

Steps in the Trial of a Civil Lawsuit



Outline Series for County Officials

TEXAS A&M UNIVERSITY
TEXAS AGRICULTURAL EXTENSION SERVICE
J. E. Hutchison, Director, College Station, Texas

STEPS IN THE TRIAL OF A CIVIL LAWSUIT

EUGENE MCELYEA*

Extension County Officials Program Specialist

Texas A&M University

1. Plaintiff's original petition (written pleading) filed with the court clerk.
2. Docketing—case numbered by clerk and entered on the court's docket.
3. Citation—issued by the clerk and delivered to sheriff or constable for service upon defendant.
4. After service, citation returned to clerk for filing in court's file.
5. Defendant's original answer (written pleading) filed by defendant's attorney with the clerk.
6. As permitted by the rules of procedure either party may:
 - a. file additional written pleadings
 - b. demand a jury upon payment of proper fee
 - c. file preliminary motions
 - d. request a trial setting date
7. At trial date, judge inquires as to readiness of the parties.
8. Jury selection process:
 - a. Prospective jurors are sworn and tested by the judge as to their qualifications.
 - b. Remaining qualified jurors are listed and seated in the order their names have been drawn by the clerk.
 - c. Attorneys question panel further regarding other qualifications.
 - d. Attorneys may make challenges of jurors who are legally disqualified.
 - e. Each side is permitted other challenges without cause (six for each party in a District Court case; three for each party in a County Court case).
9. The clerk swears in the jury to try the case.

*Member, State Bar of Texas.

10. Plaintiff's attorney reads his client's petition to jury.
11. Defendant's attorney reads his client's answer to jury.
12. Plaintiff's witnesses take the witness stand and are questioned by plaintiff's attorney; then cross-examined by defendant's attorney.
13. Defendant's witnesses take the witness stand and are questioned by defendant's attorney; then cross-examined by plaintiff's attorney.
14. Rebuttal testimony—either party may present testimony from witnesses to answer or rebut the other side.
15. At the conclusion of its testimony, a side will rest. When all parties have rested, the court presents the court's charge to the jury. This charge contains, in writing, the court's instruction to the jury of the applicable law.
16. A charge may be:
 - a. A general charge; or
 - b. When demanded by a party, the charge must be submitted on special issues—special questions about disputed facts to be answered by the jury.
17. Before presenting the charge to the jury, objections are made in writing by the attorneys. Attorneys must submit written proposed issues for jury consideration.
18. The final form of the charge is then read to the jury.
19. Oral argument:
 - a. Plaintiff's attorney opens the argument.
 - b. Defendant's attorney speaks.
 - c. Plaintiff's attorney closes the argument.(The side having the burden of proof is permitted to open and close)

20. Jury verdict:

Jury retires with the charge; elects a foreman and tries to arrive at a verdict which must be unanimous in Texas. Written answers to each question are submitted, if on special issues. If a general charge, they decide for plaintiff or defendant and write their verdict on the charge. In either case the foreman signs the verdict.

21. Verdict is returned by the jury and read by the judge in open court.

22. Party winning the case files a motion for judgment in his favor.

23. Judgment is entered for either plaintiff or defendant.

24. Motion for new trial filed by losing party and heard by court.

25. Losing party excepts to the court's action in overruling his motion for new trial and gives notice of appeal to the Court of Civil Appeals of the particular judicial district in which the case is tried.

The foregoing outline suggests only a general order of court trial procedure. Certain provisions may not be applicable under all circumstances. For matters not covered by this outline refer to the Texas Rules of Civil Procedure.

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