

Rule 265 - Order of Proceedings on Trial by Jury

The trial of cases before a jury shall proceed in the following order unless the court should, for good cause stated in the record, otherwise direct:

- (a) The party upon whom rests the burden of proof on the whole case shall state to the jury briefly the nature of his claim or defense and what said party expects to prove and the relief sought. Immediately thereafter, the adverse party may make a similar statement, and intervenors and other parties will be accorded similar rights in the order determined by the court.
- (b) The party upon whom rests the burden of proof on the whole case shall then introduce his evidence.
- (c) The adverse party shall briefly state the nature of his claim or defense and what said party expects to prove and the relief sought unless he has already done so.
- (d) He shall then introduce his evidence.
- (e) The intervenor and other parties shall make their statement, unless they have already done so, and shall introduce their evidence.
- (f) The parties shall then be confined to rebutting testimony on each side.
- (g) But one counsel on each side shall examine and cross-examine the same witness, except on leave granted.

Rule 266 - Open and Close – Admission

Except as provided in Rule 269 the plaintiff shall have the right to open and conclude both in adducing his evidence and in the argument, unless the burden of proof on the whole case under the pleadings rests upon the defendant, or unless the defendant or all of the defendants, if there should be more than one, shall, after the issues of fact are settled and before the trial commences, admit that the plaintiff is entitled to recover as set forth in the petition, except so far as he may be defeated, in whole or in part, by the allegations of the answer constituting a good defense, which may be established on the trial; which admission shall be entered of record, whereupon the defendant, or the defendants, if more than one, shall have the right to open and conclude in adducing the evidence and in the argument of the cause. The admission shall not serve to admit any allegation which is inconsistent with such defense, which defense shall be one that defendant has the burden of establishing, as for example, and without excluding other defenses: accord and satisfaction, adverse possession, arbitration and award, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, release, res judicata, statute of frauds, statute of limitations, waiver, and the like.