

Street Law: A Course in Practical Law (11th ed.)

FOR YOUR INFORMATION

FYI For Your Information

Steps in a Trial

Step 1. Opening Statement by Plaintiff or Prosecutor

The plaintiff's attorney (in civil cases) or the prosecutor (in criminal cases) explains to the trier of fact (the judge or jury) the evidence to be presented as proof of the allegations (unproven statements) in the written papers filed with the court.

Step 2. Opening Statement by Defense

The defendant's attorney explains evidence to be presented to disprove the allegations made by the plaintiff or prosecutor.

Step 3. Direct Examination by Plaintiff or Prosecutor

Each witness for the plaintiff or prosecution is questioned. Other evidence in favor of the plaintiff or prosecution is presented.

Step 4. Cross-Examination by Defense

The defense has the opportunity to question each witness. Questioning is used to break down the story or to discredit the witness.

Step 5. Motions

If the prosecution's or plaintiff's basic case has not been supported by the evidence introduced, the judge can end the case by a motion made by the defendant's attorney. Also, both before and after the trial, either side may ask the judge for legal rulings that affect the trial or even the entire case.

Step 6. Direct Examination by Defense

Each defense witness is questioned.

Step 7. Cross-Examination by Plaintiff or Prosecutor

Each defense witness is cross-examined.

Step 8. Closing Statement by Plaintiff or Prosecutor

The prosecutor or plaintiff's attorney reviews all the evidence presented and asks for a finding of guilty (in criminal cases) or a finding for the plaintiff (in civil cases).

Step 9. Closing Statement by Defense

This is the same as the closing statement by the prosecution or plaintiff. The defense asks for a finding of not guilty (in criminal cases) or for a finding for, or in favor of, the defendant (in civil cases).

Step 10. Rebuttal Argument

The prosecutor or plaintiff may have the right to make additional closing arguments that respond to points made by the defense in its closing statement.

Step 11. Jury Instructions

The judge instructs the jury as to the law that applies in the case.

Step 12. Verdict

A unanimous decision by the jury is required for a conviction in a criminal case. In civil cases some version of a majority is needed. The exact requirement is determined by state law.