do, but always needs to be done. The purpose of this step is to make sure that the document can be admitted into evidence.

Here is an example:

> ***Ms. Artist:*** I am showing a document marked as Exhibit "A". Do you recognize it?
>
> ***Mr. Witness:*** Yes, it is my personal cheque to Mr. Gallery.
>
> ***Ms. Artist:*** On the bottom right hand side there is a signature. Do you recognize it?
>
> ***Mr. Witness:*** Yes, it is mine.

This document is now authenticated, because the witness has confirmed that the document is what the party claims it is.

Step 3: Mark it as an exhibit

Once the document is authenticated, it can be marked as an exhibit. It is a good idea to have the Court Clerk mark all of the exhibits ahead of time to make things smoother and not break up the flow of your questioning. If the Clerk has not yet done this, you would ask him or her to mark the document as an exhibit after your witness has authenticated it.

Step 4: Use it

The next step is to use the document to advance your claim. There is no point in presenting an exhibit if you do not use it to question a witness or make an argument. Here is an example:

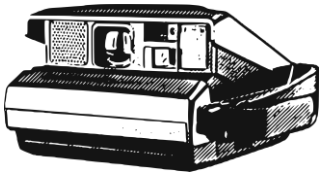
Ms. Artist:	Do you remember writing this cheque?
Mr. Witness:	Yes, I do.
Ms. Artist:	What was it for?
Mr. Witness:	I purchased a mixed media piece from Mr. Gallery.
Ms. Artist:	Who was the artist?
Mr. Witness:	It was you, Ms. Artist.

Practice Tip

By having the right number of copies, having your exhibits marked ahead of time by the Court Clerk, and being ready to authenticate your evidence, you will ensure your presentation to the adjudicator will go smoothly.

The same basic process is followed for other types of evidence.

ii. Photos



Since a picture is worth a thousand words, it is usually an excellent tool of persuasion.

To present a photo to the Court, follow Steps 1 to 4 for documents. However, you may need to do Step 2, authentication, a little differently. If your witness also happens to be the photographer, you can authenticate the photo by asking if he recognizes the picture, if he took the picture, when he took the picture and what it depicts.

If the picture was taken by someone else, you do not always need to call the photographer to the stand to authenticate it. Instead, you might ask:

> ***Ms. Artist:*** I am showing a picture marked as Exhibit "B". What do you see depicted?
>
> ***Mr. Witness:*** A grey house with a red awning.
>
> ***Ms. Artist:*** Are you familiar with this house?
>
> ***Mr. Witness:*** Yes, it is my house.
>
> ***Ms. Artist:*** Does this picture accurately reflect how your house looked on April 1, 2014?
>
> ***Mr. Witness:*** Yes.

How you authenticate your photo will depend on the reason you need the evidence to be considered. If the date of the picture is crucial, you may need to have the photographer (or someone who witnessed the picture being taken) authenticate the photo. On the other hand, if you simply need the Court to see the scene, finding a witness who is familiar with the scene in the picture is sufficient.

iii. Objects

Presenting objects is similar to presenting photographs, but you may need to show the chain of custody (the chronology of who had ownership or control of the object) or the process by which it was created (e.g. diagrams, charts, etc.).

Practice Tip

There is no one way to present evidence. You must consider what the purpose of the evidence is and how to show the court that it is reliable through the questions you ask your witness.

B. Admissibility of Evidence

Now that you know the mechanics of getting evidence before the Court, you will have to consider whether it will actually be admitted by the adjudicator. Not all evidence will be accepted automatically.

i. Relevance

This is the most important consideration for all evidence. If the document, picture or object you wish to have admitted is not relevant, the judge should not admit it.

Relevance is defined by the pleadings and by your theory of the case. Your theme does not determine the parameters of relevance. Here is an example of evidence that is not relevant:

> **Practice Tip**
>
> Consider whether every piece of evidence you want to present is relevant. Write down exactly why it is relevant and what it will help prove. Consider which witness can authenticate it and how you will get it admitted.

Ms. Artist: What is this?

Mr. Witness: A book about homeless artists.

Although your theme may be that Mr. Gallery preys on starving artists, a book about homeless artists is not relevant to whether he paid Ms. Artist for her art piece.

Even relevant evidence can be excluded if is highly prejudicial or if it is of little probative value. One example might be:

Ms. Artist: What happened next?

Mr. Homeless: He kicked me and called me a lazy artist bum.

While this statement is evidence of Mr. Gallery's negative views towards artists, it is highly prejudicial. Also, the evidence is not directly related to the issue of breach of contract and is therefore of little probative value.

ii. Privilege

Privilege is an exception to admissibility. A document might be relevant and admissible but a party could claims a privilege as to why it should not be admitted into evidence. The most common types of privilege are solicitor-client privilege, litigation privilege and statutory privilege (e.g. the privilege contained in the *Canada Evidence Act*). If you are representing yourself, it is unlikely that any of these will apply.

If you engage in settlement negotiations with the other side, those discussions and any partial settlement are not admissible as evidence until after the court has ruled on your case. In provincial, superior or federal courts, a Court may award costs against you if you refuse to accept a settlement. Since no costs are awarded in Small Claims Court, there is rarely a need to disclose these negotiations.

iii. Opinions

The court is interested in evidence, not opinions. Unless an expert is called to give an expert opinion, witnesses are generally not allowed to express opinions. However, there are some exceptions: a witness can express an opinion when the opinion is rationally connected to the witness' perception (such as his or her opinion as to speed, distance, value, height, time, duration and temperature), and a witness is also allowed to testify as to mood, demeanour or tone of voice.

iv. Hearsay

Hearsay evidence is: ***An out of court statement offered for its truth***.

Hearsay evidence is not admissible as evidence because it is not sufficiently reliable. There are many exceptions to the hearsay rule, but the modern approach allows the admission of hearsay where the evidence, despite being hearsay, is sufficiently reliable and necessary.

For example, a dying declaration of a priest will most likely be admitted into evidence while the fourth hand recollection of an intoxicated teenager will likely not be admitted.

Remember, for something to be hearsay it must meet TWO conditions:

1. Be a statement made outside of court; and
2. Be offered for its truth.

Therefore, an out of court statement NOT offered for its truth, is not hearsay:

Ms. Artist: And what did Mr. Gallery say next?

Mr. Witness: He said that the artist, Ms. Artist, was dead.

If this statement was presented to prove Ms. Artist was dead, it would be hearsay and would not be admissible. However, here, Ms. Artist presented this evidence to show that Mr. Gallery was a liar. The out of court statement is not being offered for its truth. It is not hearsay and would be admissible.

Conversely, a statement offered for its truth IN COURT is not hearsay, although it might be objected to on other grounds:

Ms. Artist: What do you think of Mr. Gallery?

Mr. Witness: He's a charlatan and a liar.

The most common and useful exception to hearsay is the business records exception. This exception is enacted through federal and provincial laws. These laws permit the admission of records that were:

1. Kept in the usual and ordinary course of business; and
2. Made in the regular course of business.

Practice Tip

The Nova Scotia Evidence Act is very useful here. If you are unsure of any law relating to evidence, check the applicable Act. All Nova Scotia legislation can be found at www.nslegislature.ca while federal legislation can be found at http://laws.justice.gc.ca/eng/.

6. The Hearing

Now that you have:

- developed a theory and a theme;
- filed your claim or defense;
- identified your witnesses;
- identified the evidence and basis for admission; and
- marked your exhibits,

you are finally ready to call your first witness.

A. Introduction to Witnesses

Preparation of your witness is key.

Before you call your first witness, you will spend time preparing her to testify. Preferably, this will take place one or two weeks before the hearing and will involve going over any exhibits your witness will speak about and any questions you plan to ask.

The purpose of preparation is to inform your witness of her role and how her evidence might be of assistance. **The goal is not to tell your witnesses what to say when they are called.** Coaching your witnesses will rarely have the desired effect.

B. Questions

Every person will have a different style of asking questions. Depending on your level of comfort, you may use a detailed list of written questions or simply improvise. However, it is very helpful to flush out what you want to say by writing down questions before the hearing.

Practice Tip

Go through the questions you intend to ask. Make sure your witness understands you. Make any necessary adjustments. If your witness gives you unexpected answers, consider whether to call him at all. Remember that your witness will be cross-examined and will be under oath.

Even if you go off-script, it is comforting to have the questions in front of you to refer to as needed.

When you prepare, it is always a good idea to write down each of your questions for every witness and note what element of your theory your question relates to. This will help focus your questioning.

Practice Tip

Prepare, prepare, prepare. There is no substitute for preparation. An untrained but prepared litigant is far more likely to be successful than an unprepared lawyer.

C. Examination in Chief

This type of questioning refers to the questioning of your **own** witnesses.

Questioning your own witness may seem simple, but it can be difficult given the limits imposed. **During an examination in chief, you are only allowed to ask open ended questions.** You cannot ask your own witness leading questions. Leading questions are questions that suggest the answer. For example, this is a leading question:

Ms. Artist: So the painting was damaged?

And this is an open ended question:

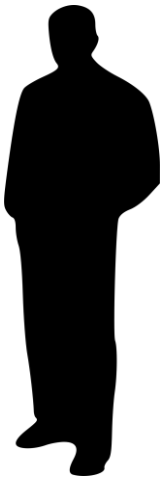
Ms. Artist: What was the condition of the painting?

This makes preparation of your witness key. Your witness will likely be nervous and either clam up or say much more than asked. Without the advantage of leading questions, the only way to deal with this is to properly prepare your witness and yourself. The better you know your case, the more easily you will be able to adapt and think of open ended questions that bring out the answers you need. Your witness is more likely to remain calm if she is familiar with the types of questions beings asked and has had time to think of her answers.

Practice Tip

Start with easy questions. Her name, where she lives, how she knows you. Any questions that are relevant but inconsequential. This will help both you and the witness relax.

D. Cross-Examination



A cross-examination is the questioning of an **adverse** witness (this is usually the witness from the opposing party). During a cross examination, you are allowed to use leading questions. Like the examination in chief, it is important to prepare the questions you want to ask.

The advantage of using leading questions is that you force the witness to give yes or no answers. Since the witness is adverse to you, you can expect that he will say something that is not helpful to you if you give him a chance to explain himself. Leading questions can avoid that danger.

While the general rule is to ONLY use leading questions during cross-examination, some people believe that this limits the quality of the evidence you can get. When a witness is only answering yes or no, the evidence may lose its impact. For this reason, the use of open ended questions can be helpful when the evidence is less controversial and the witness' answers cannot do too much harm to your case.

This is a matter of personal choice. However, whatever style you choose, practice it. If you cannot practice with someone, practice it in your head. This will usually tell you whether a question should or should not be asked.

Asking questions is a scientific art form. Plan, practice and repeat to create a powerful persuasive performance.

Practice Tip

Simple is better. Try to limit your questions to six words. This is not an absolute rule, but it is a helpful guideline that will focus your questions.

Never ask more than one question at a time. Object if the other party asks your witness more than one question.

E. Expert Witnesses

Expert witnesses play a unique role, because courts can rely on their opinions to make findings of fact or law.

In order for a court to accept the opinion of an expert, her qualification must be proven. This qualification must be related to the scope of the subject matter that the expert will give an opinion on. If the expert is qualified as an expert by the Court, she is allowed to give her testimony.

The same general principles apply to the questioning of expert witnesses and regular witnesses. However, special consideration must be given when presenting expert evidence to ensure it is understood by the court and survives any challenges by the other party.

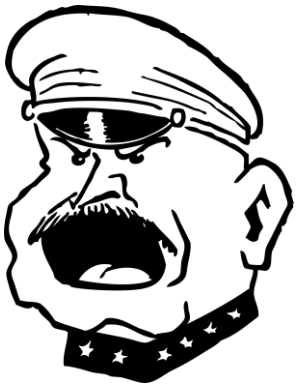
It is possible to call an expert witness in Small Claims Court, but it is unlikely you will need one.

F. Objections

Objections are one of the most difficult thing to do in a courtroom.

You must be able to identify and articulate your objection in the time it takes opposing counsel to ask the question. Common grounds for objecting to questions are:

1. Not relevant
2. Inappropriate use of leading question
3. Compound question (more than one question)
4. Argumentative
5. Vague
6. Repetitive (already asked)
7. Assuming facts that are not in evidence
8. Hearsay
9. Prejudicial
10. Opinion
11. Speculation
12. Privilege/settlement offers



This is not a comprehensive list, but it captures the most common objections.

To make an objection, you rise to your feet after the question is made, but before the answer is given, and you state your objection. You might say "Objection your Honour, the question calls for an opinion". The judge may immediately agree or disagree with you or ask you to elaborate. Once you have given a full explanation of your objection, the judge will either sustain it (allow it) or overrule (disallow it).

If opposing counsel objects to your question, stop, sit down and wait for the judge to address you.

If the judge did not immediately rule, you will likely be given a chance to defend your question. Sometimes it is simply a matter of rewording (e.g. changing a leading question into an open ended one).

G. Final Submission

After all parties have presented their evidence and have finished questioning the witnesses, you will usually be given an opportunity to make final submissions. The Plaintiff goes first.

You should have your argument planned ahead of time. However, be careful. You must ensure that the evidence you thought would come out, actually came out. If one of your witnesses said something different than what you expected, you will have to adapt your final submission. You cannot refer to what you expected to happen when it did not. If you are prepared, it will be easier for you to adapt.

Your argument should tell the Court what you needed to prove and how you proved it with your evidence.

For example:

1. Ms. Artist needed to prove that she consigned her painting to Mr. Gallery.
2. She proves this through:
    a. Ms. Artist's testimony;
    b. Mr. Witness' testimony; and
    c. The consignment contract.

You should also aim to present your argument in a narrative that invokes sympathy for you through the use of your theme.

> "On the day my rent was due, I walked by ArtCents, and I noticed my art piece was gone. I walked in, excited that I might get the proceeds and be able to pay my rent, only to have Mr. Gallery escort me out, without any money."

The argument is your story.

You have spent all of your time preparing and gathering the pieces of your story. Now is your chance to pull it all together. Keeping your theory of the case in mind, use your theme to guide the adjudicator to the only result possible, yours.

7. After the Hearing

The adjudicator will either give you an oral decision on the day of the hearing or reserve his decision. If the adjudicator reserves, he will release a decision in writing, usually within two to three months. There is no set limit to how long it might take, but it is rare that it would take longer than six months.

If you do not like the decision, you can appeal to the Nova Scotia Supreme Court in accordance with the procedure set out in the *Small Claims Court Act* and *Regulations*. The Nova Scotia Supreme Court is the final appeal level.

Practice Tip

Since there is no transcript, it can be very difficult to appeal on the basis that the adjudicator made on error in his findings of fact. The best way to protect yourself from such errors is by ensuring that your presentation is well organized and clear.

You should treat your hearing as the only chance to present your case.

Do not treat the possibility of an appeal as a second chance. In practice, the appeal process is limited to correcting errors of adjudicators in the application or characterization of the law.

8. Nuts and Bolts

A. What to wear

Like any performance, you need to play the part.

Dress comfortably for the occasion and be yourself.

Only lawyers are required to wear a business suit. You should wear something that helps you project confidence and be relaxed. If you are a tradesperson coming straight from a jobsite, the adjudicator will understand. On the other hand, if you are unshaven and are in a ripped and wrinkled suit, you may not make the right first impression. Use your judgment.

Practice Tip

Avoid distractions. Making sure you have copies of documents, your witnesses are in attendance and your case is well organized will help you relax. Most importantly, the adjudicator will be focused on your argument rather than distractions.

B. Etiquette

While the Small Claims Court is designed to be informal, you should still treat it like a regular Court. The following practical tips will ensure you do not run afoul of the adjudicator's expectations while making your case:

1. Be respectful of everyone, including the opposing parties and their witnesses.
2. Address the adjudicator as "Mister Adjudicator" or "Madam Adjudicator" or "Your Honour".
3. When arriving, it is a good idea to go up to the Court Clerk and let them know who you are and what matter you are involved in. If you obtained a special date for the hearing (matters that may exceed 2 hours) than your matter may be the only one being heard.
4. If your matter is less than two hours, there will be more than one case heard on the same evening. The order in which your matter will be called will depend on the situation. Parties who have lawyers will go first and then the practice will vary depending on the adjudicator.
5. Be there on time and plan to be there all evening.
6. Do not wear a hat, chew gum, or eat food.
7. Turn your electronic devices to silent mode.

C. Useful Links 

Legal Research: www.canlii.org

Nova Scotia Court Information: www.courts.ns.ca

Annotated Rules of Procedure: www.nsbs.org

Federal Legislation: http://laws.justice.gc.ca/eng/

Provincial Legislation: www.nslegislature.ca

9. Conclusion

As an artist, you use a variety of mediums to express your ideas, thoughts and feelings. By following these tips and learning the basics, you can use your natural abilities as a storyteller to persuade any judge to side with you.

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