



Name: \_\_\_\_\_

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**SS.7.CG.3.9 Benchmark Clarification 4:** Students will compare the trial and appellate processes.

The trial and appellate processes are very different. Below is a brief review of these two types of court proceedings.

### **Process of a Criminal Trial**

When the police make an arrest, suspects are charged with a crime and informed of their rights (as a result of the 1966 Supreme Court case ***Miranda vs. Arizona***, see Benchmark 3.11). Suspects then go to court to hear the charges against them and to listen to the judge's decision on what will happen next. Suspects are asked to enter a plea. They can plead guilty, not guilty, or no contest (which means that the suspect does not disagree with the charge).

During a **criminal** trial, there are four general steps:

1. Step 1: Both the **prosecution** and the **defense** give their opening statements to tell the judge and the jury their side of the case. The prosecution always represents the government and the victim of the crime in a **criminal case**. The defense always represents the person charged with the crime.
2. Step 2: Each side calls witnesses to give testimony (answers given under oath) in the case. These witnesses are also **cross-examined** by the other side.
3. Step 3: Once all the witnesses have been questioned, the prosecution and defense give their closing statements and ask the jury to rule in their favor.
4. Step 4: The **jury** members leave the courtroom to deliberate (discuss the evidence in the case). When they reach a unanimous decision (all jury members agree), they announce their verdict (decision).

### **Process of a Civil Trial**

**Civil cases** involve disputes between people or groups of people where no criminal laws have been broken. When a civil case goes to court, it is called a lawsuit, which is a legal action in which a person or group sues to collect damages (an award of money) for some harm that is done. The **plaintiff** in a civil trial is the individual or group that files the lawsuit, and the **defendant** is the individual or group that is being sued.

During a civil trial (lawsuit), there are four main steps:

1. Cases begin when a complaint is filed (a formal statement naming the people involved and describing the reason for the lawsuit).

2. Next, the court sends a summons (a document that tells defendants there is a lawsuit against them and orders them to appear in court). The defendant responds to the suit in a pleading that explains their side of the case.
3. Next is the discovery process. Discovery means that lawyers for the plaintiff and defendant check the facts and gather the evidence for the case.
4. Finally, the lawsuit is heard before a **judge** or jury. If there is a jury, it will decide based on the evidence and facts of the case. When the case is heard only by a judge, the judge's ruling is called a **summary judgment**.

## **The Appellate Process**

Appeals courts have **appellate jurisdiction**, meaning they can review the rulings and decisions from lower courts if the people or groups involved believe the court acted unfairly. Appeals can occur if (1) the judge applied the law incorrectly, (2) the judge used the wrong procedures, (3) new evidence turns up, or (4) someone's rights were violated.

Depending on the type of case, the evidence, and the arguments from both sides, appeals courts decide which cases they will hear. Appeals courts do not hold trials. Instead, they hear oral arguments made by two sides – the petitioner (the person who disagrees with the previous ruling) and the respondent (the person who agrees with the previous ruling). Then the judges may do one of three things: (1) uphold (agree with) the original decision, (2) reverse the decision (find in favor of the petitioner), or (3) return the case to the lower court.

Panels of three or more appellate judges review the case being appealed and decide by a majority vote. The appeals court decision is final unless it is appealed to the U.S. Supreme Court. Appeals court judges do not decide on guilt or innocence. They determine whether the petitioner's rights have been protected and if the petitioner received.

**appellate jurisdiction** - the power to hear appeals of cases that have been tried in lower courts

**civil case** - a case involving the rights of citizens

**criminal case** - a case involving someone who is accused of committing an illegal activity

**cross-examination** - the follow-up questioning of a witness by the side that did not call the witness to the stand

**defendant** - the person who answers the legal action of a plaintiff

**defense** – the person who answers the legal action of a prosecutor

**judge** - a public official who decides questions brought before a court

**jury** - a group of citizens sworn to give a true verdict according to the evidence presented in a court of law

**Miranda v. Arizona** - U.S. Supreme Court cases that upheld the Fifth Amendment protection from self-incrimination

**plaintiff** - the person who brings legal action against another person in a civil trial

**prosecution** - the person who brings legal action against another person in a criminal trial

**summary judgment** - a judgment decided by a trial court without the case going to trial; a summary judgment is an attempt to stop a case from going to trial