

**Appendix One:**

**Integrated Instruction and 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

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1 county or municipality, and also any state, county or municipal agencies.

2 *[Insert appropriate instruction on action under color of state law. See Instructions 4.4.1*  
3 *through 4.4.3.]*

4  
5 Deprivation of a Federal Right

6  
7 [I have already instructed you on the first element of [plaintiff]’s claim, which requires  
8 [plaintiff] to prove that [defendant] acted under color of state law.]

9  
10 The second element of [plaintiff]’s claim is that [defendant] deprived [him/her] of a  
11 federal [constitutional right] [statutory right].

12  
13 The Fourth Amendment to the United States Constitution protects persons from being  
14 subjected to excessive force while being [arrested] [stopped by police]. In other words, a law  
15 enforcement official may only use the amount of force necessary under the circumstances to  
16 [make the arrest] [conduct the stop]. Every person has the constitutional right not to be subjected  
17 to excessive force while being [arrested] [stopped by police], even if the [arrest] [stop] is  
18 otherwise proper.

19  
20 In this case, [plaintiff] claims that [defendant] used excessive force when [he/she]  
21 [arrested] [stopped] [plaintiff]. In order to establish that [defendant] used excessive force,  
22 [plaintiff] must prove both of the following by a preponderance of the evidence:

23  
24 First: [Defendant] intentionally committed certain acts.

25  
26 Second: Those acts violated [plaintiff]’s Fourth Amendment right not to be subjected to  
27 excessive force.

28  
29 In determining whether [defendant]’s acts constituted excessive force, you must ask  
30 whether the amount of force [defendant] used was the amount which a reasonable officer would  
31 have used in [making the arrest] [conducting the stop] under similar circumstances. You should  
32 consider all the relevant facts and circumstances (leading up to the time of the [arrest] [stop]) that  
33 [defendant] reasonably believed to be true at the time of the [arrest] [stop]. You should consider  
34 those facts and circumstances in order to assess whether there was a need for the application of  
35 force, and the relationship between that need for force, if any, and the amount of force applied.  
36 The circumstances relevant to this assessment can include *[list any of the following factors, and*  
37 *any other factors, warranted by the evidence]:*

- 38  
39 ! the severity of the crime at issue;  
40 ! whether [plaintiff] posed an immediate threat to the safety of [defendant] or others;  
41 ! the possibility that [plaintiff] was armed;

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1 ! the possibility that other persons subject to the police action were violent or dangerous;  
2 ! whether [plaintiff] was actively resisting arrest or attempting to evade arrest by flight;  
3 ! the duration of [defendant]’s action;  
4 ! the number of persons with whom [defendant] had to contend; and  
5 ! whether the physical force applied was of such an extent as to lead to unnecessary  
6 injury.  
7

8 The reasonableness of [defendant]’s acts must be judged from the perspective of a  
9 reasonable officer on the scene. The law permits the officer to use only that degree of force  
10 necessary to [make the arrest] [conduct the stop]. However, not every push or shove by a police  
11 officer, even if it may later seem unnecessary in the peace and quiet of this courtroom,  
12 constitutes excessive force. The concept of reasonableness makes allowance for the fact that  
13 police officers are often forced to make split-second judgments in circumstances that are  
14 sometimes tense, uncertain, and rapidly evolving, about the amount of force that is necessary in a  
15 particular situation.  
16

17 As I told you earlier, [plaintiff] must prove that [defendant] intended to commit the acts  
18 in question; but apart from that requirement, [defendant]’s actual motivation is irrelevant. If the  
19 force [defendant] used was unreasonable, it does not matter whether [defendant] had good  
20 motivations. And an officer’s improper motive will not establish excessive force if the force  
21 used was objectively reasonable.  
22

23 What matters is whether [defendant]’s acts were objectively reasonable in light of the  
24 facts and circumstances confronting the defendant.  
25

26 *[Liability in Connection with the Actions of Another]*  
27

28 *[If the case involves a claim that a defendant is liable for the actions of another, insert*  
29 *appropriate instruction here. See Instruction 4.6.1 (supervisory liability); Instruction 4.6.2*  
30 *(liability for failure to intervene); Instructions 4.6.3 through 4.6.8 (municipal liability).]*  
31

32 Damages  
33

34 *[Insert appropriate instructions on damages here. See Instructions 4.8.1 through 4.8.3.]*  
35  
36

37 Instructions Concerning Verdict Form  
38

39 A verdict form has been prepared for your convenience. I will review this form with you  
40 now, and afterwards you will take it with you to the jury room.  
41

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1 [Form of verdict read]  
2

3 In order for you as a jury to answer a question, each juror must agree to the answer. In  
4 other words, your answers to each question must be unanimous. Your foreperson will write the  
5 unanimous answer of the jury in the space provided after each question, and will date and sign  
6 the form of verdict when completed.  
7

8 Nothing said in the verdict form is meant to suggest what your verdict should be. You  
9 alone have the responsibility for deciding the verdict.  
10

11 **Verdict Form**  
12

13  
14 We, the jury, unanimously find the following by a preponderance of the evidence:  
15

16  
17 (1) Did [defendant] act under color of state law?  
18

19 Answer: Yes \_\_\_\_\_ No \_\_\_\_\_  
20

21  
22 IF YOU ANSWERED "YES" TO PART 1, PROCEED TO PART 2. OTHERWISE, PLEASE  
23 STOP.  
24

25  
26 (2) Did [defendant] intentionally commit an act, under color of state law, that  
27 violated [plaintiff]'s Fourth Amendment right not to be subjected to excessive  
28 force?  
29

30 Answer: Yes \_\_\_\_\_ No \_\_\_\_\_  
31

32  
33 IF YOU ANSWERED "YES" TO PART 2, PROCEED TO PART 3. OTHERWISE, PLEASE  
34 STOP.  
35

36  
37 (3) Did [defendant]'s act, described in Part (2) above, cause injury to [plaintiff]?  
38

39 Answer: Yes \_\_\_\_\_ No \_\_\_\_\_  
40

41  
42 IF YOU ANSWERED "YES" TO PART 3, PROCEED TO PART (4)(A), AND SKIP PART

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1 (4)(B).  
2

3 IF YOU ANSWERED "NO" TO PART 3, SKIP PART 4(A) AND PROCEED TO PART 4(B).  
4  
5

6 (4)(A) Please state the amount that will fairly compensate [plaintiff] for any  
7 injury [he/she] actually sustained as a result of [defendant]'s conduct.  
8

9 Answer: \$ \_\_\_\_\_

10 (Fill in Dollar Figure)

11 (4)(B) Because we answered "No" to Part 3, [plaintiff] is awarded nominal  
12 damages in the amount of \$ 1.00.  
13

14  
15 AFTER ANSWERING PART 4, PROCEED TO PART 5.  
16  
17

18 (5)(A) Did [defendant] act maliciously or wantonly in violating [plaintiff]'s  
19 rights?  
20

21 Answer: Yes \_\_\_\_\_ No \_\_\_\_\_  
22  
23

24 IF YOU ANSWERED "YES" TO PART (5)(A), PROCEED TO PART (5)(B). OTHERWISE,  
25 PLEASE STOP.  
26  
27

28 (5)(B) Do you award punitive damages against [defendant]?  
29

30 Answer: Yes \_\_\_\_\_ No \_\_\_\_\_  
31

32 If yes, in what amount?  
33

34 Answer: \$ \_\_\_\_\_

35 (Fill in Dollar Figure)  
36  
37

38 SO SAY WE ALL, this \_\_\_\_ day of \_\_\_\_\_, 20[ ].  
39

40 \_\_\_\_\_  
41 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) (2017) (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](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](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](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](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](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) (Civil 2014 with revisions through 2016, Criminal 2015 with 2016 addendum) (available online at <http://www.lb5.uscourts.gov/juryinstructions/>, and on WestlawNext in the [Federal Jury Practice & Instructions](#) database).

## Appendix Two: Other Sets of Instructions

- 1 • 6th Circuit (Criminal) (Updated 2017) (available online at  
2 [http://www.ca6.uscourts.gov/internet/crim\\_jury\\_insts.htm](http://www.ca6.uscourts.gov/internet/crim_jury_insts.htm), and on WestlawNext in the  
3 [Federal Jury Practice & Instructions](#) database).
- 4  
5 • 7th Circuit (Civil and Criminal) (2017 Civil, 2013 Criminal) (available online at  
6 <http://www.ca7.uscourts.gov/pattern-jury-instructions/pattern-jury.htm> ), and on  
7 WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 8  
9 • 8th Circuit (Civil and Criminal (including Model Death Penalty Instructions)) (2017)  
10 (available online at <http://www.juryinstructions.ca8.uscourts.gov/index.htm>, and on  
11 WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 12  
13 • 9th Circuit (Civil) (2017) (available online at [http://www3.ce9.uscourts.gov/jury-  
15 instructions/model-civil](http://www3.ce9.uscourts.gov/jury-<br/>14 instructions/model-civil)); (Criminal) (2010, subsequently updated online) (available  
16 online at <http://www3.ce9.uscourts.gov/jury-instructions/model-criminal>); (available on  
17 WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 18 • 10th Circuit (Criminal) (2011, updated 2018) (available online at  
19 <http://www.ca10.uscourts.gov/clerk/downloads/criminal-pattern-jury-instructions>, and on  
20 WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 21  
22 • 11th Circuit (Civil and Criminal) (Civil 2013, updated 2017; Criminal 2016, updated  
23 2017) (available online at <http://www.ca11.uscourts.gov/pattern-jury-instructions>, and on  
24 WestlawNext in the [Federal Jury Practice & Instructions](#) database).
- 25  
26

### Instructions from States within the Third Circuit

- 27  
28  
29 • Delaware Superior Court Civil Pattern Jury Instructions (2006) (available online at  
30 <https://courts.delaware.gov/superior/pattern/>, and on WestlawNext as [Delaware Pattern  
31 Civil Jury Instructions](#)).
- 32  
33 Delaware Superior Court Criminal Pattern Jury Instructions (updated 2016) (available  
34 online at [https://courts.delaware.gov/superior/pattern/pattern\\_criminal.aspx](https://courts.delaware.gov/superior/pattern/pattern_criminal.aspx)).
- 35  
36 • New Jersey Model Civil Jury Charges (available online at  
37 <https://www.judiciary.state.nj.us/attorneys/civilcharges.html>, and on WestlawNext as  
38 [New Jersey Civil Jury Instructions](#)).
- 39  
40 New Jersey Criminal Model Charges (available online at

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1 <https://www.judiciary.state.nj.us/attorneys/criminalcharges.html>, and on WestlawNext as  
2 [New Jersey Criminal Jury Instructions](#)).

- 3  
4 • Pennsylvania Suggested Standard Civil and Criminal Jury Instructions (available on  
5 WestlawNext in the [Pennsylvania Secondary Sources](#) database).

### 8 **Instructions from Other Sources**

- 9  
10 • American Bar Association (ABA):  
11  
12 ○ Model Jury Instructions: Business Torts Litigation (2005)  
13 ○ Model Jury Instructions in Civil Antitrust Cases (2016)  
14 ○ Model Jury Instructions in Criminal Antitrust Cases (2009)  
15 ○ Model Jury Instructions: Copyright, Trademark and Trade Dress Litigation (2008)  
16 ○ Model Jury Instructions: Patent Litigation (2005)  
17 ○ Model Jury Instructions: Employment Litigation (2005)  
18 ○ Model Jury Instructions: Securities Litigation (1996)  
19 ○ Model Jury Instructions for Surety Cases (2000)  
20 ○ Model Jury Instructions for Fidelity Cases (2003)  
21 ○ Model Jury Instructions: Construction Litigation (2015)  
22  
23 • American Intellectual Property Law Association, Model Patent Jury Instructions (2017)  
24 (available online at [http://www.aipla.org/learningcenter/library/books/other-](http://www.aipla.org/learningcenter/library/books/other-pubs/Pages/default.aspx)  
25 [pubs/Pages/default.aspx](http://www.aipla.org/learningcenter/library/books/other-pubs/Pages/default.aspx))  
26  
27 • Michael Avery, David Rudovsky, Karen M. Blum, & Jennifer Laurin, *Police Misconduct:*  
28 *Law and Litigation* (2017-2018 ed.) (available on WestlawNext as [Police Misconduct:](#)  
29 [Law & Litigation](#)).  
30  
31 • Federal Circuit Bar Association, Model Patent Jury Instructions (updated 2016)  
32 (available online at <https://fedcirbar.org/IntegralSource/Model-Patent-Jury-Instructions>).  
33  
34 • Kevin F. O'Malley, Jay E. Grenig, & William C. Lee, *Federal Jury Practice and*  
35 *Instructions* (6th ed., updated through 2018) (available on WestlawNext as [Federal Jury](#)  
36 [Practice and Instructions](#)).  
37  
38 • Hon. Leonard B. Sand, John S. Siffert, Walter P. Loughlin, Steven A. Reiss, Steve Allen,  
39 Hon. Jed S. Rakoff, & David M. Epstein, *Modern Federal Jury Instructions—Civil* (1984,  
40 updated through 2018) (available on Lexis Advance as [Modern Federal Jury Instructions](#)



## Appendix Two: Other Sets of Instructions

1        [- Civil](#)).

- 2
- 3        •     Hon. Leonard B. Sand, John S. Siffert, Walter P. Loughlin, Steven A. Reiss, Steve Allen,  
4             & Hon. Jed S. Rakoff, *Modern Federal Jury Instructions—Criminal* (1984, updated  
5             through 2018) (available on Lexis Advance as [Modern Federal Jury Instructions -  
6             Criminal](#)).
- 7
- 8        •     Martin A. Schwartz & George C. Pratt, *4 Section 1983 Litigation: Jury Instructions* (2d  
9             ed., updated 2018) (available on WestlawNext as [Section 1983 Litigation Jury  
10            Instructions](#)).

11

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

### 15

### 16

### 17           **Instructions That Pertain to Federal Claims and Are Not Covered in**

### 18           **Third Circuit Models**

- 19
- 20
- 21        •     Admiralty
- 22
- 23             ○     1<sup>st</sup> Cir. – Maritime Employee Personal Injury
- 24             ○     5<sup>th</sup> Cir. – (Civil) 4.1 - 4.11
- 25             ○     8<sup>th</sup> Cir. – (Civil) 17.00-17.90
- 26             ○     9<sup>th</sup> Cir. – (Civil) 7.1 - 7.12
- 27             ○     11<sup>th</sup> Cir. –(Civil) Chapter 8
- 28             ○     O’Malley et al. – Chapter 156
- 29             ○     Sand et al. – Chapter 90
- 30
- 31        •     Antitrust
- 32
- 33             ○     5<sup>th</sup> Cir. – (Civil) 6 (Comment points to other sources)
- 34             ○     9<sup>th</sup> Cir. – (Civil) 14 (Comment points to other sources)
- 35             ○     ABA, Model Jury Instructions in Civil Antitrust Cases
- 36             ○     ABA, Model Jury Instructions in Criminal Antitrust Cases
- 37             ○     O’Malley et al. – Chapter 150
- 38             ○     Sand et al. – Chapters 79 - 81
- 39
- 40        •     Bankruptcy

## Appendix Two: Other Sets of Instructions

- 1
- 2 ○ O'Malley et al. – Chapter 164
- 3
- 4 ● Civil Rights – Education Discrimination
- 5
- 6 ○ O'Malley et al. – Chapter 177
- 7
- 8 ● Civil Rights – First Amendment – Libel
- 9
- 10 ○ O'Malley et al. – Chapter 124
- 11 ○ Sand et al. – Chapter 91
- 12
- 13 ● Civil Rights – Housing Discrimination
- 14
- 15 ○ O'Malley et al. – Chapter 169
- 16 ○ Sand et al. – 87.02
- 17
- 18 ● Civil Rights – Section 1983 Claims
- 19
- 20 ○ Conditions of Confinement
- 21
- 22 - 5<sup>th</sup> Cir. – (Civil) 10.9 – 10.10
- 23 - 7<sup>th</sup> Cir. – (Civil) 7.15
- 24 - 9<sup>th</sup> Cir. – (Civil) 9.27 & 9.30
- 25 - 11<sup>th</sup> Cir. – (Civil) 5.5
- 26 - O'Malley et al. – 166.22
- 27 - Schwartz & Pratt – 11.02
- 28
- 29 ○ Denial of Access to Courts
- 30
- 31 - 7<sup>th</sup> Cir. – (Civil) 8.01 - 8.03
- 32 - 11<sup>th</sup> Cir. – (Civil) 5.1
- 33 - O'Malley et al. – 166.24
- 34
- 35 ○ Law Enforcement – Other Violations
- 36
- 37 - Excessive Bail
- 38
- 39 ■ Schwartz & Pratt – 9.04
- 40

## Appendix Two: Other Sets of Instructions

- 1 - Failure to Produce Exculpatory Evidence
- 2
- 3     ▪ Avery et al. – 12.29 - 12.30
- 4     ▪ Schwartz & Pratt – 9.01
- 5
- 6 - Manufactured, Coerced, or False Evidence
- 7
- 8     ▪ Avery et al. – 12.25 - 12.28
- 9     ▪ Schwartz & Pratt – 9.02
- 10
- 11 ○ Plaintiff’s Status
- 12
- 13     - Schwartz & Pratt – 3.04
- 14
- 15 ○ Prisoner – Disciplinary Sanctions
- 16
- 17     - Schwartz & Pratt – 11.04
- 18
- 19 ○ Prisoner – Retaliation
- 20
- 21     - 7<sup>th</sup> Cir. – (Civil) 6.03
- 22     - 11<sup>th</sup> Cir. – (Civil) 5.1
- 23
- 24 ○ Procedural Due Process
- 25
- 26     - O’Malley et al. – 168.80 - 168.151
- 27     - Schwartz & Pratt – 6.01
- 28
- 29 ○ Regulatory Takings
- 30
- 31     - Schwartz & Pratt – 6.03
- 32
- 33 ○ Substantive Due Process
- 34
- 35     - Schwartz & Pratt – 6.02
- 36
- 37 ○ Unreasonable Search
- 38
- 39     - 9<sup>th</sup> Cir. – (Civil) 9.12 - 9.17, 9.22
- 40     - Avery et al. – 12.15 - 12.19
- 41     - O’Malley et al. – 165.22

## Appendix Two: Other Sets of Instructions

- 1                   -       Sand et al. – 87.03 (87-74B)
- 2
- 3       •       Civil Rights – Section 1985 Conspiracy Claims
- 4
- 5           ○       O’Malley et al. – Chapter 167
- 6           ○       Sand et al. – 87.04
- 7
- 8       •       Damages
- 9
- 10          ○       5<sup>th</sup> Cir. – (Civil) 10.12, 15.1 - 15.7
- 11          ○       9<sup>th</sup> Cir. – (Civil) 5.1 - 5.6
- 12          ○       Sand et al. – Chapter 77
- 13          ○       Schwartz & Pratt – Chapter 18
- 14
- 15       •       Defenses
- 16
- 17          ○       Miscellaneous
- 18
- 19               -       O’Malley et al. – 107.01 - 107.04
- 20
- 21       •       Eminent Domain
- 22
- 23          ○       5<sup>th</sup> Cir. – (Civil) 13.3
- 24          ○       O’Malley et al. – Chapter 154
- 25
- 26       •       Evidence
- 27
- 28          ○       Admissions in Pleadings
- 29
- 30               -       O’Malley et al. – 101.46
- 31
- 32          ○       Credibility of Witnesses
- 33
- 34               -       1<sup>st</sup> Cir. (Criminal) – 1.06, 3.06
- 35               -       5<sup>th</sup> Cir. (Criminal) – 1.08
- 36               -       6<sup>th</sup> Cir. (Criminal) – 1.07
- 37               -       7<sup>th</sup> Cir. (Criminal) – 3.01
- 38               -       8<sup>th</sup> Cir. – (Civil) 3.4; (Criminal) 1.05
- 39               -       9<sup>th</sup> Cir. – (Civil) 1.14; (Criminal) 1.7 & 3.9
- 40               -       10<sup>th</sup> Cir. (Criminal) – 1.08

## Appendix Two: Other Sets of Instructions

- 1 - O'Malley et al. – 15:01 - 15:15 (criminal cases); 105:01 - 105:12 (civil  
2 cases)
- 3
- 4 ○ Cross-Examination of Character Witness
- 5
- 6 - 7<sup>th</sup> Cir. – (Civil) 2.10
- 7 - 8<sup>th</sup> Cir. – (Civil) 2.07
- 8 - O'Malley et al. – 11:15 (criminal cases)
- 9 - Sand et al. – 5.06 (5-16)
- 10
- 11 ○ Demonstrative Evidence
- 12
- 13 - 5<sup>th</sup> Cir. – (Civil) 2.8
- 14 - 7<sup>th</sup> Cir. – (Civil) 1.24; (Criminal) 3.17
- 15 - 8<sup>th</sup> Cir. – (Civil) 2.11; (Criminal) 4.11
- 16 - 9<sup>th</sup> Cir. – (Civil) 2.14; (Criminal) 4.16
- 17
- 18 ○ Fingerprints
- 19
- 20 - O'Malley et al. – 14.12 & 104.51
- 21
- 22 ○ Habit or Routine Practice Evidence
- 23
- 24 - Sand et al. – 74.03
- 25
- 26 ○ Handwriting
- 27
- 28 - O'Malley et al. – 104.52
- 29
- 30 ○ Impeachment by Inconsistent Statements
- 31
- 32 - 1<sup>st</sup> Cir. (Criminal) – 2.03
- 33 - 5<sup>th</sup> Cir. – (Civil) 2.11
- 34 - 6<sup>th</sup> Cir. (Criminal) – 7.04
- 35 - 7<sup>th</sup> Cir. – (Civil) 1.14; (Criminal) 3.03 & 3.04
- 36 - 10<sup>th</sup> Cir. (Criminal) – 1.10
- 37 - 11<sup>th</sup> Cir. – (Civil) 3.5.1; (Criminal) 6.1 - 6.6
- 38 - O'Malley et al. – 15.06 & 105.04
- 39
- 40 ○ Inferences and Presumptions
- 41

## Appendix Two: Other Sets of Instructions

- 1 - 1<sup>st</sup> Cir. – (Criminal) 3.04
- 2 - 8<sup>th</sup> Cir. (Criminal) – 4.13
- 3 - O’Malley et al. – 104.20 - 104.28
- 4 - Sand et al. – Chapters 6 & 75
- 5
- 6 ○ Oral Statements or Admissions
- 7
- 8 - O’Malley et al. – 104.53
- 9
- 10 ○ Pleadings
- 11
- 12 - O’Malley et al. – 103.32
- 13 - Sand et al. – 78-2
- 14
- 15 ○ Requests for Admission
- 16
- 17 - Sand et al. – 74.08
- 18
- 19 ○ Similar Acts
- 20
- 21 - 1<sup>st</sup> Cir. – (Criminal) – 2.06
- 22 - 5<sup>th</sup> Cir. – (Civil) 2.10; (Criminal) 1.30
- 23 - 8<sup>th</sup> Cir. – (Criminal) 2.8, 2.08A, 2.9
- 24 - 10<sup>th</sup> Cir. (Criminal) – 1.30
- 25 - 11<sup>th</sup> Cir. (Criminal) – Special Instructions 4.1 & 4.2; Trial Instructions 1.1
- 26 & 1.2
- 27 - Sand et al. – 5.10; 74.03 (74-7 - 74-8.1)
- 28
- 29 ○ Statements by Patient to Doctor
- 30
- 31 - Sand et al. – 74.05 (74-10)
- 32
- 33 ○ Stipulations
- 34
- 35 - 1<sup>st</sup> Cir. - (Criminal) 2.01
- 36 - 5<sup>th</sup> Cir. - (Civil) 2.2 & 2.3
- 37 - 7<sup>th</sup> Cir. – (Civil) 2.04 & 2.05
- 38 - 8<sup>th</sup> Cir. – (Civil) 2.02 & 2.03; (Criminal) 2.02 & 2.03
- 39 - 9<sup>th</sup> Cir. – (Civil) 2.1 & 2.2; (Criminal) 2.3 & 2.4
- 40 - 11<sup>th</sup> Cir. – (Civil) 2.1
- 41 - O’Malley et al. – Chapter 102

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- 1           -       O'Malley et al. – 101.47
- 2           -       Sand et al. – 74.02 (74-4)
- 3
- 4       ○     Stipulations at pretrial conference
- 5
- 6           -       O'Malley et al. – 101.47
- 7
- 8       ○     View of Location Permitted
- 9
- 10       -       O'Malley et al. – 11.07; 102.26
- 11
- 12    ●     General Instructions
- 13
- 14       ○     Common Counsel
- 15
- 16           -       Sand et al. – 71-8
- 17
- 18       ○     Judge's Comments on Evidence
- 19
- 20           -       O'Malley et al. – 102.73
- 21
- 22       ○     Judge's Questions to Witnesses
- 23
- 24           -       O'Malley et al. – 11.05, 101.30, 102.72
- 25
- 26       ○     Missing Witness
- 27
- 28           -       1<sup>st</sup> Cir. (Criminal) – 2.12
- 29           -       5<sup>th</sup> Cir. – (Civil) 2.9
- 30           -       7<sup>th</sup> Cir. – (Civil) 1.19
- 31           -       8<sup>th</sup> Cir. – (Criminal) 4.16
- 32           -       9<sup>th</sup> Cir. – (Criminal) 4.13
- 33           -       O'Malley et al. – 104.25
- 34
- 35       ○     No Transcript Available to the Jury
- 36
- 37           -       8<sup>th</sup> Cir. – (Civil) 1.6; (Criminal) 1.6A
- 38           -       9<sup>th</sup> Cir. – (Civil) 1.17; (Criminal) 1.9
- 39
- 40       ○     Previous Trial
- 41

## Appendix Two: Other Sets of Instructions

- 1 - 1<sup>st</sup> Cir. (Criminal) – 1.03
- 2 - 8<sup>th</sup> Cir. – (Civil) 2.06; (Criminal) 2.20
- 3 - 9<sup>th</sup> Cir. – (Criminal) 2.15
- 4 - Federal Judicial Center Pattern Criminal Jury Instruction 14
- 5 - O’Malley et al. – 102.42
- 6 - Sand et al. 71.01 (71-11)
- 7
- 8 ○ Publicity During Trial
- 9
- 10 - O’Malley et al. – 11.08, 101.21, 102.12
- 11
- 12 ○ Reprimand of Counsel for Misconduct
- 13
- 14 - Sand et al. – 71.01 (71-7)
- 15
- 16 ○ Sequestration
- 17
- 18 - O’Malley et al. – 10.09, 101.14
- 19 - Sand et al. – 9.06
- 20
- 21 ○ Sympathy
- 22
- 23 - Sand et al. – 71.01 (71-10)
- 24
- 25 ○ Tests and Experiments
- 26
- 27 - 9<sup>th</sup> Cir. – (Civil) 2.9
- 28
- 29 ○ Verdict
- 30
- 31 - 1<sup>st</sup> Cir. – (Criminal) 6.01 - 6.06
- 32 - 6<sup>th</sup> Cir. – (Criminal) 8.03
- 33 - 7<sup>th</sup> Cir. – (Civil) 1.32; (Criminal) 7.01 – 7.03
- 34 - 8<sup>th</sup> Cir. – (Civil) 3.6; (Criminal) 3.12
- 35 - 9<sup>th</sup> Cir. – (Civil) 3.5; (Criminal) 7.5
- 36 - 11<sup>th</sup> Cir. – (Criminal) Basic Instruction 12
- 37 - O’Malley et al. – Chapter 106
- 38
- 39 ○ Withdrawal of Claim
- 40
- 41 - 7<sup>th</sup> Cir. – (Civil) 2.13



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- 1                   -       8<sup>th</sup> Cir. – (Civil) 2.13 & 3.5
- 2                   -       O’Malley et al. – 102.60
- 3
- 4       •       Intellectual Property
- 5
- 6           ○       Copyright
- 7
- 8                   -       7<sup>th</sup> Cir. – (Civil) Chapter 12
- 9                   -       9<sup>th</sup> Cir. – (Civil) Chapter 17
- 10                  -       11<sup>th</sup> Cir. – (Civil) Chapter 9
- 11                  -       O’Malley et al. – Chapter 160
- 12                  -       Sand et al. – Chapter 86B
- 13
- 14           ○       Patent
- 15
- 16                   -       7<sup>th</sup> Circuit – (Civil) Chapter 11
- 17                   -       American Intellectual Property Law Association, Model Patent Jury
- 18                   Instructions
- 19                   -       ABA, Model Jury Instructions: Patent Litigation
- 20                   -       Federal Circuit Bar Association, Model Patent Jury Instructions
- 21                   -       O’Malley et al.: Chapter 158
- 22                   -       Sand et al.: Chapters 81 & 86
- 23
- 24           ○       Trademark
- 25
- 26                   -       7<sup>th</sup> Cir. – (Civil) Chapter 13
- 27                   -       9<sup>th</sup> Cir. – (Civil) Chapter 15
- 28                   -       11<sup>th</sup> Cir. – (Civil) Chapter 10
- 29                   -       O’Malley et al. – Chapter 159
- 30                   -       Sand et al. – Chapter 86A
- 31
- 32       •       Labor & Employment
- 33
- 34           ○       Employee’s Claims Against Employer and Union
- 35
- 36                   -       9<sup>th</sup> Cir. – (Civil) 13.1 & 13.2
- 37                   -       11<sup>th</sup> Cir. – (Civil) 4.17
- 38                   -       O’Malley et al. – 157.80 - 157.140
- 39
- 40           ○       Employer’s Claim against Union
- 41

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- 1                   -       O'Malley et al. – 157.01 - 157.71
- 2
- 3           ○       Fair Labor Standards Act
- 4
- 5                   -       5<sup>th</sup> Cir. – (Civil) 11.24
- 6                   -       8<sup>th</sup> Cir. – (Civil) Chapter 16
- 7                   -       11<sup>th</sup> Cir. – (Civil) 4.14
- 8                   -       O'Malley et al. – Chapter 175
- 9                   -       Sand et al. – Chapter 85
- 10
- 11   •       Miscellaneous Statutory Actions
- 12
- 13           ○       Automobile Dealers Day-in-Court Act
- 14
- 15                   -       5<sup>th</sup> Cir. – (Civil) 13.1
- 16                   -       O'Malley et al. – Chapter 151
- 17                   -       Sand et al. – 93.02
- 18
- 19           ○       Emergency Medical Treatment And Active Labor Act
- 20
- 21                   -       O'Malley et al. – Chapter 176
- 22
- 23           ○       Fair Credit Reporting Act
- 24
- 25                   -       O'Malley et al. – Chapter 153
- 26
- 27           ○       False Claims Act
- 28
- 29                   -       O'Malley et al. – Chapter 178
- 30
- 31           ○       Interstate Land Sales Full Disclosure Act
- 32
- 33                   -       5<sup>th</sup> Cir. – (Civil) 13.4
- 34
- 35           ○       Odometer Fraud
- 36
- 37                   -       5<sup>th</sup> Cir. – (Civil) 13.2
- 38                   -       8<sup>th</sup> Cir. – (Civil) Chapter 19
- 39                   -       Sand et al. – Chapter 93
- 40
- 41           ○       Petroleum Marketing Practices Act

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- 1  
2 - O'Malley et al. – Chapter 152  
3  
4 • Party Status  
5  
6 ○ All Persons Equal Before the Law  
7  
8 - 7<sup>th</sup> Cir. – (Civil) 1.03  
9 - O'Malley et al. – 103.11 & 103.12  
10  
11 ○ Corporation as Party  
12  
13 - 5<sup>th</sup> Cir. – (Civil) 2.16  
14 - 7<sup>th</sup> Cir. – (Civil) 1.03  
15 - 9<sup>th</sup> Cir. – (Civil) 4.1  
16 - 11<sup>th</sup> Cir. – (Civil) 3.2.2  
17 - Sand et al. – 72.01 (72-1)  
18 - O'Malley et al. – 103.12  
19  
20 ○ Government as Party  
21  
22 - 11<sup>th</sup> Cir. – (Civil) 3.2.3  
23  
24 ○ Multiple Parties  
25  
26 - 5<sup>th</sup> Cir. – (Criminal) 1.22 – 1.23  
27 - 6<sup>th</sup> Cir. - (Criminal) 2.01B-D  
28 - 7<sup>th</sup> Cir. – (Civil) 1.25; (Criminal) 4.07  
29 - 8<sup>th</sup> Cir – (Civil) 2.08; (Criminal) 3.07 – 3.08  
30 - 9<sup>th</sup> Cir. – (Civil) 1.8; (Criminal) 3.12 – 3.13  
31 - 10<sup>th</sup> Cir. – (Criminal) 1.21 - 1.22  
32 - 11<sup>th</sup> Cir. – (Criminal) 10.3 – 10.4  
33 - O'Malley et al. – 102.41, 103.10, 103.13, 103.14, 106.03  
34  
35 • Railroad Employees  
36  
37 ○ Federal Employers' Liability Act  
38  
39 - 1<sup>st</sup> Cir. – Railroad Employee Personal Injury 1.1  
40 - 5<sup>th</sup> Cir. – (Civil) 5.1  
41 - 7<sup>th</sup> Cir. – (Civil) 9.01 – 9.05

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- 1           -       8<sup>th</sup> Cir. – (Civil) 15.00 – 15.81
- 2           -       9<sup>th</sup> Cir. – 6.1 - 6.7
- 3           -       O’Malley et al. – Chapter 155A
- 4           -       Sand et al. – Chapter 89
- 5
- 6           ○       Federal Safety Appliance Act
- 7
- 8           -       1<sup>st</sup> Cir. – Railroad Employee Personal Injury 2.1
- 9           -       5<sup>th</sup> Cir. – 5.2
- 10          -       7<sup>th</sup> Cir. – (Civil) 9.07
- 11          -       8<sup>th</sup> Cir. – (Civil) 15.42
- 12          -       O’Malley et al. – Chapter 155B
- 13
- 14          •       RICO
- 15
- 16          ○       7<sup>th</sup> Cir. – (Criminal) Statutory Instructions, 18 U.S.C. 1961 – 1963
- 17          ○       8<sup>th</sup> Cir. – (Criminal) 6.18.1962A – G
- 18          ○       9<sup>th</sup> Cir. – (Criminal) 8.155 – 8.161
- 19          ○       10<sup>th</sup> Cir. – (Criminal) 2.74 - 2.76
- 20          ○       11<sup>th</sup> Cir. – (Civil) Chapter 7
- 21          ○       O’Malley et al. – Chapters 56, 161
- 22          ○       Sand et al. – Chapters 52, 84
- 23
- 24          •       Securities Act
- 25
- 26          ○       5<sup>th</sup> Cir. – (Civil) 7.1
- 27          ○       9<sup>th</sup> Cir. – (Civil) 18.1 - 18.11
- 28          ○       11<sup>th</sup> Cir. – (Civil) Chapter 6
- 29          ○       ABA, Model Jury Instructions: Securities Litigation
- 30          ○       O’Malley et al. – Chapter 162
- 31          ○       Sand et al. – Chapters 82 & 83
- 32
- 33          •       Tax Refunds
- 34
- 35          ○       5<sup>th</sup> Cir. – (Civil) Chapter 12
- 36          ○       O’Malley et al. – Chapter 163
- 37
- 38          •       Vicarious Liability
- 39
- 40          ○       9<sup>th</sup> Cir. – (Civil) Chapter 4

**Appendix Two:  
Other Sets of Instructions**

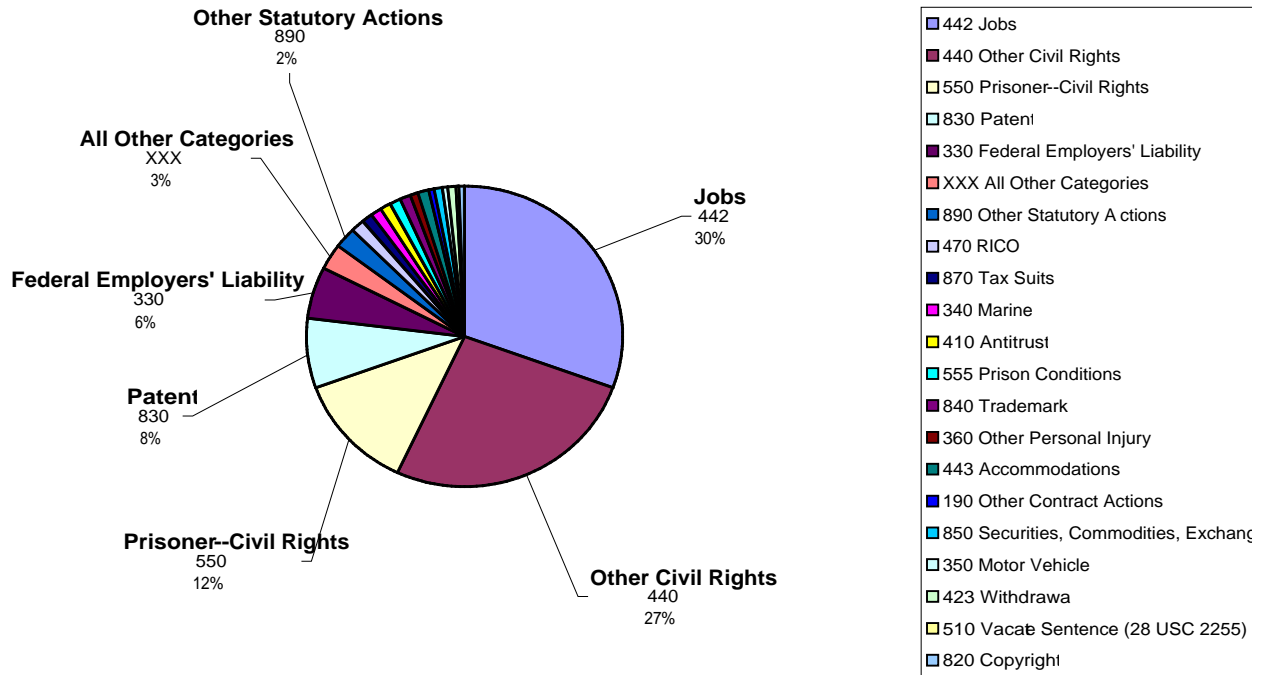
- 1
- 2
- O'Malley et al. – Chapter 108

## 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 now maintained at [http://legal1.cit.cornell.edu:8090/fed\\_ct.htm](http://legal1.cit.cornell.edu:8090/fed_ct.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 eliminate diversity cases, which presumably

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



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://legal1.cit.cornell.edu:8090/year.htm>.) The case categories were defined by reference to the category selected on the Civil Cover Sheet (the current version of which is available online at <http://www.uscourts.gov/forms/civil-forms/civil-cover-sheet>). *See* Fifth ICPSR Edition (Ann Arbor, MI: Inter-university Consortium for Political and Social Research, 1993), available online at <http://legal1.cit.cornell.edu:8090/codebook.htm>.

**Appendix Three:  
Bibliography**

**Appendix Three: Discussions of Jury Instructions and Decisionmaking**

The following materials discuss various aspects of jury instructions and decisionmaking.

- Walter F. Abbott et al., *JURY RESEARCH: A REVIEW AND BIBLIOGRAPHY* (1993).
- Christine M. Shea Adams & Martin J. Bourgeois, *Separating Compensatory and Punitive Damage Award Decisions by Trial Bifurcation.*, 30 *LAW HUM. & BEHAV.* 11 (2006).
- American Bar Association Principles for Juries & Jury Trials, SL044 ALI-ABA 653 (2005).
- Martin J. Bourgeois et al., *Nominal and Interactive Groups: Effects of Preinstruction and Deliberations on Decisions and Evidence Recall in Complex Trials*, 80 *J. APPL. PSYCHOL.* 58 (1995).
- David C. Brody & John Neiswender, *Judicial Attitudes Towards Jury Reform*, 83 *JUDICATURE* 298 (2000).
- A. Barry Cappello & G. James Strenio, *Juror Questioning: The Verdict Is In*, 36 *JUN TRIAL* 44 (2000).
- Joe S. Cecil et al., *Citizen Comprehension of Difficult Issues: Lessons from Civil Jury Trials*, 40 *AM. U. L. REV.* 727 (1991).
- Robert P. Charrow & Veda R. Charrow, *Making Legal Language Understandable: A Psycholinguistic Study of Jury Instructions*, 79 *COLUM. L. REV.* 1306 (1979).
- Charting a Future for the Civil Jury System: Report from an American Bar Association / Brookings Symposium (1992).
- The Civil Juror: A Research Project Sponsored by the Roscoe Pound Foundation (1988), in John Guinther, *The Jury in America* (1988).
- Neil P. Cohen & Daniel R. Cohen, *Jury Reform in Tennessee*, 34 *U. MEM. L. REV.* 1 (2003).
- Neil P. Cohen, *The Timing of Jury Instructions*, 67 *TENN. L. REV.* 681 (2000).
- Committee on Federal Courts of the New York State Bar Association, *Improving Jury Comprehension in Complex Civil Litigation*, 62 *ST. JOHN'S L. REV.* 549 (1988).

## Appendix Three: Bibliography

- 1 Donna Cruse & Beverly A. Browne, *Reasoning in a Jury Trial: The Influence of Instructions*,  
2 114 J. GEN. PSYCHOL. 129 (1987).  
3
- 4 B. Michael Dann & George Logan III, *Jury Reform: The Arizona Experience*, 79 JUDICATURE  
5 280 (1996).  
6
- 7 B. Michael Dann., "*Learning Lessons*" and "*Speaking Rights*": *Creating Educated and*  
8 *Democratic Juries*, 68 IND. L.J. 1229 (1993).  
9
- 10 B. Michael Dann et al., *Can Jury Trial Innovations Improve Juror Understanding of DNA*  
11 *Evidence?*, *Champion*, April 27, 2007, at 26.  
12
- 13 Dennis J. Devine et al., *Jury Decision Making: 45 Years of Empirical Research on Deliberating*  
14 *Groups*, 7 PSYCHOL. PUB. POL'Y & L. 622 (2001).  
15
- 16 Shari Seidman Diamond, *How Jurors Deal with Expert Testimony and How Judges Can Help*,  
17 16 J.L. & POL'Y 47 (2007).  
18
- 19 Shari Seidman Diamond, *Beyond Fantasy and Nightmare: A Portrait of the Jury*, 54 BUFF. L.  
20 REV. 717 (2006).  
21
- 22 Shari Seidman Diamond, Beth Murphy & Mary R. Rose, *The "Kettleful of Law" in Real Jury*  
23 *Deliberations: Successes, Failures, and Next Steps*, 106 NW. U. L. REV. 1537 (2012).  
24
- 25 Shari Seidman Diamond et al., *Juror Questions During Trial: A Window into Juror Thinking*, 59  
26 Vand. L. REV. 1927 (2006).  
27
- 28 Shari Seidman Diamond et al., *Juror Discussions During Civil Trials: Studying an Arizona*  
29 *Innovation*, 45 ARIZ. L. REV. 1 (2003).  
30
- 31 Shari Seidman Diamond & Neil Vidmar, *Jury Room Ruminations on Forbidden Topics*, 87 VA.  
32 L. REV. 1857 (2001).  
33
- 34 Bethany K. Dumas, *Jury Trials: Lay Jurors, Pattern Jury Instructions, and Comprehension*  
35 *Issues*, 67 TENN. L. REV. 701 (2000).  
36
- 37 Amiram Elwork et al., *Juridic Decisions: In Ignorance of the Law or in Light of It?*, 1 LAW &  
38 HUM. BEHAV. 163 (1977).  
39
- 40 Amiram Elwork et al., MAKING JURY INSTRUCTIONS UNDERSTANDABLE (1982).  
41
- 42 Victor E. Flango, *Would Jurors Do a Better Job if They Could Take Notes?*, 63 JUDICATURE 436



**Appendix Three:  
Bibliography**

1 (1980).  
2

3 Lynne ForsterLee & Irwin A. Horowitz, *The Effects of Jury-Aid Innovations on Juror*  
4 *Performance in Complex Civil Trials*, 86 JUDICATURE 184 (2003).  
5

6 Lynne ForsterLee & Irwin A. Horowitz, *Enhancing Juror Competence in a Complex Trial*, 11  
7 APPLIED COGNITIVE PSYCHOL. 305 (1997).  
8

9 Lynne ForsterLee et al., *Effects of Notetaking on Verdicts and Evidence Processing in a Civil*  
10 *Trial*, 18 LAW & HUM. BEHAV. 567 (1994).  
11

12 Lynne ForsterLee et al., *Juror Competence in Civil Trials: Effects of Preinstruction and*  
13 *Evidence Technicality*, 78 J. APPLIED PSYCHOL. 14 (1993).  
14

15 Paula L. Hannaford et al., *The Timing of Opinion Formation by Jurors in Civil Cases: An*  
16 *Empirical Examination*, 67 TENN. L. REV. 627, 650 (2000).  
17

18 Paula L. Hannaford et al., *Permitting Jury Discussions During Trial: Impact of the Arizona*  
19 *Reform*, 24 LAW & HUM.BEHAV. 359 (2000).  
20

21 Valerie P. Hans, *Empowering the Active Jury: A Genuine Tort Reform*, 13 ROGER WILLIAMS U.  
22 L. REV. 39 (2008).  
23

24 Valerie P. Hans, *Judges, Juries, and Scientific Evidence*, 16 J.L. & POL'Y 19 (2007).  
25

26 Valerie P. Hans, *Inside the Black Box: Comment on Diamond and Vidmar*, 87 VA. L. REV. 1917  
27 (2001).  
28

29 Valerie P. Hans & Stephanie Albertson, *Empirical Research and Civil Jury Reform*, 78 NOTRE  
30 DAME L. REV. 1497 (2003).  
31

32 Valerie P. Hans et al., *The Arizona Jury Reform Permitting Civil Jury Trial Discussions: The*  
33 *Views of Trial Participants, Judges, and Jurors*, 32 U. MICH. J.L. REFORM 349 (1999).  
34

35 Larry Heuer & Steven Penrod, *Trial Complexity: A Field Investigation of Its Meaning and Its*  
36 *Effects*, 18 LAW & HUM. BEHAV. 29 (1994).  
37

38 Larry Heuer & Steven Penrod, *Juror Notetaking and Question Asking During Trials: A National*  
39 *Field Experiment*, 18 LAW & HUM. BEHAV. 121 (1994).  
40

41 Larry Heuer & Steven D. Penrod, *Instructing Jurors: A Field Experiment with Written and*  
42 *Preliminary Instructions*, 13 LAW & HUM. BEHAV. 409 (1989).

**Appendix Three:  
Bibliography**

- 1  
2 Larry Heuer & Steven Penrod, *Increasing Jurors' Participation in Trials: A Field Experiment*  
3 *with Jury Notetaking and Question Asking*, 12 LAW & HUM. BEHAV. 231 (1988).  
4  
5 Rebecca Hollander-Blumoff & Matthew T. Bodie, *The Effects of Jury Ignorance about Damage*  
6 *Caps: The Case of the 1991 Civil Rights Act*, 90 IOWA L. REV. 1361 (2005).  
7  
8 Alayna Jehle & Monica K. Miller, *Controversy in the Courtroom: Implications of Allowing*  
9 *Jurors to Question Witnesses*, 32 WM. MITCHELL L. REV. 27 (2005).  
10  
11 Saul M. Kassin & Lawrence S. Wrightsman, *On the Requirements of Proof: The Timing of*  
12 *Judicial Instruction and Mock Juror Verdicts*, 37 J. PERSONALITY & SOCIAL PSYCHOL.  
13 1877 (1979).  
14  
15 J. Clark Kelso, *Final Report of the Blue Ribbon Commission on Jury System Improvement*, 47  
16 HASTINGS L.J. 1433 (1996).  
17  
18 Geoffrey P. Kramer & Dorean M. Koenig, *Do Jurors Understand Criminal Jury Instructions?*  
19 *Analyzing the Results of the Michigan Juror Comprehension Project*, 23 UNIV. MICH. J.  
20 L. REFORM 401 (1990).  
21  
22 Richard Lempert, *Civil Juries and Complex Cases: Taking Stock after Twelve Years*, in *Verdict:*  
23 *Assessing the Civil Jury System* (Robert E. Litan ed. 1993).  
24  
25 Joel D. Lieberman & Bruce D. Sales, *What Social Science Teaches Us About the Jury Instruction*  
26 *Process*, 3 PSYCHOL. PUB. POL'Y & L. 589 (1997).  
27  
28 Nancy S. Marder, *Bringing Jury Instructions into the Twenty-First Century*, 81 NOTRE DAME L.  
29 REV. 449 (2006).  
30  
31 Nancy S. Marder, THE JURY PROCESS (Foundation Press 2005).  
32  
33 Nicole L. Mott, *The Current Debate on Juror Questions: "To Ask or Not to Ask, That Is the*  
34 *Question,"* 78 CHI.-KENT L. REV. 1099 (2003).  
35  
36 New York State Unified Court System, *Final Report of the Committees of the Jury Trial Project*  
37 (2005), available at <http://www.nyjuryinnovations.org/>.  
38  
39 Steven D. Penrod & Larry Heuer, *Tweaking Commonsense: Assessing Aids to Jury Decision*  
40 *Making*, 3 PSYCHOL. PUB. POL'Y & L. 259 (1997).  
41  
42 Alan Reifman et al., *Real Jurors' Understanding of the Law in Real Cases*, 16 LAW & HUM.

**Appendix Three:  
Bibliography**

1           BEHAV. 539 (1992).

2  
3           David L. Rosenhan et al., *Notetaking Can Aid Juror Recall*, 18 LAW & HUM. BEHAV. 53 (1994).

4  
5           Jessica M. Salerno & Shari Seidman Diamond, *The Promise of a Cognitive Perspective on Jury*  
6           *Deliberation*, 17 PSYCHONOMIC BULLETIN & REV. 174 (2010).

7  
8           Leonard B. Sand & Steven Alan Reiss, *A Report on Seven Experiments Conducted by District*  
9           *Court Judges in the Second Circuit*, 60 N.Y.U. L. REV. 423 (1985).

10  
11           William W. Schwarzer, *Communicating with Juries: Problems and Remedies*, 69 CAL L. REV.  
12           731 (1981).

13  
14           William W. Schwarzer, *Reforming Jury Trials*, 1990 U. CHI. LEGAL F. 119.

15  
16           Vicki L. Smith, *Prototypes in the Courtroom: Lay Representations of Legal Concepts*, 61 J.  
17           PERSONALITY & SOCIAL PSYCHOL. 857 (1991).

18  
19           Vicki L. Smith, *Impact of Pretrial Instruction on Jurors' Information Processing and Decision*  
20           *Making*, 76 J. APPLIED PSYCHOL. 220 (1991).

21  
22           Vicki L. Smith, *The Feasibility and Utility of Pretrial Instruction in the Substantive Law: A*  
23           *Survey of Judges*, 14 LAW & HUM. BEHAV. 235 (1990).

24  
25           Peter Meijes Tiersma, *Reforming the Language of Jury Instructions*, 22 HOFSTRA L. REV. 37  
26           (1993).

27  
28           Jeannine Turgeon & Elizabeth A. Francis, *Improving Pennsylvania's Justice System through*  
29           *Jury System Innovations*, 18 WIDENER L.J. 419 (2009).

30  
31           Neil Vidmar & Valerie P. Hans, *AMERICAN JURIES: THE VERDICT* (2007).

32  
33           Neil Vidmar & Matthew W. Wolfe, *Fairness through Guidance: Jury Instruction on Punitive*  
34           *Damages after Philip Morris v. Williams*, 2 CHARLESTON L. REV. 307 (2008).

35  
36           Ryan J. Winter & Edith Greene, *Juror Decision-Making*, in *HANDBOOK OF APPLIED COGNITION*  
37           739–761 (Francis Durso ed., 2nd ed. 2007).