



Personal Injury Lawsuit in Tennessee - from start to finish (part 3)

You've finally gotten there, the trial!

01

Voir Dire

You've been preparing for your trial and meeting with your attorney to go over testimony. Then, you show up for court bright and early one morning.

The first thing to happen is that you will pick a jury. There will be a roomful of people present and your attorney will get up and ask them questions about what they do for a living, if they've ever been in a car accident, and any experience they have had with insurance companies. This process is called a weird Latin word, Voir Dire.

Voir Dire is the process by which you and your attorney determine what jurors will hear and decide your case. Based on the answers from the jurors and the impressions you get from them based on not only their answers, but also their body language, your attorney and you can strike a number of potential jurors from the jury. The number of strikes you can usually do is 3 to 6.

This process can take 20 minutes, or a few hours, but this is a critical process because the jury is the one who will decide the case and they will determine your case not only based on the evidence and testimony presented, but also based upon their own personal thoughts, impressions, and life experiences they bring with them into the courtroom.

02

Opening Statements

Once you're done picking the jury, you will move right in to the actual trial. This begins with opening statements.

In the opening statements, the attorneys will lay out for the jury their theory of the case, what the testimony will say, and why the jury should decide in their favor. And let me say this, the more complicated the case, the longer the opening statement will take. The more money at stake in a case, the longer it will take.

When we talk about opening statements in a small car wreck case, it may only take 15-30 minutes for each side. If we're talking about opening statements in a case where someone has died, it may take multiple hours for the opening statements to conclude. The person who is bringing the lawsuit is called the Plaintiff. The person defending the lawsuit and/or the person who is being sued is called the Defendant. In Tennessee, it is the Plaintiff's burden to prove their case by a preponderance of evidence. So, in the opening statements, as in all aspects of the case, the Plaintiff will speak first, followed by the Defendant.

03

Plaintiff's Case and Witnesses

After the parties have performed the opening statements, then the Plaintiff will put on their proof. This is where they will be asked to prove their case. They will have the plaintiff testify about the accident and their injuries, how the accident occurred, and how the accident has negatively affected their lives since the accident occurred.

Why is this important? Well, the Plaintiff cannot be given back that time they lost to pain that they experienced as a result of the accident. They are there asking the jury to award them money. The Plaintiff's case should be, "I'm asking for this amount of money, here are all of the reasons why you should give it to me?"

Not only will the plaintiff testify, but also other witnesses to the accident, and even friends and family who have seen how the accident has affected their lives.

The Plaintiff will also have to put on medical testimony about any medical treatment they received, what that treatment cost, and whether those treatments were medically necessary. This is a critical portion of the case. Doctor's time is considered too important for the courts to actually make them attend court, so the Plaintiff will have to present sworn deposition testimony of the Plaintiff's doctors saying the treatments were for the injuries they got as a result of the accident, they were necessary, and the costs of those bills were reasonable.

This is a lot that the Plaintiff has to do. If he doesn't prove his case by a preponderance of the evidence, then there is a chance they won't get as much as money as they are asking for, or they may get nothing. So there can be a lot of stress on the Plaintiff and the Plaintiff's attorney to prove their case. They've worked months, and even years, for this chance to prove their case and there is the possibility they may get nothing. That's why lots and lots of Plaintiffs settle their cases before trial.

If the Defendant's insurance company isn't offering them very much money, they may be thinking that it's better to get a little money than no money.

04

Direct and Cross Examination

Every single witness the Plaintiff calls to testify will go through two different parts of their testimony: direct examination and cross examination. Direct examination is questioning by the side that calls you to the stand, and cross examination is testimony by the other side. When the actual Plaintiff testifies, he will give direct testimony, and then the Defendant's attorney will cross examine them. The Defendant's attorney has the option of asking questions, he is not required to do so.

05

Defendant's Case and Witnesses

So the Plaintiff will put on all of their witnesses. This could take a few hours, to a number of days. After the Plaintiff is finished presenting his evidence then the Defendant will present their evidence. What they are basically doing is saying, "Here's why you should decide in favor the Defendant and give the Plaintiff nothing, or much less than what they are asking you to give them."

The Defendant may even say that they admit that the accident was their fault, but that there is a disagreement about damages. So then the Defendant will present their testimony.

Keep in mind, the Defendant isn't required to present any evidence. They may actually decide to not present a single witness. Their entire case may just be cross examining the Plaintiff and the Plaintiff's witnesses and trying to poke holes in their case.

Generally, the Defendant's case is much shorter and takes less time than the Plaintiff's case does. But nevertheless, they are presented the opportunity to do so. They may talk about how the accident wasn't that serious, how after the accident, the Defendant heard the Plaintiff say that they felt fine, or that the Defendant wasn't actually responsible for the accident, it was the Plaintiff who was responsible for the accident.

06

Closing Argument

Then the parties will move to closing argument. In closing argument, the attorneys will remind the jury of the important parts of the testimony that they have heard. They will emphasize and exhort to the jury why they should decide a certain way.

During closing arguments, the Plaintiff will speak first, then the Defendant, then the Plaintiff will have a last chance to rebut the arguments of the Defendant and make their final arguments to the jury.

You can see why I stressed the importance of recording and tracking everything that happens the second after an accident. If you are relying on your memory to recall your accident, you might find yourself in some trouble. The more details you have and the better you are at recalling actual facts instead of trying to

guess or appearing confused on the stand, the more confidence the jury will have that you are telling the truth. And you need to have the jury on your side if you want the outcome to be positive.

07

Jury Deliberations and Verdict

So then the jury will go back in to the jury room and deliberate. They will discuss among themselves the case and then come to a decision and come back in the courtroom and announce that decision.

The decision by the jury must be unanimous. That is the most important thing to know. So if the jury disagrees, then they will have to sit in there and hash out their differences until they can come to an agreement. This might take just a few minutes, or it might take days. I tried a 3-day case and the jury returned the verdict after 3 hours. So you never know how long it will take.

While the parties are waiting for the jury to decide, they may go get something to eat, leave the courthouse and return home, it just depends on how it takes for them to decide. So once the jury has decided, the parties will then come back in the courtroom and the jury will read its decision. So, you either win or lose at the end of the trial.

08

After the Verdict

You have now walked through the entire process. After the trial, there are other things to worry about. There is a 30-day appeal period, if either side decides to take the case to a higher court of appeals. Or there may be the issue of trying to get the money from the side that loses. They may declare bankruptcy or say they have to pay by installments, the process can go on and on for some time period.

Most people believe that once the trial is over there is just a stack of cash sitting in a room where they are able to get paid right away. That's just not the case. There is a whole lot more that goes in to resolving the case after the trial, but for

the vast majority of the cases, this will be where the case meets its end, or very close to it.

Additional Resources:

[Author Website](#)

About this Author:

Born and raised in Knoxville, Tennessee and received his education just up the road at Carson-Newman, Jed loves everything about East Tennessee, from the Smoky Mountains to his hometown Tennessee Vols. After a brief stint practicing law in Clarksville, TN, Jed came back home to Knoxville where he has enjoyed practicing law since 2008.