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| --- | --- | --- | --- | --- | --- |
| Requested by Plaintiffs |  | Requested by Defendant |  | Requested by Cross-Complainants |  |
| Given as Requested |  | Given as Modified |  | Given on Court’s Motion |  |
| Refused  Withdrawn |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Judge | | | |
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101 Overview of Trial

To assist you in your tasks as jurors, I will now explain how the trial will proceed. I will begin by identifying the parties to the case. [*Name of plaintiff*] filed this lawsuit. [He/She/*Nonbinary pronoun*/It] is called a [plaintiff/petitioner]. [He/She/*Nonbinary pronoun*/It] seeks [damages/[*specify other relief*] from [*name of defendant*], who is called a [defendant/respondent].

[[*Name of plaintiff*] claims [*insert description of the plaintiff’s claim(s)*]. [*Name of defendant*] denies those claims. [[*Name of defendant*] also contends that [*insert description of the defendant’s affirmative defense(s)*].]]

[[*Name of cross-complainant*] has also filed what is called a cross complaint against [*name of cross-defendant*]. [*Name of cross-complainant*] is the [defendant/respondent], but also is called the cross-complainant. [*Name of cross-defendant*] is called a cross-defendant.]

[In [his/her/*nonbinary pronoun*/its] cross-complaint, [*name of cross-complainant*] claims [*insert description of the cross-complainant’s claim(s)*]. [*Name of cross-defendant*] denies those claims. [[*Name of cross-defendant*] also contends that [*insert description of the cross-defendant’s affirmative defense(s) to the cross-complaint*].]]

First, each side may make an opening statement, but neither side is required to do so. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence will show. Also, because it is often difficult to give you the evidence in the order we would prefer, the opening statement allows you to keep an overview of the case in mind during the presentation of the evidence.

Next, the jury will hear the evidence. [*Name of plaintiff*] will present evidence first. When [*name of plaintiff*] is finished, [*name of defendant*] will have an opportunity to present evidence. [Then [*name of cross-complainant*] will present evidence. Finally, [*name of cross-defendant*] will present evidence.]

Each witness will first be questioned by the side that asked the witness to testify. This is called direct examination. Then the other side is permitted to question the witness. This is called cross-examination.

Documents or objects referred to during the trial are called exhibits. Exhibits are given a [number/letter] so that they may be clearly identified. Exhibits are not evidence until I admit them into evidence. During your deliberations, you will be able to look at all exhibits admitted into evidence.

There are many rules that govern whether something will be admitted into evidence. As one side presents evidence, the other side has the right to object and to ask me to decide if the evidence is permitted by the rules. Usually, I will decide immediately, but sometimes I may have to hear arguments outside of your presence.

After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments. What the parties say in closing argument is not evidence. The arguments are offered to help you understand the evidence and how the law applies to it.

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| *New September 2003; Revised February 2007, June 2010, May 2019, May 2020* |

**Directions for Use**

This instruction is intended to provide a “road map” for the jurors. This instruction should be read in conjunction with [CACI No. 100, Preliminary Admonitions](http://www.westlaw.com/Link/Document/FullText?findType=Y&pubNum=164298&cite=CACI100&originatingDoc=I904aae82f98d11db97c9c9e44fb98cc8&refType=NA&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

The bracketed second, third, and fourth paragraphs are optional. The court may wish to use these paragraphs to provide the jurors with an explanation of the claims and defenses that are at issue in the case. Include the third and fourth paragraphs if a cross-complaint is also being tried. Include the last sentence in the second and fourth paragraphs if affirmative defenses are asserted on the complaint or cross-complaint.

The sixth paragraph presents the order of proof. If there is a cross-complaint, include the last two sentences. Alternatively, the parties may stipulate to a different order of proof—for example, by agreeing that some evidence will apply to both the complaint and the cross-complaint. In this case, customize this paragraph to correspond to the stipulation.