

Trial Procedures

D. Gerken

Lake Shore Central School

Civil Trial Procedures

- **Begin with the use of pleadings**
 - papers filed with the court by the plaintiff and the defendant at the beginning of a lawsuit
 - they establish the issues that the court is being asked to decide by setting forth the plaintiff's allegations (claims or assertions) and the defendant's answer to those allegations

Pleadings

- **Complaint**
 - a legal document containing a short and plain statement of the plaintiff's claim against the defendant
 - must contain sufficient facts to allow the plaintiff to win the case if the allegations prove to be true and there are no defenses to them
 - A civil lawsuit begins when the complaint is filed with the court

Pleadings

- **Complaint**
 - the clerk of the court issues a summons, or notice to the defendant that a lawsuit has begun
 - the defendant must answer the complaint within the time period or lose the case by default

Pleadings

- **Answer**
 - a formal written document that admits or denies each allegation of the complaint and states any defenses that the defendant plans to use
 - A defense is a reason that excuses an otherwise wrongful act

Methods of Discovery

- **Aim of the court is to make the facts of the case known to all parties involved before the trial begins**
- **methods use to bring facts out before the trial are called methods of discovery**

Methods of Discovery

- **Depositions**
- **Interrogatories**
- **Requests for documents and other evidence (requests for admission)**
- **physical and mental examinations**

Methods of Discovery

- **If the case cannot be settled after the discovery phase, the clerk of the court places the case on the court calendar or *docket*, for trial**

Pretrial Hearing

- **Before the actual trial takes place, a pretrial hearing usually occurs**
- **This is an informal hearing before the judge in an attempt to simplify the issues and discuss matters that might help to dispose of case quicker**



Steps in a Trial Jury

- **The steps in the trial consist of:**
 - **selecting the jury**
 - **opening statements**
 - **introduction of evidence**
 - **closing arguments**
 - **instructions to the jury**
 - **the jury's verdict**
 - **court's judgement**

Selecting the Jury

- **Judge calls court to order and has jury selected from a pool of citizens who have been called to serve as jurors**
 - **jury's job: determine the facts and apply law to those facts**
- **Judge supervises the attorney's questioning of each juror**

Selecting the Jury

- **Attorneys try to determine whether or not a juror will be biased or prejudiced**
 - look at background, education, experience, relationships, attitudes, and employment
 - check their response to certain questions

Opening Statements

- **Attorneys for each side tell the judge and jury about the case and what they intend to prove or disprove**
 - **Plaintiff's attorney goes first followed by the defendant's attorney**
 - **in some states, the defendant's attorney may postpone his/her opening statement until after the plaintiff's evidence has been presented**

Introduction of Evidence

- **At the conclusion of the opening statements, the prosecuting attorney presents, to the court and jury, all of the states evidence**
 - **documentary evidence**
 - **papers, sales slips, affidavits (sworn statements)**
 - **real evidence**
 - **actual objects**
 - **weapons, articles of clothing, photos, items found at the scene of the crime**

Introduction of Evidence

- *At the conclusion of the opening statements, the prosecuting attorney presents, to the court and jury, all of the states evidence*
 - **Testimony of witnesses**
 - **witnesses observed events relevant to the case**
 - **they are subpoenaed (requested to appear in court) to testify to the facts within their personal knowledge**
 - may also testify to opinions formed based on facts they perceived
 - **expert witnesses**
 - do not testify to the facts but give expert opinion

Introduction of Evidence

- **The defendant's attorney has the opportunity to cross examine or question the plaintiff's witness**
 - **this further tests the truth of the witnesses statements and brings our any related evidence that was not developed on direct examination**

Introduction of Evidence

- **When the plaintiff's attorney rests, the defendant's attorney presents evidence favorable to the defendant**
- **Plaintiff's attorney then has the opportunity to cross examine the defendant's witnesses**
- ***When both attorneys have introduced all their evidence-they rest their case***

Closing Arguments

- **After both attorneys have rested their cases, they present their closing arguments**
 - **The plaintiff's attorney is first, followed by the defendants**
 - **Summarize evidence and suggest reasons why the judge or jury should rule in their favor**

Instructions to the Jury

- **The Judge - the trial's referee, delivers the jury instructions**
 - explains the law in understandable terms

Instructions to the Jury

- The Judge - the trial's referee, delivers the jury instructions
 - **The jury is composed of ordinary people who are usually not experts in law, therefore someone has to explain the law to them**

Verdict and Judgement

- **After instructions, the jury members go to the jury room for deliberations**
- **The jury's decision is called a verdict**
 - **In a civil case, the jury finds... “in favor of...” one of the parties**
 - **Following the verdict, the court issues a judgement**

Verdict and Judgement

- The jury's decision is called a verdict
 - In a civil case, the jury finds... “in favor of...” one of the parties
 - **Following the verdict, the court issues a judgement**
 - This is the court's determination or decision in a case
 - It usually conforms to the verdict unless a new trial has been granted or a mistrial has been declared after the return of the verdict
 - This determines the rights of the parties

Execution of judgement

- **There is now a winning party and a losing party**
- **The judgement of the court must be executed (carried out)**
 - **plaintiff may receive payments in settlement (from defendant)**
 - **judgement is enforced by issuance of an execution by the court**

Execution of judgement

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 - plaintiff may receive payments in settlement (from defendant)
 - judgement is enforced by issuance of an execution by the court
 - **order by judge to take property and sell it or removal of someone or something**
 - **sometimes the winning party must return to court to enforce the judgement**

Civil Trial Procedures

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 - **Complaint**
 - **Answer**
- **Discovery**
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 - **Requests for documents and other evidence (requests for admission)**
 - **physical and mental examinations**
- **Pre-Trial Hearing**

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Criminal Trial Procedure

- **Arrest of the defendant**
- **Rights of the defendant**
- **Search and Seizure**
- **The Arraignment**
- **The Trial**

Arrest of the defendant

- **Deprived of his or her freedom**
- **warrant**
 - **an order issued by a court saying that a person is charged with a crime and is to be arrested**
- **w/out a warrant**
 - **person has committed a felony or misdemeanor**
 - **reasonable belief**

Rights of defendant

- **Miranda rights**
- **Bail - depending on charge**
 - **money or other property to left with the court to assure the court that the person will return to stand trial**
- **Right to a fair trial by a jury of their peers**

Search and Seizure

- **Search warrant is a court order allowing an officer to conduct a search**
 - must be limited to area mentioned
 - those being searched have right to see warrant
- **Limited search without warrant (frisk) allowed if reasonable belief**
- **If arrested, you may be searched without warrant**

Search and Seizure

- **If someone in car is arrested a limited search of the vehicle is allowed**
- **“Plain view” search**

The Arraignment

- **A procedure in which the accused is brought before the court, read the indictment or information, and asked to plead guilty or not guilty**
- **Accused is informed of his or her rights**
- **If guilty plea, the judge may impose sentence, if not the case goes to trial**