

Trial by Jury

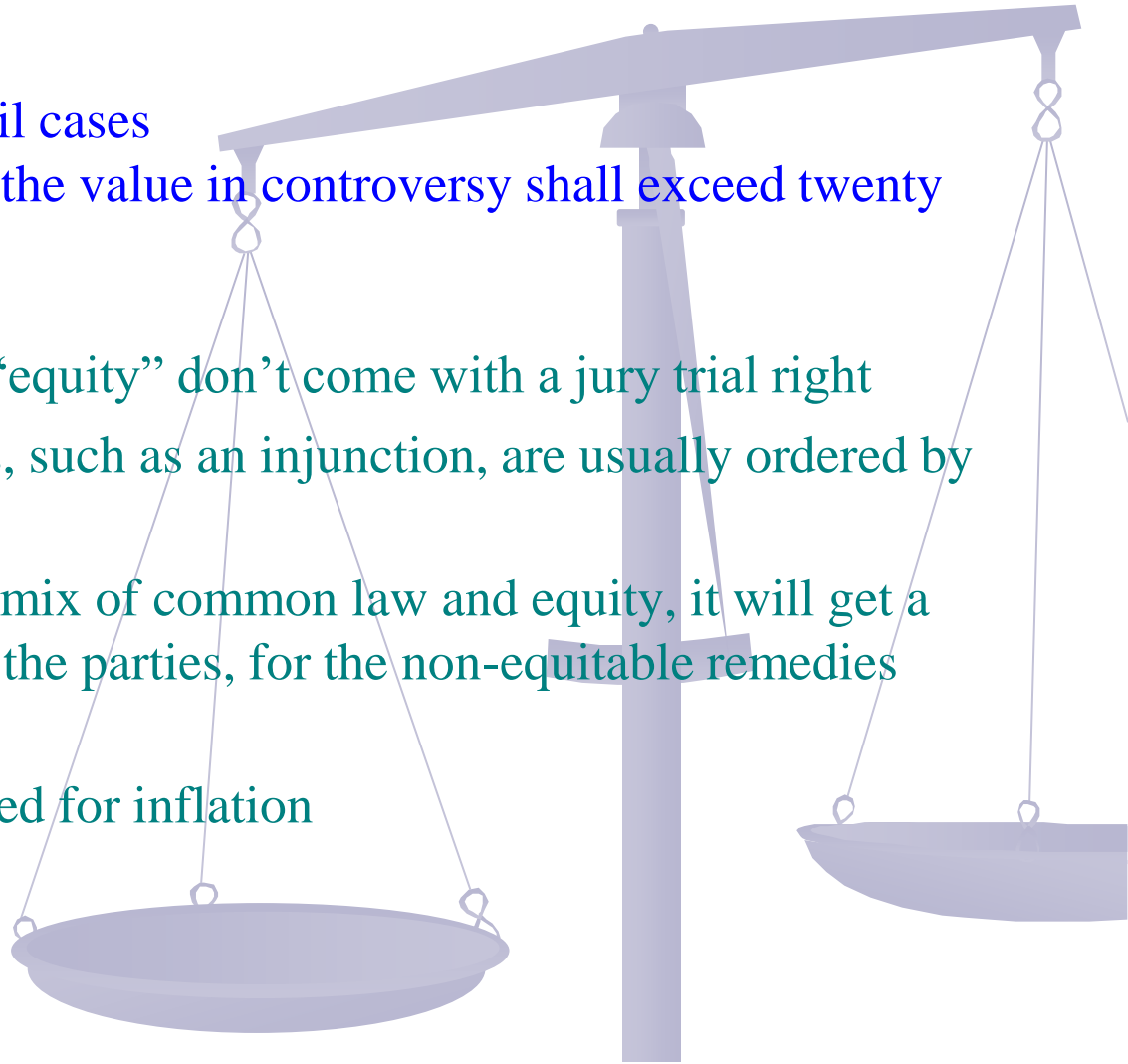
- ✦ Very different from the criminal law right to trial by jury!!

The Right to a trial by Jury

The right to a jury applies in civil cases

“In suits at common law, where the value in controversy shall exceed twenty dollars”

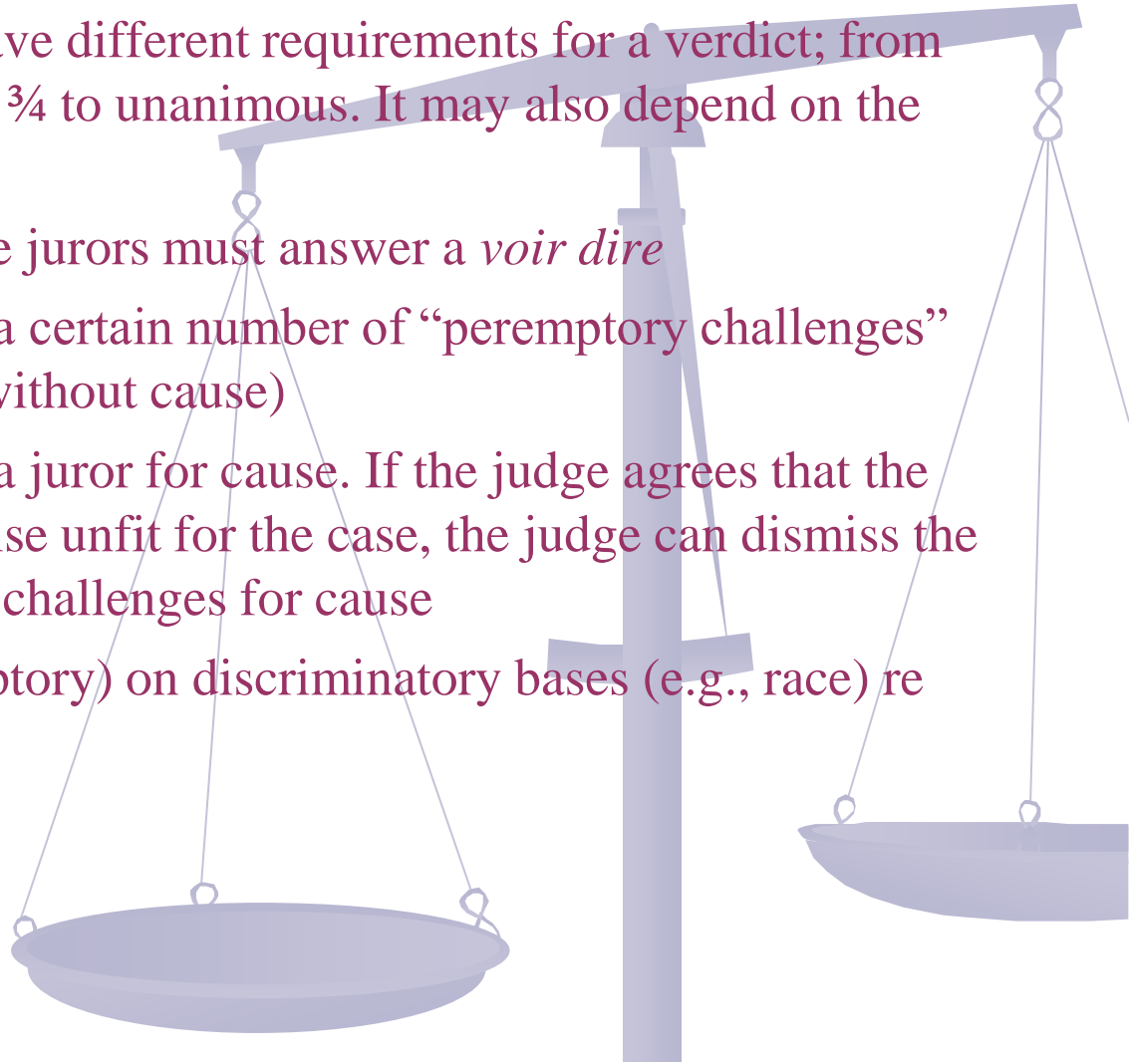
- This means that suits in “equity” don’t come with a jury trial right
- Thus, equitable remedies, such as an injunction, are usually ordered by a judge, not a jury
- If there is a trial that is a mix of common law and equity, it will get a jury trial at the option of the parties, for the non-equitable remedies involved
- The \$20 clause is modified for inflation



Trial by Jury (cont.)

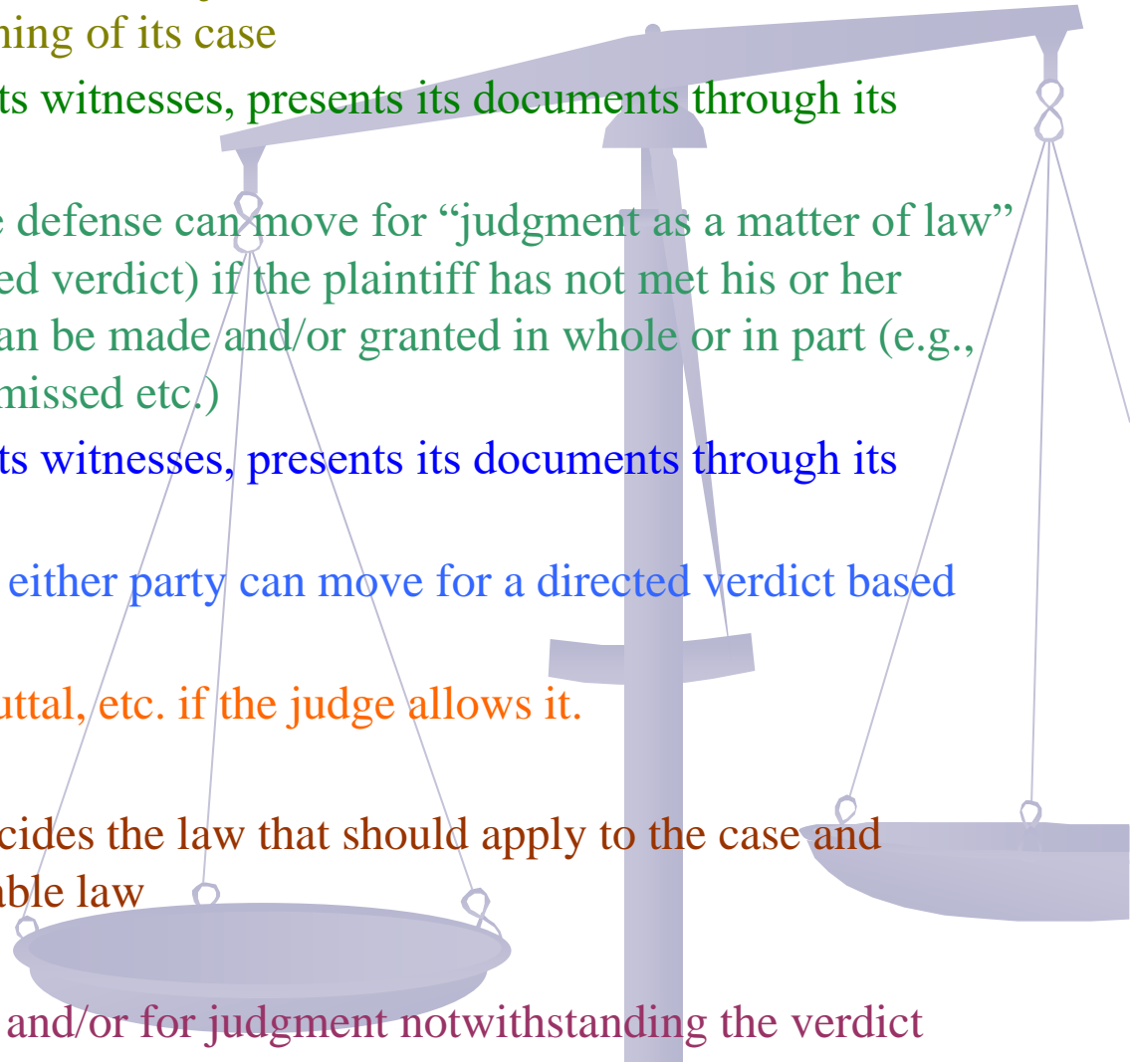
Jury Selection

- Civil juries usually contain 6-12 members (plus alternates)
- Different jurisdictions have different requirements for a verdict; from simple majority to 2/3 to 3/4 to unanimous. It may also depend on the type of case
- During jury selection, the jurors must answer a *voir dire*
- Each side normally gets a certain number of “peremptory challenges” (ability to strike a juror without cause)
- Each side can challenge a juror for cause. If the judge agrees that the juror is biased or otherwise unfit for the case, the judge can dismiss the juror; there is no limit to challenges for cause
- Challenges (even peremptory) on discriminatory bases (e.g., race) re prohibited



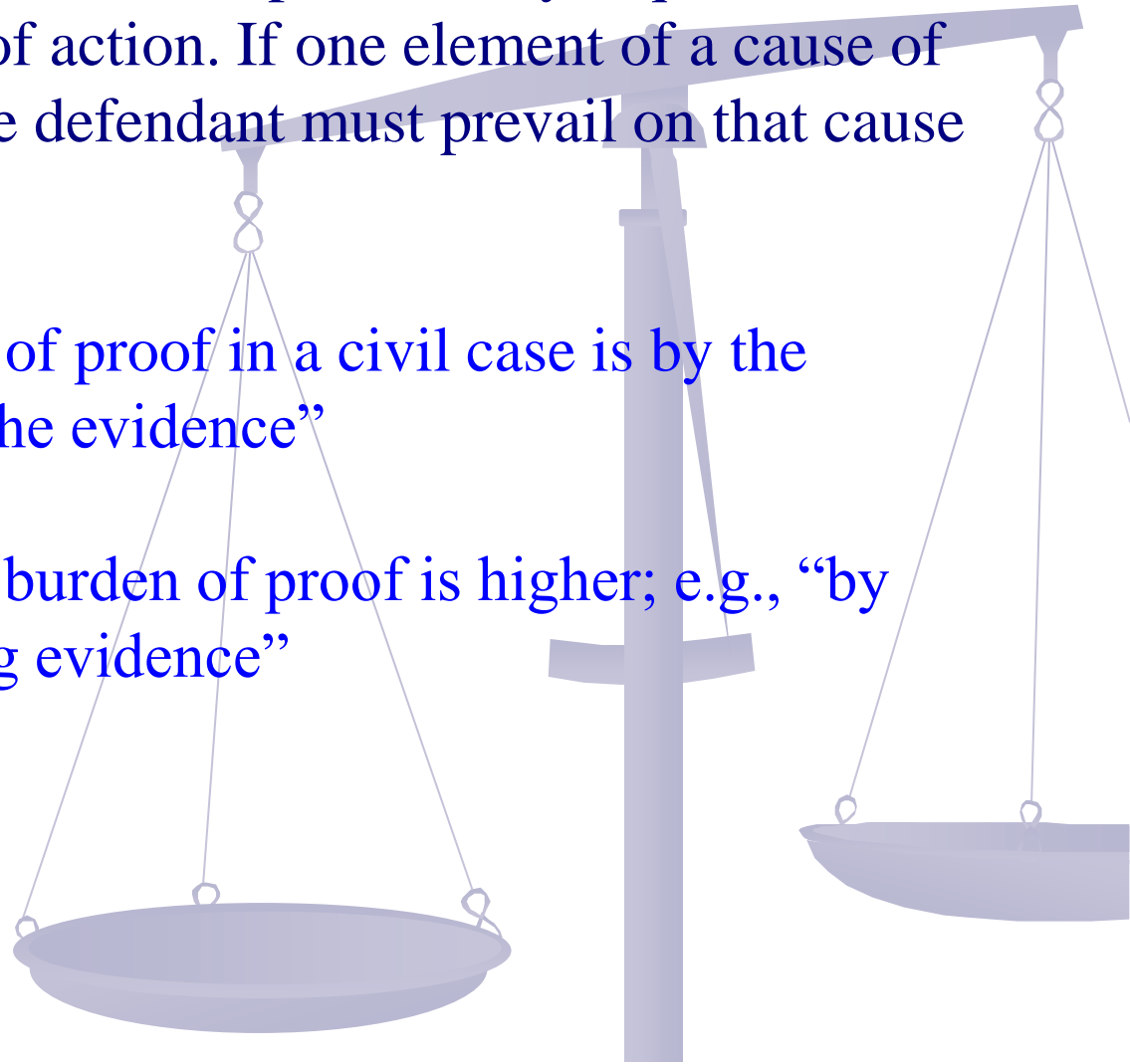
Order of the Trial

1. Plaintiff's opening statement
2. Defense opening statement (optional); so jurisdictions allow the defense to make its opening statement at the beginning of its case
3. Plaintiff's case; Plaintiff calls its witnesses, presents its documents through its witnesses, etc.
4. After plaintiff rests its case, the defense can move for "judgment as a matter of law" (also sometimes called a directed verdict) if the plaintiff has not met his or her burden of proof. This motion can be made and/or granted in whole or in part (e.g., one cause of action may be dismissed etc.)
5. Defense's case; Defense calls its witnesses, presents its documents through its witnesses, etc.
6. After the defense rests its case, either party can move for a directed verdict based on the evidence.
7. rebuttal by the plaintiff, surrebuttal, etc. if the judge allows it.
8. Closing statements
9. Jury instructions: The judge decides the law that should apply to the case and instructs the jury on the applicable law
10. Jury verdict
11. Post-trial motions for new trial and/or for judgment notwithstanding the verdict



Burdens of Proof & Standards for Motions

- ✦ In a civil case, the plaintiff has to prove every requirement element of each cause of action. If one element of a cause of action is not proven, the defendant must prevail on that cause of action.
 - Usually, the burden of proof in a civil case is by the “preponderance of the evidence”
 - For some cases, the burden of proof is higher; e.g., “by clear and convincing evidence”



Burdens of Proof & Standards for Motions (cont.)

Motions that can end the case:

Judgment on the pleadings: Based on the pleadings, one party loses even if everything his or her pleading says is true

Summary judgment: a judgment made prior to trial based on the available documents and evidence

Directed verdict/ judgment as a matter of law (after a party rests its case): At any point, in order to grant a directed verdict, the judge must find that, given the evidence in the light most favorable to the non-moving party, no reasonable jury could conclude that the non-moving party could win the issue!! i.e., there is no “triable issue of fact.”

Judgment notwithstanding the verdict: A judge can decide, after the verdict that, no reasonable jury could have reached the conclusion that the jury reached (the jury was unreasonable)

So, why deny the motion before the verdict and then grant JNOV??

New Trial: In a civil case, after the verdict, the judge can rule that the verdict was “against the weight of the evidence” and order a new trial. Judges use this method to decrease excessive verdicts...

