

MERRILL MUNICIPAL COURT

TRIAL TIPS

If you decide to take your case to trial, an attorney WILL NOT be provided for you by the court. You may, of course, choose to hire an attorney or represent yourself. If you choose to represent yourself please read the following information carefully.

I. WHAT HAPPENS AT A TRIAL?

A trial is a formal hearing where the City Attorney and the Defendant have the opportunity to present their evidence before the Municipal Judge. The City has the burden of proving its case by clear, satisfactory and convincing evidence.

The City presents its case first. This usually involves calling witnesses and introducing documentary evidence. Once a witness for the City has testified, the Defendant has the right to cross-examine that witness.

After the City has introduced all of the evidence that it wishes to present, the Defendant then has the opportunity to testify in his or her own behalf, call witnesses, and introduce documentary evidence. The City Attorney is entitled to cross-examine any witness called by the Defendant.

After the evidence has been heard by the Judge, each side is given an opportunity to make a closing argument. The Judge then applies the admissible evidence to the specific state statute or city ordinance that the Defendant is charged with violating and determines whether he or she is guilty or not guilty.

II. PREPARING FOR TRIAL

Do you have witnesses that you want to testify? If the answer is yes, you need to make sure that they will be there on the day of trial. Any such witness should have personal knowledge of the incident based on what he or she saw or heard. Do not bring affidavits, letters, or statements written at your request. They may be hearsay and more than likely will not be admitted as evidence. If you have any doubts that witnesses you would like to call will appear voluntarily, you have the right to subpoena them into court. A subpoena is a document you present personally (you cannot mail the subpoena) to the witness requiring him or her to appear for the trial. You will need at least two weeks before the trial to allow for proper service of the subpoena.

Photos, maps and drawings: If you think such evidence will help the Judge understand your case, bring them to court. However, you or whoever took the photos or drew the drawings should be prepared to testify about how and when the items came into being.

Testimony by the Defendant: If you plan to testify in your own behalf, think about what you are going to say beforehand. If you do testify, the City Attorney will have the right to cross-examine you. If you made a statement to the police or others, those statements can be used against you at trial.

Police Reports and witness statements:

You should ask the City Attorney in writing what witnesses he plans to use at trial. If you want to ensure that those witnesses are used, you will have to subpoena them yourself.

If you want to have copies of any statements you made, other witness statements, or the police reports to help you prepare for trial, you can ask the City Attorney if he will provide them. If he will not provide them, you should file a Motion for Discovery in person with the Court no later than 30 days after your initial appearance. You can obtain a copy of the police report at the Merrill Police Department. There will be a charge for photocopy expenses that you must pay before you will receive a copy of the report.

Do not assume that the Judge has seen the police report. The Judge has not read the police report and will not read the report unless it is properly submitted at trial. Do not assume that the City Attorney will properly submit it at trial. If you want the Judge to see it, you will have to bring a copy and request that the Judge admit the report as evidence. The City Attorney may have valid objections to admission of the report, which the Judge will consider in deciding whether or not to admit the report.

III. FREQUENTLY ASKED QUESTIONS:

Will I have to pay more than the amount on the citation if I am found guilty? It is a possibility. First, the City Attorney may request payment for such things as witness fees. Also, the fine amount on your citation is not the maximum fine in most cases. The Judge has the authority to impose a higher fine if he deems it appropriate. The fine can also be lowered. Finally, if you do subpoena witnesses, you will not be reimbursed for these expenses even if you are found not guilty.

What if I need a postponement? If you have a good reason to delay your trial date, you may ask the Judge for an adjournment. You must do so a least one week before the trial date. The Judge will then decide whether or not to grant you request.

If I am found guilty, can I appeal? If you are found guilty after a trial, the Judge will notify you of your appeal rights. The appeal must be filed within twenty (20) days after the Judge's decision and will be heard in the Lincoln County Circuit Court either before a jury or a judge. You must file a written notice of appeal (the Court has forms) and pay an appeal fee.

If I change my mind, can I settle my case before trial? Call the City Attorney (715) 539-3510. However, if you wait until too late to settle your case, you might have to pay more than you were previously offered. The City Attorney may make an offer to resolve your case during the pre-trial conference and will tell you the time period during which you may accept the offer. After the expiration of the time period, the City Attorney is under no obligation to settle the case on the terms of the pretrial offer or to make another offer to you.

Call the Clerk of Municipal Court at (715) 539-3714 with questions regarding your trial date. Please note that the Clerk cannot give you legal advice regarding your case, witnesses to call, evidence to present, or the likelihood of success at trial. If you need legal assistance with your case, you should consult an attorney.