

Generally, the process in district court involves the assertion of claims and the presentation of evidence to support or refute claims.

Civil cases typically fall into three major categories: family law (e.g., divorce and child support and custody), tort law (e.g., personal injury, property damage, or product liability), and contract law (e.g., written and oral agreements). The procedures for each type of civil case are essentially the same with slight differences for family cases and small claims cases.

## Pretrial Procedures

**First Steps: Petition and Answer**—A civil action is commenced by one party filing a petition in the district court clerk's office. In most cases, this party is referred to as the plaintiff. In domestic relation cases, the person filing the petition is the petitioner. In the petition, the plaintiff sets forth the parties involved, the plaintiff's legal claims, and the remedy sought by the plaintiff. The petition must be served on the opposing party. An opposing party, referred to as the defendant or in domestic relations cases, the respondent, has an opportunity to file an answer to the petition. An answer is a document denying or admitting liability.

**Pretrial Motions and Discovery**—After the initial petition, the parties may file pretrial motions. These motions may request the court to dismiss the entire lawsuit, dismiss a claim or party, or limit the evidence to be presented at trial. The parties may also engage in discovery—a process to obtain information from the opposing party. During discovery, a party may file interrogatories, which are written questions to be answered by the other party. A party may also take depositions, or ask oral questions, of a witness after the witness has taken an oath to tell the truth. Parties often reach a settlement or an agreement to resolve the lawsuit during this process.

**Pretrial Conference**—After the completion of the discovery process and the filing of any pretrial motions, the court will schedule a pretrial conference unless the parties have reached a settlement. During the pretrial conference, a judge and the lawyers for the parties discuss a wide variety of trial topics and the judge will set a trial date.

## Civil Trial

Certain civil actions, such as family law cases and probate cases, do not involve a jury. Other civil actions may be tried to either a judge (referred to as a bench trial) or a jury. Generally, the plaintiff must request a jury trial. If such a request is not made, the case will proceed to a bench trial, in which the judge, rather than a jury, acts as the fact finder and enters the verdict.

**Jury Selection**—If the plaintiff requests that a jury determine the outcome, the court will proceed with the jury selection process. A jury panel consisting of sixteen jurors will be drawn randomly from a jury pool. The judge and the parties then have the opportunity to ask the prospective jurors questions to screen for potential biases. This process is referred to as *voir dir*. From that panel, each party will strike or remove four jurors, leaving an eight-person jury.

**Opening Statements**—Each party has the opportunity to give an opening statement, which is an overview of the evidence that is expected to be presented. The opening statements are followed by the presentation of evidence.

**Presentation of Evidence**—Parties generally present evidence by calling witnesses and asking questions. Each party must abide by the Iowa Rules of Evidence in doing so. These rules govern what evidence is admissible at trial, and how it is presented. If a party believes the other party is not following the rules, that party may raise an objection: “I object!” The judge will either sustain (grant) or overrule (deny) the objection.

The plaintiff must present evidence first. The defendant has the opportunity to cross-examine—question the plaintiff’s witnesses. After the plaintiff is done presenting evidence, the defendant may present evidence. However, the defendant is not required to present evidence because the plaintiff has the burden to prove his/her case. If the defendant does present evidence, the plaintiff has the right to cross-examine each defense witnesses. After the completion of the defendant’s case, the plaintiff may present further evidence to rebut the evidence presented by the defendant.

**Closing Arguments**—Once all parties are through presenting their evidence, they each have an opportunity to make closing arguments. Closing arguments are an opportunity to persuade the judge or jury to decide the case in favor of a party. Closing arguments must be based upon the evidence produced in trial.

**Jury Deliberation**—Prior to or after closing arguments, the court will give the jury instructions. Jury instructions describe the law and procedure that the jury must follow in making its decision. After the conclusion of the closing arguments, the jury will discuss the evidence in private. To reach a decision, seven of the eight jurors must agree. If the jury cannot agree, the court may declare a hung jury and the case may be tried again to another jury at a later date.

### **Other Civil Procedures: small claims and family law cases**

Small claims procedures are a simplified version of basic civil procedures. Small claims cases never involve the use of a jury or opening or closing arguments. In a small claims case, strict adherence to rules of evidence is not required.

Family law cases such as dissolution of marriage cases never involve a jury or opening and closing arguments.