

## Learning Units

### Learning Units

#### Learning unit 12: Trial Stage

##### Prescribed reading

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Read chapters 15 to 22 of Marnewick (prescribed textbook).

In chapter 15, Marnewick provides an overview of protocol and etiquette in the courtroom, which are essential to any litigator. Pay particular attention to the relationship between different role-players in court.

In chapter 16, Marnewick provides practical advice on the issue of opening statements. Pay attention to the structure and content of the opening statement and note that the same opportunity to make an opening statement is available in a criminal case.

In chapters 17 to 19, Marnewick addresses examination in chief, cross-examination and re-examination. Take particular note of the use of leading questions. Further note that much of the advice offered in these chapters also applies to criminal proceedings.

In chapter 20, Marnewick provides practical advice on "*special techniques necessary for certain incidents of the trial*". These include the use of exhibits, inspection *in loco*, prior inconsistent statements, refreshing of a witness's memory, hostile witnesses, expert evidence, objections and common admissibility issues. Note that many of the same practical issues highlighted here can/may apply to criminal cases.

In chapter 21, Marnewick provides practical advice on the issue of closing arguments. Note that many of the same principles can be applied to criminal trials, with the obvious difference that the burden of proof is different in civil and criminal cases.

In chapter 22, Marnewick details motion court proceedings and provides practical guidance on issues related to unopposed motions, interlocutory applications and substantive applications.

##### Learning outcomes

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On completion of Learning Unit 11, you should be able to:

- apply the protocol and etiquette of a courtroom
- make an opening statement in both civil and criminal cases
- conduct examination in chief, cross-examination and re-examination
- present closing arguments

- adequately handle a motion court brief

## Activity

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Refer to Mrs Smith's statement in Appendix 1. Prepare a timeline and the questions for Mrs Smith's evidence in her action against the insurer. Refer to exhibits where, appropriate. Discuss your answers on myUnisa under **Forum 4 (discussion 13)**.

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