



# Family Court Custody Pre-Trial/Trial Prep *Workbook*



A Workbook created to help you prepare for trial in  
Family Court as Pro Se, Self Represented.

# THE DIVORCE SOLUTIONIST



**We have a solutionist for every problem!**

*Hey there,*

I am a Family Court Strategist who helps pro se/self represented and Do it Yourself litigants prepare, present and position their case for success in Family Court. Many litigants mistakenly focus on issues that are not relevant, present evidence that is has not admissible and/or make arguments that are often not heard. These all cause them to get disappointing outcomes in their divorce or custody cases.

Trial preparation is a big area where litigants have a chance to turn the direction of their case. The key to doing this is preparing for trial in advance, knowing where to find helpful resources and to get the support they need. But even with all of these, the starting point should always be having a solid Gameplan. (Contact me to create your Gameplan.)

This guide can help in doing just that. Although trial prep is something that should be tailored to your specific case, this guide is a great starting point.

**Good luck,**

**Tracey Bee**

# How to Use this Guide:

This guide is set up to help you plot out the most important parts of your custody case. It is not meant to replace legal representation, but is intended to provide a baseline for how you approach trial. The earlier you start the better.

## Key things to keep in mind:

1. Take your time and focus on each specific part of the guide. It is important that you not overwhelm yourself by trying to cram too much in.
2. Repeat each step if and when necessary, to ensure that you are not overlooking some important elements.
3. Be open minded and honest with yourself at each stage. Don't rely too much on anything that is not in your control.
4. It's ok to seek help if you need it.
5. Be detailed as possible when answering each section.
6. WRITE IT OUT. This helps tremendously.
7. At any time, set up a consultation (the first one is FREE) at [www.calendly.com/divorcecoachesq/15min](http://www.calendly.com/divorcecoachesq/15min)

# Getting Started with

## Trial Prep- Custody

1

### Assess your Case

If your case is certain to go to trial, try to resolve any issues you can. Then prioritize the ones remaining.

2

### You should have a Gameplan

At some point during your case you should have created a Gameplan.

3

### Focus on your goals.

Your goals might have changed from the time the case started.

# I. 90 Days Before Trial

At this point the case has been marked for Trial by the Court. Although settlement attempts are still possible, trial is necessary. NOTE: If you need to do your S.W.O.T. Analysis, go to the last pages.

- Has anything changed since the last negotiation attempts?
- What are the remaining issues that will be addressed at trial?
- Assess the costs associated with the trial?
- Are there any subpoenas needed?
- Are witnesses lined up, their location, their availability, etc.?
- Decide if you need experts, if so start researching them?

**NOTE: IF YOU PREPARE 90 DAYS BEFORE THEN THE 60/30 DAY SECTIONS ARE NOT NECESSARY.**

## Analysis of the Case:

*What are the remaining issues at this stage of the case?*

- 1.
- 2.
- 3.
- 4.
- 5.

*What are the strengths of these issues?*

- 1.
- 2.
- 3.
- 4.
- 5.

*What are the weaknesses of these issues?*

- 1.
- 2.
- 3.
- 4.
- 5.



## A. Evidence

- List your evidence for each issue, both for and against.
- Evidence should be carefully organized, labeled and aligned for each issue in the trial.
- Evidence will have to meet certain requirements to be admissible. But it shouldn't deter you.
- Find your jurisdiction's Rules of Evidence.
- Evidence can be used for several purposes and in various ways.

### Identifying Evidence/Proof:

*Evidence: Issue One*

- 1.
- 2.
- 3.
- 4.
- 5.

*Evidence: Issue Two*

- 1.
- 2.
- 3.
- 4.
- 5.

*Evidence: Issue Three*

- 1.
- 2.
- 3.
- 4.
- 5.



## *B. Relevance, Admissibility*

- Each item of evidence must be relevant, it must pertain to a specific issue before the court.
- Illegal evidence might be admissible to prove or disprove an important issue but might help in other ways.
- Rules of Evidence determine if evidence needs to be authenticated or not; if evidence is "hearsay" or meets an exception and if admissible because it's in original form.
- Know the rules, their exceptions and how to apply them.

### Relevance, Legality & Admissibility of Evidence:

*Evidence Issue 1:*

- 1.
- 2.
- 3.
- 4.
- 5.

*Witnesses:*

- 1.
- 2.
- 3.
- 4.
- 5.

*Resources:*

- 1.
- 2.
- 3.
- 4.
- 5.



## C. Witness Prep

- Everyone is a potential witness but not a probable one.
- Have a specific issue in mind they would testify to.
- Discuss the entire process with them beforehand.
- Know everything about them (that affects their credibility.)
- Choose wisely.
- Prepare their questions & prep them.

### Witness List:

*Witness: Issue 1*

- 1.
- 2.
- 3.
- 4.
- 5.

*Witness: Issue 2*

- 1.
- 2.
- 3.
- 4.
- 5.

*Witness: Issue 3*

- 1.
- 2.
- 3.
- 4.
- 5.



## D. Discovery & Subpoenas

- Check your Discovery Demands & Responses for accuracy & adequacy.
- Any motions need to be filed based on the status of Discovery?
- Use alternative methods for Discovery, like subpoenas. Use them pursuant to your local court Rules.
- Tailor your subpoenas to the specific issues in question.
- Label all Discovery and align it to specific issues in the case.

### Discovery:

*Discovery: Issue 1*

- 1.
- 2.
- 3.
- 4.
- 5.

*Discovery: Issue 2*

- 1.
- 2.
- 3.
- 4.
- 5.

*Discovery: Issue 3*

- 1.
- 2.
- 3.
- 4.
- 5.

## NOTES

## II. 60 Days Before Trial

At this point you need to start taking more specific, tactical moves to prepare to put on your best case.

- Review & Update your Casemap, strategic plan for tactics.
- Go through Evidence to ensure relevance & legality = admissibility.
- Reach out to your Witnesses to confirm testimony & relevance.
- Review Discovery to check that it's complete and correct.
- Learn your court's procedures, your trial judge's methods, etc.
- Research relevant caselaw and statutes to check for updates.

Issues of the Case:	Evidence for Each Issue:
Strength:	<i>Support:</i>
Weakness:	<i>Oppose:</i>
Strength:	<i>Support:</i>
Weakness:	<i>Oppose:</i>
Strength:	<i>Support:</i>
Weakness:	<i>Oppose:</i>
Strength:	<i>Support:</i>
Weakness:	<i>Oppose:</i>
Strength:	<i>Support:</i>
Weakness:	<i>Oppose:</i>



## A. Witnesses

List & name all of your witnesses; the type of witness, what they will testify to and any other relevant information about them.

- Find out when your court's deadline is for submission.
- Check if the other side has provided their Witness List.
- Cross-check your list with the other side's list.
- Choose what type of witness: eye, fact character, or expert.
- Prioritize each witness based on issues they will testify to.
- Explore the costs or methods necessary to have the witnesses present.

### Witness List:

Name:

Type:

Testimony Topic:

Name:

Type:

Testimony Topic:

Name:

Type:

Testimony Topic:



## *B. Discovery*

Discovery at this phase might be a bit different than if you started 90 days before trial. Time might play a major role in HOW you gather, use and implement Discovery.

- Find out when your court's deadline is for Discovery Requests.
- Cross-check your list of Demands with the Responses provided.
- See if you need to gather "answering" evidence.
- Organize all Discovery based on the issues for Trial.
- Be sure you submitted your Discovery to the other side & Court.
- File any additional Requests by deadline.

### Discovery:

*Type of Discovery:*

*Discovery Requested:*

*Follow Up Needed:*

*Issue Used For:*

*Type of Discovery:*

*Discovery Requested:*

*Follow Up Needed:*

*Issue Used For:*

*Type of Discovery:*

*Discovery Requested:*

*Follow Up Needed:*

*Issue Used For:*



## C. The Law

Know the relevant law, caselaw & statutes that is relevant to the ISSUES of your case. It is important that you understand the law, the exceptions and updated precedents.

- Use your state's resources, Justia or Google Scholar to find the law.
- Be sure to understand how the law applies to the specific case issues.
- Anticipate how the other side will argue the law or its exception.
- Read the law several times to understand its meaning.
- Understand the difference between Procedural & Substantive Law.

### Laws:

*Issue:*

*Applicable Law & Type:*

*Other Side's Argument:*

*Issue:*

*Applicable Law & Type:*

*Other Side's Argument:*

*Issue:*

*Applicable Law & Type:*

*Other Side's Argument:*

## *D. Best Interests of the Child Factors*

A large part of knowing the law and how it applies to your specific case in Custody, is knowing the BIOTC factors for your state, how they apply and how they are prioritized.

- Get a list of your state's factors (use [www.Justia.com](http://www.Justia.com))
- Use caselaw to understand how they apply (use [www.scholar.google.com](http://www.scholar.google.com)) OR
- Use your **BIOTC Analysis** (paid service provided by The Divorce Solutionist.)
- Take your time to apply every relevant fact to the factors.

### BIOTC Analysis:

*Issue:*

*BIOTC Factors:*

*Analysis/Argument:*

*Issue:*

*BIOTC Factors:*

*Analysis/Argument:*

*Issue:*

*BIOTC Factors:*

*Analysis/Argument:*

# BEST INTEREST OF THE CHILD FACTORS LISTED



# III. 30 Days Before Trial

At this point you need to start taking more specific, tactical moves to prepare to put on your best case.

- Prepare Witness Questions and review with witness. (See Guide for examples.)
- Check on status of court ordered subpoenas.
- Start on Trial Notebook/Folder. (Provided at workshop.)
- Gather all court documents & organize them. I.e. petitions, motions, etc.
- Take a trip to the courtroom where the trial will occur.
- Learn your court's procedures, your trial judge's methods, etc.
- Get all forms you need and provide them as per your court's rules.

## Pre-Trial Checklist

- Outline of All Issues & Proof for Each
- Prepare Witnesses & Questions for Each, with Exhibits
- Prepare Opening & Closing Statements
- Organize & label ALL Evidence, Discovery
- Print & Organize Relevant Laws
- Organize & Label Pleadings, Motions, Etc.
- Update all Pertinent Info & Financial Statements
- Visit Courtroom & Watch Trial Process
- Complete all forms, steps and deadlines.
- Attempt Settlement One Last Time

## NOTES

# SWOT Exercise

Do your personal SWOT analysis. Use the results to recognize your unique skills, strength, and talents. Plan strategies to manage your weaknesses and take advantage of any opportunities!

## Strengths

- Current Advantages, what do you have over the other party?
- Strengths of Your Case

## Weaknesses

- What could you do better?
- What does the other side have over you?

## Opportunities

- What can you do to improve your position?
- Which strengths could you turn into opportunities?

## Threats

- What obstacles do you have that can cause you the most harm?
- Can any of the harm be repaired or fixed?

# WRITE OUT YOUR GAMEPLAN

# *Helpful Resources*

You can handle your trial on your own but if you can get help along the way then you should. There are tons of resources that can help you with different aspects of your case.

## Legal Research:

- [www.justia.com](http://www.justia.com)
- [www.nolo.com](http://www.nolo.com)
- [www.scholar.google.com](http://www.scholar.google.com)

## Court Forms & Rules/Procedures:

- [www.westlaw.com](http://www.westlaw.com)
- your state's court website or Legal Services website
- paid services

## Limited Scope Services:

- [www.thedivorcesolutionist.com](http://www.thedivorcesolutionist.com)
- [www.legalshield.com](http://www.legalshield.com)
- [www.avvo.com](http://www.avvo.com)

## Miscellaneous:

- Excel spreadsheets
- Text to pdf apps
- Google calendar, sheets, etc.
- Support groups on Social Media
- Calm app



# Need a Strategic Gameplan or Pre-Trial Prep help?

This Workbook is intended to accompany the Workshops. However, we offer Unbundled Services that include Trial Preparation, Evidence Organizing, Witness Prep, and much more. Visit <https://thedivorcesolutionist.com/unbundled-services>.

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