LAW CLASS
How Courts Work

Steps in a Trial

Presentation of Evidence by the Defense

The defense lawyer may choose not to present evidence, in the belief that the plaintiff or government did not prove its case. Usually, however, the defense will offer evidence.

In a criminal case, the witnesses presented by the defense may or may not include the defendant. Because the Fifth Amendment to the U.S. Constitution protects against self-incrimination, the prosecution cannot require the defendant to take the stand and explain what happened, nor can it comment or speculate on the reasons the defendant has chosen not to testify. The jury will be instructed not to take into account the fact that the defendant did not testify.

The defense presents evidence in the same manner as the plaintiff or state, and the plaintiff or government in return has the right to cross-examine the defense's witnesses. Re-direct and re-cross examination also are permitted.

Rebuttal

At the conclusion of the defendant's case, the plaintiff or government can present rebuttal witnesses or evidence to refute evidence presented by the defendant. This may include only evidence not presented in the case initially, or a new witness who contradicts the defendant's witnesses.