

Appendix One:

**Integrated Instruction and Special Verdict Form –
Section 1983 Claim –
Excessive Force (Stop, Arrest, or other “Seizure”)**

Instructions

Section 1983

[Plaintiff] is suing under Section 1983, a civil rights law passed by Congress that provides a remedy to persons who have been deprived of their federal [constitutional] [statutory] rights under color of state law.

Elements of Claim

[Plaintiff] must prove both of the following elements by a preponderance of the evidence:

First: [Defendant] acted under color of state law.

Second: While acting under color of state law, [defendant] deprived [plaintiff] of a federal [constitutional right] [statutory right].

I will now give you more details on action under color of state law, after which I will tell you the elements [plaintiff] must prove to establish the violation of [his/her] federal [constitutional right] [statutory right].

Action Under Color of State Law

The first element of [plaintiff]’s claim is that [defendant] acted under color of state law. This means that [plaintiff] must show that [defendant] was using power that [he/she] possessed by virtue of state law.

A person can act under color of state law even if the act violates state law. The question is whether the person was clothed with the authority of the state, by which I mean using or misusing the authority of the state.

By “state law,” I mean any statute, ordinance, regulation, custom or usage of any state. And when I use the term “state,” I am including any political subdivisions of the state, such as a county or municipality, and also any state, county or municipal agencies.

[Insert appropriate instruction on action under color of state law. See

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Instructions 4.4.1 through 4.4.3.]

Deprivation of a Federal Right

[I have already instructed you on the first element of [plaintiff]’s claim, which requires [plaintiff] to prove that [defendant] acted under color of state law.]

The second element of [plaintiff]’s claim is that [defendant] deprived [him/her] of a federal [constitutional right] [statutory right].

The Fourth Amendment to the United States Constitution protects persons from being subjected to excessive force while being [arrested] [stopped by police]. In other words, a law enforcement official may only use the amount of force necessary under the circumstances to [make the arrest] [conduct the stop]. Every person has the constitutional right not to be subjected to excessive force while being [arrested] [stopped by police], even if the [arrest] [stop] is otherwise proper.

In this case, [plaintiff] claims that [defendant] used excessive force when [he/she] [arrested] [stopped] [plaintiff]. In order to establish that [defendant] used excessive force, [plaintiff] must prove both of the following by a preponderance of the evidence:

First: [Defendant] intentionally committed certain acts.

Second: Those acts violated [plaintiff]’s Fourth Amendment right not to be subjected to excessive force.

In determining whether [defendant]’s acts constituted excessive force, you must ask whether the amount of force [defendant] used was the amount which a reasonable officer would have used in [making the arrest] [conducting the stop] under similar circumstances. You should consider all the relevant facts and circumstances (leading up to the time of the [arrest] [stop]) that [defendant] reasonably believed to be true at the time of the [arrest] [stop]. You should consider those facts and circumstances in order to assess whether there was a need for the application of force, and the relationship between that need for force, if any, and the amount of force applied. The circumstances relevant to this assessment can include *[list any of the following factors, and any other factors, warranted by the evidence]*:

- the severity of the crime at issue;
- whether [plaintiff] posed an immediate threat to the safety of [defendant] or others;
- the possibility that [plaintiff] was armed;
- the possibility that other persons subject to the police action were violent or dangerous;
- whether [plaintiff] was actively resisting arrest or attempting to evade arrest by

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flight;

- the duration of [defendant]’s action;
- the number of persons with whom [defendant] had to contend; and
- whether the physical force applied was of such an extent as to lead to unnecessary injury.

The reasonableness of [defendant]’s acts must be judged from the perspective of a reasonable officer on the scene. The law permits the officer to use only that degree of force necessary to [make the arrest] [conduct the stop]. However, not every push or shove by a police officer, even if it may later seem unnecessary in the peace and quiet of this courtroom, constitutes excessive force. The concept of reasonableness makes allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are sometimes tense, uncertain, and rapidly evolving, about the amount of force that is necessary in a particular situation.

As I told you earlier, [plaintiff] must prove that [defendant] intended to commit the acts in question; but apart from that requirement, [defendant]’s actual motivation is irrelevant. If the force [defendant] used was unreasonable, it does not matter whether [defendant] had good motivations. And an officer’s improper motive will not establish excessive force if the force used was objectively reasonable.

What matters is whether [defendant]’s acts were objectively reasonable in light of the facts and circumstances confronting the defendant.

[Liability in Connection with the Actions of Another]

[If the case involves a claim that a defendant is liable for the actions of another, insert appropriate instruction here. See Instruction 4.6.1 (supervisory liability); Instruction 4.6.2 (liability for failure to intervene); Instructions 4.6.3 through 4.6.8 (municipal liability).]

Damages

[Insert appropriate instructions on damages here. See Instructions 4.8.1 through 4.8.3.]

Instructions Concerning Verdict Form

A verdict form has been prepared for your convenience. I will review this form with you now, and afterwards you will take it with you to the jury room.

[Form of special verdict read]

In order for you as a jury to answer a question, each juror must agree to the

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answer. In other words, your answers to each question must be unanimous. Your foreperson will write the unanimous answer of the jury in the space provided after each question, and will date and sign the form of special verdict when completed.

Nothing said in the verdict form is meant to suggest what your verdict should be. You alone have the responsibility for deciding the verdict.

Verdict Form

We, the jury, unanimously find the following by a preponderance of the evidence:

(1) Did [defendant] act under color of state law?

Answer: Yes _____ No _____

IF YOU ANSWERED "YES" TO PART 1, PROCEED TO PART 2. OTHERWISE, PLEASE STOP.

(2) Did [defendant] intentionally commit an act, under color of state law, that violated [plaintiff]'s Fourth Amendment right not to be subjected to excessive force?

Answer: Yes _____ No _____

IF YOU ANSWERED "YES" TO PART 2, PROCEED TO PART 3. OTHERWISE, PLEASE STOP.

(3) Did [defendant]'s act, described in Part (2) above, cause injury to [plaintiff]?

Answer: Yes _____ No _____

IF YOU ANSWERED "YES" TO PART 3, PROCEED TO PART (4)(A), AND SKIP PART (4)(B).

IF YOU ANSWERED "NO" TO PART 3, SKIP PART 4(A) AND PROCEED TO PART 4(B).

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(4)(A) Please state the amount that will fairly compensate [plaintiff] for any injury [he/she] actually sustained as a result of [defendant]'s conduct.

Answer: \$ _____

(Fill in Dollar Figure)

(4)(B) Because we answered "No" to Part 3, [plaintiff] is awarded nominal damages in the amount of \$ 1.00.

AFTER ANSWERING PART 4, PROCEED TO PART 5.

(5)(A) Did [defendant] act maliciously or wantonly in violating [plaintiff]'s rights?

Answer: Yes _____ No _____

IF YOU ANSWERED "YES" TO PART (5)(A), PROCEED TO PART (5)(B).
OTHERWISE, PLEASE STOP.

(5)(B) Do you award punitive damages against [defendant]?

Answer: Yes _____ No _____

If yes, in what amount?

Answer: \$ _____

(Fill in Dollar Figure)

SO SAY WE ALL, this ____ day of _____, 20[].

Foreperson

Appendix Two: Other Sets of Instructions

Appendix Two: Instructions Covered in Other Sets

As noted previously, the Committee chose the topics for its substantive instructions (concerning Section 1983 claims and employment-related claims) because those topics frequently arise in cases litigated within the Third Circuit. The index that follows lists model instructions from other sources that cover other topics. At the end of this Appendix is a statistical summary showing the frequency with which various types of claims result in completed jury trials in district courts within the Third Circuit.

Instructions for Use in Other Federal Circuits

- 1st Circuit (Criminal) (2014) (available online at <http://www.med.uscourts.gov/pdf/crpjilinks.pdf>); (Civil) (No longer updated, most recently updated 2012) (available online at <http://www.med.uscourts.gov/pattern-jury-instructions>) (1998 version available on WestlawNext, in the [Federal Jury Practice & Instructions](#) database)
 - Civil (not updated after 2012) includes Employment Discrimination (available at http://www.med.uscourts.gov/pdf/empl_discr_pi.pdf); Cases of Excessive Force (available at <http://www.med.uscourts.gov/pdf/excessiveforce.pdf>); Maritime Employee Personal Injury Law (available at http://www.med.uscourts.gov/pdf/maritime_employee_pi.pdf); and Railroad Employee Personal Injury (http://www.med.uscourts.gov/pdf/railroad_employee_pi.pdf).
 - *See also* the Civil Jury Notebooks' Glossary, Preliminary Jury Instructions, and Suggestions for Jury Deliberations (available at <http://www.med.uscourts.gov/civil-jury-notebooks>); Judge Hornby's Draft Criminal Instructions (available at http://www.med.uscourts.gov/pdf/DBH_Draft_Criminal_Instructions.pdf); Judge Hornby's Draft Civil Instructions (available at http://www.med.uscourts.gov/pdf/DBH_Draft_Civil_Instructions.pdf); and other Courtroom Practices material (available at <http://www.med.uscourts.gov/nodeblock/courtroom-practices>).
- 5th Circuit (Civil and Criminal) (2014 Civil, 2012 Criminal) (available online at <http://www.lb5.uscourts.gov/juryinstructions/>, and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 6th Circuit (Criminal) (Updated 2014) (available online at http://www.ca6.uscourts.gov/internet/crim_jury_insts.htm) (2013 version available on WestlawNext in the [Federal Jury Practice & Instructions](#) database).

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- 7th Circuit (Civil and Criminal) (2009 Civil, 2013 Criminal) (available online at http://www.ca7.uscourts.gov/Pattern_Jury_Instr/pattern_jury_instr.html), and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).
 - Instructions include Pattern Civil Jury Instructions; Pattern Criminal Jury Instructions; Pattern Federal Employer Liability Act and Similar Statutes Instructions; Pattern Patent Law Jury Instructions; Pattern Trademark Civil Jury Instructions; and Pattern Copyright Jury Instructions.
- 8th Circuit (Civil and Criminal) (2014) (available online at <http://www.juryinstructions.ca8.uscourts.gov/index.htm>, and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 9th Circuit (Civil) (2007, updated through 2014) (available online at <http://www3.ce9.uscourts.gov/jury-instructions/model-civil>); (Criminal) (2010, updated through 2014) (available online at <http://www3.ce9.uscourts.gov/jury-instructions/model-criminal>); (2007 Civil and 2008 Criminal versions available on WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 10th Circuit (Criminal) (Updated 2011) (available online at <http://www.ca10.uscourts.gov/clerk/downloads/criminal-pattern-jury-instructions>, and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 11th Circuit (Civil and Criminal) (Civil 2013, Criminal 2010) (available online at <http://www.ca11.uscourts.gov/pattern-jury-instructions>, and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).

Instructions from States within the Third Circuit

- Delaware Superior Court Civil Pattern Jury Instructions (2006) (available online at <http://courts.delaware.gov/Superior/pattern/pattern.stm>, and on WestlawNext as [Delaware Pattern Civil Jury Instructions](#)).
- Delaware Superior Court Criminal Pattern Jury Instructions (2012) (available online at http://courts.delaware.gov/Superior/pattern/pattern_criminal.stm).
- New Jersey Model Civil Jury Charges (available online at <http://www.judiciary.state.nj.us/civil/civindx.htm>, and on WestlawNext as [New Jersey Civil Jury Instructions](#)).
- New Jersey Criminal Model Charges (Revised July 2014) (available online at <http://www.judiciary.state.nj.us/criminal/juryindx.pdf>, and on WestlawNext

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as [New Jersey Criminal Jury Instructions](#)).

- Pennsylvania Suggested Standard Civil and Criminal Jury Instructions (available online in WestlawNext in the [Pennsylvania Secondary Sources](#) database).

Instructions from Other Sources

- American Bar Association (ABA):
 - Model Jury Instructions: Business Torts Litigation (2005)
 - Model Jury Instructions in Civil Antitrust Cases (2005)
 - Model Jury Instructions in Criminal Antitrust Cases (2009)
 - Model Jury Instructions: Copyright, Trademark and Trade Dress Litigation (2008)
 - Model Jury Instructions: Patent Litigation (2005)
 - Model Jury Instructions: Employment Litigation (2005)
 - Model Jury Instructions: Securities Litigation (1996)
 - Model Jury Instructions for Surety Cases (2000)
 - Model Jury Instructions for Fidelity Cases (2003)
 - Model Jury Instructions: Construction Litigation (2001)
- American Intellectual Property Law Association, Model Patent Jury Instructions (2012) (available online at <http://www.aipla.org/learningcenter/library/books/other-pubs/Pages/default.aspx>)
- Michael Avery, David Rudovsky & Karen M. Blum, *Police Misconduct: Law and Litigation* (3d ed., 2014) (available on WestlawNext as [Police Misconduct: Law & Litigation](#)).
- Federal Circuit Bar Association, Model Patent Jury Instructions (updated 2012) (available online at <http://www.fedcirbar.org/olc/pub/LVFC/cpages/misc/pubs.jsp>).
- Kevin F. O'Malley, Jay E. Grenig, & William C. Lee, *Federal Jury Practice and Instructions* (2006, updated through 2014 with pocket parts) (available on WestlawNext as [Federal Jury Practice and Instructions](#)).
- Leonard Sand, John S. Siffert, Walter P. Loughlin, Steven A. Reiss, Nancy Batterman, Steve Allen & Hon. Jed S. Rakoff, *Modern Federal Jury Instructions—Civil* (looseleaf, updated regularly) (available on Lexis Advance as *Modern Federal Jury Instructions—Civil*).
- Leonard B. Sand, John S. Siffert, Walter P. Loughlin, Steven A. Reiss, Steve

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Allen & Hon. Jed S. Rakoff, Modern Federal Jury Instructions—Criminal (looseleaf, updated regularly) (available on Lexis Advance as Modern Federal Jury Instructions—Criminal).

- Martin A. Schwartz & George C. Pratt, 4 Section 1983 Litigation: Jury Instructions (looseleaf, updated regularly) (available on WestlawNext as [Section 1983 Litigation Jury Instructions](#)).

Both Lexis Advance and WestlawNext have databases of jury instructions. In Lexis Advance, filter by Category → Jury Instructions. In WestlawNext, select [Trial Court Documents – Jury Instruction Filings](#).

Instructions That Pertain to Federal Claims and Are Not Covered in Third Circuit Models

- Admiralty
 - 1st Cir. – Maritime Employee Personal Injury
 - 5th Cir. – (Civil) 4.1 - 4.11
 - 8th Cir. – (Civil) 17.00-17.90
 - 9th Cir. – (Civil) 7.1 - 7.12
 - 11th Cir. –(Civil) Chapter 8
 - O’Malley et al – Chapter 156
 - Sand – Chapter 90
- Antitrust
 - 5th Cir. – (Civil) 6 (Comment points to other sources)
 - 9th Cir. – (Civil) 16 (Comment points to other sources)
 - ABA, Model Jury Instructions in Civil Antitrust Cases
 - ABA, Model Jury Instructions in Criminal Antitrust Cases
 - O’Malley et al – Chapter 150
 - Sand – Chapters 79 - 81
- Bankruptcy
 - O’Malley et al – Chapter 164
- Civil Rights – Education Discrimination
 - O’Malley et al – Chapter 177
- Civil Rights – First Amendment – Libel

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- O'Malley et al – Chapter 124
- Sand – Chapter 91
- Civil Rights – Housing Discrimination
 - O'Malley et al – Chapter 169
 - Sand – 87.02
- Civil Rights – Section 1983 Claims
 - Conditions of Confinement
 - 5th Cir. – (Civil) 10.9 – 10.10
 - 7th Cir. – (Civil) 7.10 & 7.14
 - 9th Cir. – (Civil) 9.25
 - 11th Cir. – (Civil) 5.5
 - O'Malley et al – 166.22
 - Schwartz & Pratt – 11.02
 - Denial of Access to Courts
 - 7th Cir. – (Civil) 8.01 - 8.03
 - 11th Cir. – (Civil) 5.1
 - O'Malley et al – 166.24
 - Law Enforcement – Other Violations
 - Excessive Bail
 - Schwartz & Pratt – 9.04
 - Failure to Produce Exculpatory Evidence
 - Avery, Rudovsky & Blum – 12.29 - 12.30
 - Schwartz & Pratt – 9.01
 - Manufactured, Coerced, or False Evidence
 - Avery, Rudovsky & Blum – 12.25 - 12.28
 - Schwartz & Pratt – 9.02
 - Plaintiff's Status

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- Schwartz & Pratt – 3.04
- Prisoner – Disciplinary Sanctions
 - Schwartz & Pratt – 11.04
- Prisoner – Retaliation
 - 7th Cir. – (Civil) 6.02 & 6.03
 - 11th Cir. – (Civil) 5.1
- Procedural Due Process
 - O’Malley et al – 168.80 - 168.151
 - Schwartz & Pratt – 6.01
- Regulatory Takings
 - Schwartz & Pratt – 6.03
- Substantive Due Process
 - Schwartz & Pratt – 6.02
- Unreasonable Search
 - 9th Cir. – (Civil) 9.11 - 9.15
 - Avery, Rudovsky & Blum – 12.15 - 12.19
 - O’Malley et al – 165.22
 - Sand – 87.03 (87-74B)
- Civil Rights – Section 1985 Conspiracy Claims
 - O’Malley et al – Chapter 167
 - Sand – 87.04
- Damages
 - 5th Cir. – (Civil) 15.1 - 15.15
 - 9th Cir. – (Civil) 5.1 - 5.6
 - Sand – Chapter 77
 - Schwartz & Pratt – Chapter 18
- Defenses

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- Miscellaneous
 - O'Malley et al – 107.01 - 107.04
- Eminent Domain
 - 5th Cir. – (Civil) 13.3
 - O'Malley et al – Chapter 154
- Evidence
 - Admissions in Pleadings
 - O'Malley et al – 101.46
 - Credibility of Witnesses
 - 1st Cir. (Criminal) – 1.06, 3.06
 - 5th Cir. (Criminal) – 1.08
 - 6th Cir. (Criminal) – 1.07
 - 7th Cir. (Criminal) – 3.01
 - 8th Cir. – (Civil) 3.4; (Criminal) 1.05
 - 9th Cir. – (Civil) 1.11; (Criminal) 1.7 & 3.9
 - 10th Cir. (Criminal) – 1.08
 - O'Malley et al – 15.01 – 15.151; 105.01 - 105.12
 - Cross-Examination of Character Witness
 - 7th Cir. – (Civil) 2.10
 - 8th Cir. – (Civil) 2.10
 - O'Malley – 11.15
 - Sand – 5.06 (5-16)
 - Demonstrative Evidence
 - 5th Cir. – (Civil) 2.8
 - 7th Cir. – (Civil) 1.24; (Criminal) 3.17
 - 8th Cir. – (Civil) 2.12; (Criminal) 4.11
 - 9th Cir. – (Civil) 2.12; (Criminal) 4.15
 - Fingerprints
 - O'Malley et al – 14.12 & 104.51
 - Habit or Routine Practice Evidence

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- Sand – 74.03
- Handwriting
 - O’Malley et al – 104.52
- Impeachment by Inconsistent Statements
 - 1st Cir. (Criminal) – 2.03
 - 5th Cir. – (Civil) 2.11
 - 6th Cir. (Criminal) – 7.04
 - 7th Cir. – (Civil) 1.14; (Criminal) 3.03 & 3.04
 - 10th Cir. (Criminal) – 1.10
 - 11th Cir. – (Civil) 3.5.1; (Criminal) 6.1
 - O’Malley et al – 15.06 & 105.04
- Inferences and Presumptions
 - 1st Cir. – (Criminal) 3.04
 - 8th Cir. (Criminal) – 4.13
 - O’Malley et al – 104.20 - 104.28
 - Sand – Chapters 6 & 75
- Oral Statements or Admissions
 - O’Malley et al – 104.53
- Pleadings
 - O’Malley et al – 103.32
 - Sand – 78-2
- Requests for Admission
 - Sand – 74.08
- Similar Acts
 - 1st Cir. – (Criminal) – 2.06
 - 5th Cir. – (Civil) 2.10; (Criminal) 1.30
 - 8th Cir. – (Criminal) 2.08
 - 10th Cir. (Criminal) – 1.30
 - 11th Cir. (Criminal) – Special Instructions 4; Trial Instructions 1
 - Sand – 5.10; 74.03 (74-7)

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- Statements by Patient to Doctor
 - Sand – 74.05 (74-10)
- Stipulations
 - 1st Cir. - (Criminal) 2.01
 - 5th Cir. - (Civil) 2.3
 - 7th Cir. – (Civil) 2.05
 - 8th Cir. – (Civil) 2.4; (Criminal) 2.03
 - 9th Cir. – (Civil) 2.2; (Criminal) 2.4
 - 11th Cir. – (Civil) 2.1
 - O’Malley et al – Chapter 102
 - O’Malley et al – 101.47
 - Sand – 74.02 (74-4)
- Stipulations at pretrial conference
 - O’Malley et al – 101.47
- View of Location Permitted
 - O’Malley et al – 11.07; 102.26
- General Instructions
 - Common Counsel
 - Sand – 71-8
 - Judge’s Comments on Evidence
 - O’Malley et al – 102.73
 - Judge’s Questions to Witnesses
 - O’Malley et al – 11.05, 101.30, 102.72
 - Missing Witness
 - 1st Cir. (Criminal) – 2.12
 - 5th Cir. – (Civil) 2.9
 - 7th Cir. – (Civil) 1.19
 - 8th Cir. – (Criminal) 4.16

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- 9th Cir. – (Criminal) 4.13
- O’Malley et al – 104.25

- No Transcript Available to the Jury
 - 8th Cir. – (Civil) 1.6; (Criminal) 1.6A
 - 9th Cir. – (Civil) 1.13; (Criminal) 1.9

- Previous Trial
 - 1st Cir. (Criminal) – 1.03
 - 8th Cir. – (Civil) 2.06/2.7; (Criminal) 2.20
 - 9th Cir. – (Criminal) 2.15
 - Federal Judicial Center Pattern Criminal Jury Instruction 14
 - O’Malley et al – 102.42
 - Sand 71.01 (71-11)

- Publicity During Trial
 - O’Malley et al – 11.08, 101.21, 102.12

- Reprimand of Counsel for Misconduct
 - Sand – 71.01 (71-7)

- Sequestration
 - O’Malley et al – 10.09, 101.14
 - Sand – 9.06

- Sympathy
 - Sand – 71.01 (71-10)

- Tests and Experiments
 - 9th Cir. – (Civil) 2.9

- Verdict
 - 1st Cir. – (Criminal) 6.01 - 6.06
 - 6th Cir. – (Criminal) 8.03
 - 7th Cir. – (Civil) 1.32; (Criminal) 7.01 – 7.03
 - 8th Cir. – (Civil) 3.6; (Criminal) 3.12
 - 9th Cir. – (Civil) 3.3; (Criminal) 7.1 – 7.7

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- 11th Cir. – (Criminal) 11, 12
- O’Malley et al – Chapter 106
- Withdrawal of Claim
 - 7th Cir. – (Civil) 2.13
 - 8th Cir. – (Civil) 2.13 & 3.5
 - O’Malley et al – 102.60
- Intellectual Property
 - Copyright
 - 7th Cir. – (Civil) Chapter 12
 - 9th Cir. – (Civil) Chapter 17
 - 11th Cir. – (Civil) Chapter 9
 - O’Malley et al – Chapter 160
 - Sand – Chapter 86B
 - Patent
 - 7th Circuit – (Civil) Chapter 11
 - American Intellectual Property Law Association, Model Patent Jury Instructions
 - ABA, Model Jury Instructions: Patent Litigation
 - Federal Circuit Bar Association, Model Patent Jury Instructions
 - O’Malley et al: Chapter 158
 - Sand: Chapters 81 & 86
 - Trademark
 - 7th Cir. – (Civil) Chapter 13
 - 9th Cir. – (Civil) Chapter 15
 - 11th Cir. – (Civil) Chapter 10
 - O’Malley et al – Chapter 159
 - Sand – Chapter 86A
- Labor & Employment
 - Employee’s Claims Against Employer and Union
 - 9th Cir. – (Civil) 13.1 & 13.2
 - 11th Cir. – (Civil) 4.17
 - O’Malley et al – 157.80 - 157.140

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- Employer's Claim against Union
 - O'Malley et al – 157.01 - 157.71
- Fair Labor Standards Act
 - 5th Cir. – (Civil) 11.24
 - 8th Cir. – (Civil) Chapter 16
 - 11th Cir. – (Civil) 4.14
 - O'Malley et al – Chapter 175
 - Sand – Chapter 85
- Miscellaneous Statutory Actions
 - Automobile Dealers Day-in-Court Act
 - 5th Cir. – (Civil) 13.1
 - O'Malley et al – Chapter 151
 - Sand – 93.02
 - Emergency Medical Treatment And Active Labor Act
 - O'Malley et al – Chapter 176
 - Fair Credit Reporting Act
 - O'Malley et al – Chapter 153
 - False Claims Act
 - O'Malley et al – Chapter 178
 - Interstate Land Sales Full Disclosure Act
 - 5th Cir. – (Civil) 13.4
 - Odometer Fraud
 - 5th Cir. – (Civil) 13.2
 - 8th Cir. – (Civil) Chapter 18
 - Sand – Chapter 93
 - Petroleum Marketing Practices Act
 - O'Malley et al – Chapter 152

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- Party Status
 - All Persons Equal Before the Law
 - 7th Cir. – (Civil) 1.03
 - O’Malley et al – 103.11 & 103.12
 - Corporation as Party
 - 5th Cir. – (Civil) 2.16
 - 7th Cir. – (Civil) 1.03
 - 9th Cir. – (Civil) 4.1
 - 11th Cir. – (Civil) 3.2.2
 - Sand – 72.01 (72-1)
 - O’Malley et al – 103.12
 - Government as Party
 - 11th Cir. – (Civil) 3.2.3
 - Multiple Parties
 - 5th Cir. – (Criminal) 1.22 – 1.23
 - 6th Cir. - (Criminal) 2.01B-D
 - 7th Cir. – (Civil) 1.25; (Criminal) 4.07
 - 8th Cir – (Civil) 2.9; (Criminal) 3.07 – 3.08
 - 9th Cir. – (Civil) 1.5; (Criminal) 3.12 – 3.13
 - 10th Cir. – (Criminal) 1.21 - 1.22
 - 11th Cir. – (Criminal) 10.3 – 10.4
 - O’Malley et al – 102.41, 103.10, 103.13, 103.14, 106.03
- Railroad Employees
 - Federal Employers’ Liability Act
 - 1st Cir. – Railroad Employee Personal Injury 1.1
 - 5th Cir. – (Civil) 5.1
 - 7th Cir. – (Civil) 9.01 – 9.05
 - 8th Cir. – (Civil) 15.00 – 15.81
 - 9th Cir. – 6.1 - 6.7
 - O’Malley et al – Chapter 155A
 - Sand – Chapter 89
 - Federal Safety Appliance Act

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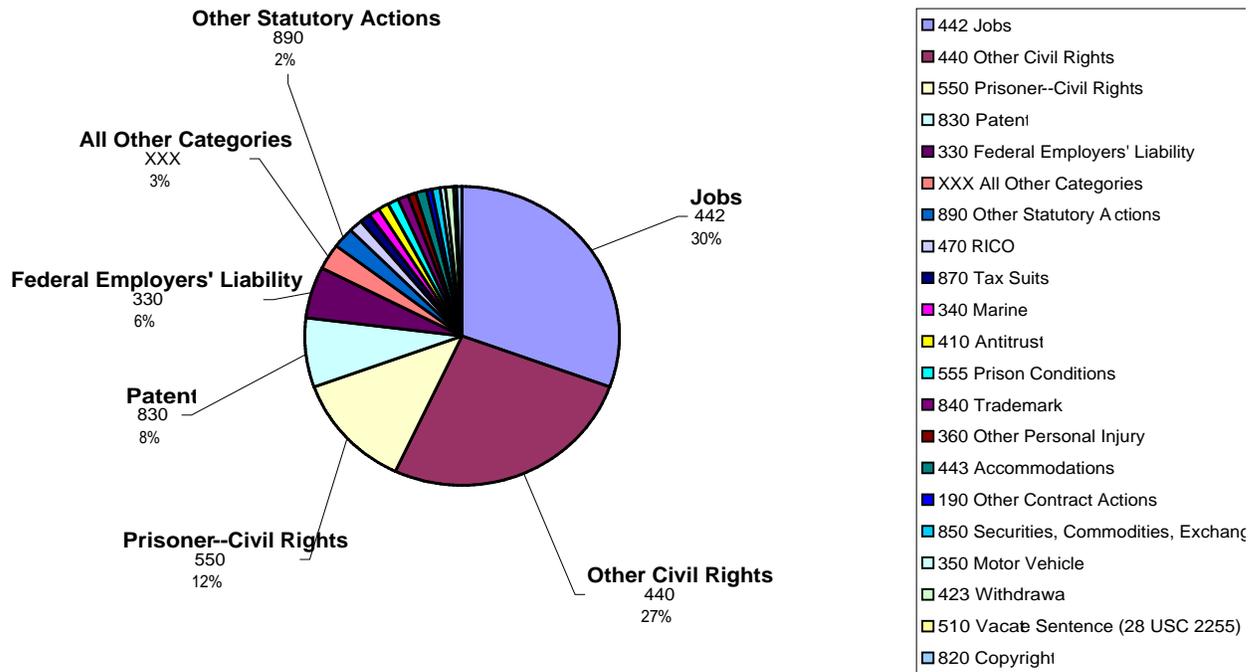
- 1st Cir. – Railroad Employee Personal Injury 2.1
 - 5th Cir. – 5.2
 - 7th Cir. – (Civil) 9.07
 - 8th Cir. – (Civil) 15.42
 - O’Malley et al – Chapter 155B
- RICO
 - 7th Cir. – (Criminal) Statutory Instructions, 18 U.S.C. 1961 – 1963
 - 8th Cir. – (Criminal) 6.18.1962A – G
 - 9th Cir. – (Criminal) 8.155 – 8.161
 - 10th Cir. – (Criminal) 2.74 - 2.76
 - 11th Cir. – (Civil) Chapter 7
 - O’Malley et al – Chapters 56, 161
 - Sand – Chapters 52, 84
 - Securities Act
 - 5th Cir. – (Civil) 7.1
 - 9th Cir. – (Civil) 18.0 - 18.9
 - 11th Cir. – (Civil) Chapter 6
 - ABA, Model Jury Instructions: Securities Litigation
 - O’Malley et al – Chapter 162
 - Sand – Chapters 82 & 83
 - Tax Refunds
 - 5th Cir. – (Civil) Chapter 12
 - 9th Cir. – (Civil) 8.1 & 8.2
 - O’Malley et al – Chapter 163
 - Vicarious Liability
 - 9th Cir. – (Civil) Chapter 4
 - O’Malley et al – Chapter 108

Appendix Two: Other Sets of Instructions

Statistical Summary

As a rough method of estimating the relative frequency of different types of claims in jury trials within the Third Circuit, the following data may be useful. These data were obtained by searching the database maintained at <http://teddy.law.cornell.edu:8090/questtr7900.htm>; the database contains data “gathered by the Administrative Office of the United States Courts, assembled by the Federal Judicial Center, and disseminated by the Inter-university Consortium for Political and Social Research,” *see id.* The search included “all” case categories, with any of three bases of jurisdiction (“US defendant,” “US plaintiff,” or “federal question”). (The search’s limitation on bases of jurisdiction was intended to

Third Circuit Jury Trials, 1996-2000 (top 20 categories-- federal question plus US party)



eliminate diversity cases, which presumably would typically involve state-law claims.) The search was limited to completed jury trials, within the Third Circuit, that terminated during the years 1996 - 2000. (For a discussion of the year variable, see <http://teddy.law.cornell.edu:8090/year.htm>.) The case categories were defined by reference to the category selected on the Civil Cover Sheet (available online at <http://www.uscourts.gov/forms/JS044.pdf>). *See* Fifth ICPSR Edition (Ann Arbor, MI: Inter-university Consortium for Political and Social Research, 1993), available online at <http://teddy.law.cornell.edu:8090/codebook.htm>.

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