

TRIAL STRUCTURE

Prior to trial, Court held conduct a pretrial conference to rule on motions, received exhibit and witness lists and other pretrial matters.

On the day of trial, potential jurors wait in jury assembly room until going to courtroom. Administrative judge in charge of jury assembly room gives oath to potential jurors that they will answer all questions truthfully. Judge also hears reasons for inability to serve as juror and may excuse some jurors.

Note once trial starts: Party with burden of proof goes first and last on everything. Typically, Plaintiff (party who filed lawsuit) has the burden of proof, but not always. Defense will have burden of proof on any counterclaim and defenses.

Voir Dire (jury selection) - Attorneys in state court question potential jurors to determine their opinions/biases. Judge usually does abbreviated voir dire in federal cases and may allow some questioning by attorneys.

Opening Statements

Plaintiff's Case in Chief:

- Plaintiff's attorney does direct examination of first witness.
- Opposing counsel does cross examination.
- Plaintiff's attorney re-directs. Judge may allow recross.
- Plaintiff calls all other witnesses and introduces relevant documents/exhibits.
- Plaintiff rests.

Defense may make motion for directed verdict/motion to dismiss outside presence of jury.

Defense Case in Chief:

- Defense attorney does direct examination of first witness.
- Opposing counsel does cross examination.
- Defense attorney re-directs. Plaintiff may be allowed re-cross.

- Defense calls all other witnesses and introduces relevant documents/exhibits.
- Defense rests.

Plaintiff's Rebuttal:

- Can call witnesses and put on evidence that addresses only what was presented in Defense Case in Chief.
- Plaintiff rests.

Throughout trial, attorneys (possibly with Court's guidance) work on the Charge (the verdict form made up of the definitions, instructions and questions to be given to the jury for use in their deliberations).

Once both sides have rested, outside the presence of the jury, the Court allows the parties to make objections to the final jury charge for the record.

Closing Arguments:

- Plaintiff must fully "open" in his argument, meaning he must address the elements of his case and the relief sought.
- Defense argues.
- Plaintiff gets brief rebuttal to respond to what Defense has said in his argument.

The Court reads the charge to the jury word for word. (Court may choose to read charge before closing argument.)

The jury deliberates and renders a verdict by answering the questions in the charge. The Court reads the answers to the questions.

Some courts will allow the parties' attorneys to question the jurors after they are excused by the Court.