

1 PJI 12 | DESCRIPTION OF TRIAL PROCEEDINGS

The trial will proceed in the following manner:

First, attorney(s) for [plaintiff(s)] will make an opening statement to you. Next, attorney(s) for [defendant(s)] may make an opening statement. What is said in the opening statements is not evidence, but is simply an outline to help you understand what each party expects the evidence to show. [A party is not required to make an opening statement.]

After [Before] the attorneys have made their opening statements, [I will instruct you on the applicable law and] then each party is given an opportunity to present its evidence.

[Plaintiff] goes first because [plaintiff(s)] [has/have] the burden of proof. [Plaintiff(s)] will present witnesses whom counsel for [defendant(s)] may cross-examine, and [plaintiff(s)] may also present evidence. Following [plaintiffs'] case, [defendant(s)] may present evidence. Counsel for [plaintiff(s)] may cross-examine witnesses for the defense. [After the parties' main case is presented, they may be permitted to present what is called rebuttal evidence.]

After all the evidence has been presented, [I will instruct you on the law and then] the attorneys will present to you closing arguments to summarize and interpret the evidence in a way that is helpful to their clients' positions. As with opening statements, closing arguments are not evidence. [Once the closing arguments are completed, I will then instruct you on the law.] After that you will retire to the jury room to deliberate on your verdict in this case.

[At this point the court may wish to inform the jury of the scheduling and length of the trial, and other logistical information.]

COMMENT

This instruction is derived from Fifth Circuit 1.1; Eighth Circuit 1.06; and former Ninth Circuit 1.12. Cf. Ninth Circuit 1.19.

Bracketed material allows options to the court on when to give instructions on the law. It is recommended that instructions on the law be given at various points in the trial in order to aid jury comprehension.

(Last Updated October 2017)

