

Civil Jury Instructions Committee
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016

June 2, 2021
3:00 to 5:00 pm
Virtual Meeting

MEMBER ATTENDANCE:

P = present in person; V = present virtually; A= absent.

Alicia Funkhouser (Chair)	V	Daniel Torrens	V
Kara Klima (Secretary)	V	Hon. Pamela Gates	A
Rodney Ott	V	Jack Klecan	A
Lincoln Combs	A	David Shughart	A
Ben Cooper	A	Steve Kramer	V
Dominic Gomez	A	Sara Regan	A
Richard Langerman	V		
Patrick Lopez	V		
Hon. Scott McCoy	A		
Hon. Roger Brodman	A		
Nate Meyer	A		

I. Call to Order: The meeting was called to order by Alicia Funkhouser. There was no quorum.

II. Agenda Items:

1. Minutes of May 5, 2021 Meeting: Dan Torrens pointed out that Lincoln Combs and Roger Brodman were not included in the attendance roster. The minutes will be revised to add them to the attendance roster.

2. Bad Faith Subcommittee: Subcommittee chair, Ben Cooper, was not present to give a report. Subcommittee member, Richard Langerman, said that the subcommittee did not meet to address the outstanding issue in Bad Faith 3. Alicia suggested setting a subcommittee meeting now. A meeting was set for Tuesday June 15 at 1:30. Alicia will reach out to subcommittee members, Nate, Ben and David S. to find out if they can make the meeting.

3. Vicarious Liability Subcommittee: Subcommittee chair, P.J. Lopez, reported on the subcommittee's work on the vicarious liability instructions. At the last full committee meeting, the subcommittee presented two potential instructions – one that addressed the control factors and one that did not and debated what to do about that. In the meantime, the Court of Appeals issued a

memorandum decision (instead of an opinion) in which it set forth the test as applied in Engler and Restatement (3d) of Agency 7.07 but then says that if vicarious liability is based on claim of control, it should consider the 10 factors. The subcommittee needs to go back again and revisit the issue.

Steve Kramer suggested that the subcommittee draft 3 instructions – one for cases in which vicarious liability is not disputed, one that follows Engler, and one to use in cases where employer control or right to control is an issue.

4. Implicit Bias Instruction: Alicia reported that Mikel Steinfeld from the Criminal RAJI Committee reached out to her about the possibility of the two committees working together to draft an implicit bias in instruction. Mikel Steinfeld sent sample implicit bias language from other states. These were distributed to the committee. Alicia and Steve volunteered to serve on the subcommittee and Dominic was recruited in absentia.

5. Statute of Limitations Exploratory Committee: Kara Klima volunteered to chair subcommittee. Alicia suggesting tabling item to August meeting to recruit volunteers.

6. Other Business: Richard suggested reaching out to Tucson attorneys to volunteer to join the committee especially now since the committee is meeting on Zoom. Alicia asked that staff liaison give the committee a heads up when the next application period opened up.

III. Call to the Public: Alicia made a call to the public. There were no members of the public who addressed the Committee.

The meeting was adjourned at 3:40 p.m.