The "In"s and "Out"s of a Lawsuit

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This diagram of the "ins" and "outs" of a lawsuit shows that the peril is on the plaintiff's side. If the demurrer _ore tenus_ is sustained, the plaintiff finds himself out of court, and is required to go back and amend his complaint, as shown in the diagram. (The demurrer _ore tenus_ is the objection to the receipt of any evidence under the complaint, on the ground that it does not state facts sufficient to constitute the cause of action.)

If the non-suit is granted against the plaintiff, he has to go even further back in the proceedings and start all over again, as shown on the diagram. If a demurrer is sustained to the complaint, the diagram shows how the plaintiff comes right back into court on an amendment.

The defendant really stands only one chance of getting put out of court prior to judgment, and that is when a demurrer to the answer is sustained, but the defendant may come right back into court on an amendment, as shown in the diagram.

This diagram also shows how the directed verdict operates as a by-pass for either side, dependent upon whom it is granted against, and the by-passes take the parties past the special verdict, instructions to jury, and motions after verdict, and bring them out through judgment. If the directed verdict is not granted against either party, then the diagram shows the possibilities of special verdict, etc., prior to reaching the judgment.

This diagram can also be used to illustrate another proposition, and that is that anything that happens prior to the directed verdict is not _res adjudicata_, while anything happening below the directed verdict is _res adjudicata_. For instance, when the non-suit is granted against the plaintiff, he may go back and start over again, but if the directed verdict is granted against him, he cannot start over again, because the judgment on the directed verdict is _res adjudicata_.

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