Criminal Bench Trial

(Bailiff asks for all to rise, announcing the judge, county and precinct.)

**Judge: Good morning. My name is Judge \_\_\_\_\_\_. You’ve met the Bailiff, \_\_\_\_\_\_\_\_\_ already. My court clerk, \_\_\_\_ , (is seated here OR may also enter the courtroom from time to time and if he/she does, he/she will sit here.)**

**This other chair is called the witness stand, and anyone who will be giving testimony under oath will sit here to speak.**

**Today we have the case of The State of Texas v \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**Mr./Ms. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(defendant), now that you are here for your trial day, I want to make sure you understand your rights. First, you do not have to say or do anything. You may choose to make arguments, ask questions of witnesses, and present evidence, but you do not have to do any of these things. You also do not have to testify.**

**Do you understand your rights?**

**You may also choose to change your plea now or at any time before the case is over and I have given my judgment.**

**Do you understand this choice that you have?**

**Are both parties ready?**

(Allow both parties to respond.)

**This is a criminal case. The State of Texas claims that a law was broken and has brought this case to trial.**

**It is important to keep all electronic devices OFF. If your phone is not turned off, the Bailiff will hold it until the trial is over.**

**This case will not likely last longer than a couple of hours, but I will pay attention to the need for comfort breaks.**

**My role is to apply the law and make sure that the case proceeds fairly.**

**Because the State of Texas brought the charges, they will always go first Mr./Ms. \_\_\_\_\_\_\_\_ (defendant), you will always have an opportunity to respond.**

**We will begin with opening statements. Then the State will have any witnesses testify and provide any physical evidence they are relying on.** **Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you will have a chance to question those witnesses and look at any documents presented. When the State is finished, Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you will have the chance to** **call any witnesses and provide any physical evidence you would like me to consider The state may choose to put on a rebuttal case. Both sides will then have a chance to make their final arguments.**

**Both sides will have 5 minutes for an opening statement.**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor) , you may begin your opening now.**

(once the state is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you may begin your opening statement if you choose now.**

**\*\*\*The Defendant can also waive their opening statement until the beginning of their case. If the Defendant waives, make sure to ask again after the State has ‘rested’ their case\*\*\***

(once the defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), please call your first witness.**

*\*\*\*If there are any documents either side wants to use during this trial, make sure that they show each other before showing the witness or the court.\*\*\**

(To the witnesses) **Please take the stand and to be placed under oath. Raise your right hand: “Do you solemnly swear to tell the whole truth, and nothing but the truth”?**

**Mr./Ms. \_\_\_\_\_\_\_\_\_\_ (prosecutor) , you may begin to ask questions.**

(once the state has finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any question for this witness?**

(If yes, allow them to ask, if no, ask the witness to step down.)

**You may begin to ask question now.**

(once the defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any follow-up questions?**

**\*\*\*you may allow the Defendant and State to continue to take turns asking follow-up questions, but do not have to \*\*\***

(if yes, allow them to ask, if no, ask the witness to step down)

(to the witness) **Please step-down from the witness stand.**

\*\*\*Follow this same process for any additional witnesses.\*\*\*

\*\*\*Once the State is finished with their witnesses and documents, they should say that they “rest.”\*\*\*

**\*\*\*If the Defendant waived their opening, you should ask if they would like to make theirs now: Mr./Ms. \_\_\_\_\_\_\_\_(defendant), you may make an opening statement now, if you choose.\*\*\***

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any witnesses that you would like me to hear from? You may also testify yourself.**

*\*\*\*If they choose to testify, they should take the stand and be sworn in like any other witness: a party’s testimony will be them telling a story rather than asking themselves questions and answering. You may need to explain this to them.\*\*\*\*\**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), please call your first witness.**

(once the defendant has finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any question for this witness?**

(If yes, allow them to ask, if no, ask the witness to step down.)

**You may begin to ask question now.**

(once the State is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any follow-up questions?**

(once the Defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any follow-up questions?**

**\*\*\*You may allow the Defendant and State to continue to take turns asking follow-up questions, but do not have to. \*\*\***

(If yes, allow them to ask, if no, state the below.)

(to the witness) **Please step-down from the witness stand**

(Follow this same process for any additional defense witnesses.)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any further witnesses or any documents you want to introduce?**

(If yes, follow the procedure above, if no, say the below)

**Defendant, do you rest your case; meaning you are finished with you witnesses and evidence?**

(the Defendant should say yes)

**At this time, both sides will have a chance to make a closing argument. Each side will have ten minutes. State, you may reserve up to 2 minutes of the 10 for a potential rebuttal.**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), you may begin with your closing argument.**

(once the State is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you may begin your closing argument.**

(once the Defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you which to make a rebuttal statement?**

(If yes, give them two minutes, if no, say the below.)

**After hearing from both sides:**

* I am prepared to give my judgment. I rule in favor of the state/defendant.
* I am going to take a brief recess and return shortly with my judgment.
* I am going to take my decision under advisement and will issue a ruling in open court on \_\_\_\_\_ (date).

*\*\*\*For steps on handling the verdict and judgment, please see Chapter 6 of the Trial Procedure deskbook.\*\*\**