

# REVISED ARIZONA JURY INSTRUCTIONS (CIVIL)

Fourth Edition

(Cite as RAJI (CIVIL) 4th)



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Continuing Legal Education  
2005

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First Edition, 1974  
1987 Supplement, January 1987  
1988 Supplement, June 1988  
Second Edition, June 1991  
1994 Supplement, November 1994  
Third Edition, 1997  
Fourth Edition, 2004

ISBN 0-88726-063-2  
Library of Congress Number Applied for.

Printed in the United States of America

RAJI (CIVIL) 4th has been prepared by the Civil Jury Instructions Committee of the State Bar of Arizona. The State Bar Board of Governors has approved these instructions and authorized their publication and sale.

These instructions are recommended for use in all civil trials in Arizona courts. But court and counsel should satisfy themselves in each case—from original and fully current authority—that the instructions being given in a case are both appropriate and correct for the case.

With regard to the use of these instructions, please refer to the **Important Notice** immediately following.

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**State Bar of Arizona**  
**Civil Jury Instructions Committee**  
**2003-2004**

Aaron Kizer, Chair, Law Office of Aaron Kizer, PLC  
James Tilker, Vice Chair, Offices of James A. Tilker, PC  
V. Michele Gámez, Esq., Editor

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Christopher W. Kramer, Office of the Attorney General  
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Stephanie Quincy, Sherman & Howard LLC  
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Joseph A. Schenk, Herbert Schenk, PC  
Louis T. Seletos, Burrell & Seletos  
Don D. Skypeck, Skypeck & Sorensen  
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Jeffrey Willis, Snell & Wilmer, LLP



## INTRODUCTION TO FOURTH EDITION

The Civil Jury Instructions Committee is pleased to present the Fourth Edition of the Revised Arizona Jury Instructions (Civil). Since 1997, this edition is the first comprehensive revision to the RAJI instructions. Major changes include:

1. Adopting the Judge's Benchbook as the Preliminary Instructions;
2. Creating a standard instruction as to the presence or absence of insurance;
3. Revamping the Eminent Domain instructions;
4. New Employment Law instructions;
5. A revised Punitive Damages instruction;
6. Revised Commercial Torts instructions;
7. New Intentional Torts instructions;
8. Updating cases cited on all instructions, where applicable;
9. Simplifying the language used; and
10. Referring to parties by name whenever practicable. Other areas not covered by existing instructions are also included.

We thank the past and present members of the Committee for their hard work in bringing the fourth edition to fruition. We also thank Nedra Brown and Ilona Kukan from the State Bar staff for their assistance. Finally, special thanks to our editor, V. Michele Gámez, for her help in editing these instructions.

The instructions remain a work in progress, so any suggestions for revisions or for new instructions are always appreciated.

Aaron Kizer, Chair  
Civil Jury Instructions Committee  
January 2005



## IMPORTANT NOTICE

The following jury instructions have been prepared by the Civil Jury Instruction Committee of the State Bar of Arizona. The State Bar Board of Governors has authorized the publication and distribution of these instructions for use where appropriate.

In the past, the Arizona Supreme Court expressed qualified approval for various jury instructions, which were then published as *RECOMMENDED ARIZONA JURY INSTRUCTIONS*. However, before the last RAJI (Civil) 2d publication, the Arizona Supreme Court decided not to issue or qualify approvals for any jury instructions. Due to the action by the Court, members of the Board of Governors established guidelines for future RAJIs and decided that this disclaimer should be included for all RAJIs. Accordingly, the instructions have also been renamed *REVISED ARIZONA JURY INSTRUCTIONS (RAJI (CIVIL) 4th)*.

## STATEMENT OF PURPOSE AND APPROACH

RAJI instructions are designed to be neutral, brief, and simply worded. They should be selected and edited to be case specific and non-RAJI instructions being added only to the extent needed.

The Committee periodically adds new RAJI instructions. Nonetheless, certain omissions are deliberate and are expected to be permanent. The Committee has intentionally left out routinely requested argumentative instructions and those which explore overly detailed rules of law.

The volume of instructions given to each jury should be held to a reasonable minimum. Schwarzer, *Communication with Juries: Problems and Remedies*, 69 CAL. L. REV. (1981). We believe that juries function better when not overloaded with unfamiliar and unnecessary information.

In most trials, the ordinary principles of law that apply to the facts provide both necessary and sufficient bases for all jury instructions. Requested jury instructions selectively quoting from appellate court opinions seldom are helpful, nor do they generally reflect the kind of language best adapted to jury instructions. Such requests often use language and concern subjects addressed to trial court judges and lawyers rather than to jurors. *Petefish v. Dave*, 137 Ariz. 570, 672 P.2d 914 (1983).

In *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), the Arizona Supreme Court stated that every reasonable precaution should be taken to avoid instructions which jurors might think reflect the judge's weighing of the evidence. *Rosen* also overruled the giving of "sudden appearance" and "unusual event" instructions, giving reasons for rejecting proposed jury instructions which fit nearly argumentative, narrow, and particularized statements of law, whether they favor plaintiffs or defendants. RAJI instructions are designed to follow the principles stated in *Rosen*.



## COMPARISON TABLE

### Preliminary Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Duty of Jurors	1 – Duty of Jurors
2 – Importance of Jury Service	N/A
3 – Evidence	2 – Evidence
4 – Rulings of the Court	3 – Rulings of the Court
5 – Credibility of Witnesses	4 – Credibility of Witnesses
6 – Expert Witness	5 – Expert Witness
7 – Evidence, Statements of Lawyers and Rulings	N/A
8 – No Transcript Available to Jury; Taking Notes	6 – No Transcript Available to Jury; Taking Notes
9 – Admonition	7 – Admonition
10 – Media Coverage	8 – Media Coverage
11 – Questions by Jurors	9 – Questions by Jurors
12 – Exclusion of Witnesses	N/A
13 – Alternate Jurors	10 – Alternate Jurors
14 – Claims Made and Issues To be Proved	N/A
15 – Scheduling During Trial	N/A
16 – Order of Trial	11 – Outline of Trial

### Standard Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
N/A	1 – Duty of Jurors
N/A	2 – Evidence
N/A	3 – Rulings of the Court
N/A	4 – Arguments of Counsel
N/A	5 – Stipulations
N/A	6 – Credibility of Witnesses
N/A	7 – Expert Witness
1 – Impeachment with Felony Conviction	8 – Impeachment with Felony Conviction
2 – Burden of Proof (More Probably True)	9 – Burden of Proof (More Probably True)
3 – Burden of Proof (Clear and Convincing)	10 – Burden of Proof (Clear and Convincing)
4 – Corporate Party	11 – Corporate Party
5 – Respondeat Superior Liability	12 – Respondeat Superior Liability
6 – Impasse in Jury Deliberations	13 – Impasse in Jury Deliberations
7 – Excused Alternate Jurors	14 – Excused Alternate Jurors
8 – Closing Instruction	15 – Closing Instruction
9 – Insurance	N/A

### Fault Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Statement of Claim; Definition of Fault; Definition of Negligence (No Comparative Fault)	1 – Statement of Claim; Definition of Fault; Definition of Negligence (No Comparative Fault)
2 – Definition of Causation (No Comparative Fault)	2 – Definition of Causation (No Comparative Fault)
3 – Plaintiff's Burden of Proof (No Comparative Fault)	3 – Plaintiff's Burden of Proof (No Comparative Fault)
4 – Statement of Liability Issues (No Comparative Fault)	4 – Statement of Liability Issues (No Comparative Fault)
5 – Statement of Claims, Definition of Fault; Definition of Negligence (Comparative Fault)	5 – Statement of Claims, Definition of Fault; Definition of Negligence (Comparative Fault)
6 – Definition of Causation (Comparative Fault)	6 – Definition of Causation (Comparative Fault)
7 – Burden of Proof (All Parties) (Comparative Fault)	7 – Burden of Proof (All Parties) (Comparative Fault)
8 – Statement of Liability Issues (Comparative Fault)	8 – Statement of Liability Issues (Comparative Fault)
9 – Plaintiff's Fault (Contributory Negligence)	9 – Plaintiff's Fault (Contributory Negligence)
10 – Plaintiff's Fault (Assumption of Risk)	10 – Plaintiff's Fault (Assumption of Risk)
11 – Determining Relative Degrees of Fault (Comparative Fault)	11 – Determining Relative Degrees of Fault (Comparative Fault)
12 – Plaintiff's Fault (Nonuse of Seat Belt/Motorcycle Helmet)	12 – Plaintiff's Fault (Nonuse of Seat Belt/Motorcycle Helmet)

### Negligence Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Violation of Statute (Negligence Per Se)	1 – Violation of Statute (Negligence Per Se)
2 – Driving Under the Influence of Alcohol	2 – Driving Under the Influence of Alcohol
3 – Presumptions of Intoxication	3 – Presumptions of Intoxication
4 – Assume Laws Obeyed — Duty to Observe	4 – Assume Laws Obeyed — Duty to Observe
5 – Negligence of a Child; Duty of Adult to Anticipate Behavior of Children	5 – Negligence of a Child; Duty of Adult to Anticipate Behavior of Children
6 – Sudden Emergency	6 – Sudden Emergency
7 – Res Ipsa	7 – Res Ipsa
8 – Negligent Infliction of Emotional Distress (Witnessing Injury to Another)	8 – Negligent Infliction of Emotional Distress (Witnessing Injury to Another)
9 – Negligent Infliction of Emotional Distress (Direct)	9 – Negligent Infliction of Emotional Distress (Direct)
10 – Willful or Wanton Conduct	10 – Willful or Wanton Conduct

### Medical Negligence Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Definition of Medical Negligence; Causation; Fault; Plaintiff's Burden of Proof	1 – Definition of Medical Negligence; Causation; Fault; Plaintiff's Burden of Proof
2 – Limiting Instruction — Expert Witnesses	2 – Limiting Instruction — Expert Witnesses
3 – Collateral Source	3 – Periodic Payments [Withdrawn]
	4 – Collateral Source

### Product Liability Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Statement of Claim; Definition of Fault; Causation	1 – Statement of Claim; Definition of Fault; Causation
2 – Defect and Unreasonable Danger Defined (Manufacturing Defect)	2 – Defect and Unreasonable Danger Defined (Manufacturing Defect)
3 – Defect and Unreasonable Danger Defined (Design Defect)	3 – Defect and Unreasonable Danger Defined (Design Defect)
4 – Defect and Unreasonable Danger Defined (Information Defect)	4 – Defect and Unreasonable Danger Defined (Information Defect)
5 – Plaintiff's Burden of Proof (Product Liability)	5 – Plaintiff's Burden of Proof (Product Liability)
6 – Statement of Liability Issues (Product Liability)	6 – Statement of Liability Issues (Product Liability)
7 – State of the Art Defense	7 – State of the Art Defense
8 – Modification of Product Defense	8 – Modification of Product Defense
9 – Misuse of Product Defense	9 – Misuse of Product Defense

### Bad Faith Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Duty of Good Faith and Fair Dealing	1 – Duty of Good Faith and Fair Dealing
2 – Adequacy of Investigation	2 – Adequacy of Investigation
3 – Definition of Intentional	3 – Definition of Intentional
4 – Causation	4 – Causation
5 – Plaintiff's Burden of Proof (Bad Faith)	5 – Plaintiff's Burden of Proof (Bad Faith)
6 – Statement of Liability Issues	6 – Statement of Liability Issues
7 – Measure of Damages	7 – Measure of Damages
8 – Third-Party Standard	8 – Third-Party Standard
9 – Plaintiff's Burden of Proof; Statement of Liability Issues (Assignee-Plaintiff)	9 – Plaintiff's Burden of Proof; Statement of Liability Issues (Assignee-Plaintiff)
10 – Plaintiff's Burden of Proof; Statement of Liability Issues (Insured-Plaintiff)	10 – Plaintiff's Burden of Proof; Statement of Liability Issues (Insured-Plaintiff)
11 – Causation (Insured-Plaintiff)	11 – Causation (Insured-Plaintiff)
12 – Measure of Damages (Insured-Plaintiff)	12 – Measure of Damages (Insured-Plaintiff)
13 – (Morris Cases) Burden of Proof	13 – (Morris Cases) Burden of Proof

### Premises Liability Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Notice of Unreasonably Dangerous Condition	1 – Notice of Dangerous Condition
1A – Notice of Unreasonably Dangerous Condition (Nonproprietary)	1A – Notice of Dangerous Condition (Nonproprietary)
2 – Mode of Operation Rule	2 – Mode of Operation Rule (Premises Liability)
3 – Adult Guest (Licensee)	3 – Adult Guest (Licensee)
4 – Child Guest (Licensee)	4 – Child Guest (Licensee)
5 – Adult Trespasser	5 – Adult Trespasser
6 – Child Trespasser (Attractive Nuisance)	6 – Child Trespasser (Attractive Nuisance)

### Personal Injury Damages Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Measure of Damages	1 – Measure of Damages
2 – Pre-Existing Condition, Unusually Susceptible Plaintiff	2 – Pre-Existing Condition, Unusually Susceptible Plaintiff
3 – Damages for Wrongful Death of Spouse, Parent, or Child	3 – Damages for Wrongful Death of Spouse, Parent, or Child
4 – Punitive Damages	4 – Punitive Damages
5 – Mortality Tables and Life Expectancy 1999 Life Tables	5 – Mortality Tables and Life Expectancy 1988 Life Tables

### Verdict Forms (Fault Cases)

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
Single Defendant — Form 1	Single Defendant — Form 1
Single Defendant — Form 2	Single Defendant — Form 2
Single Defendant — Form 3	Single Defendant — Form 3
Multiple Defendants/Others — Form 1	Multiple Defendants/Others — Form 1
Multiple Defendants/Others — Form 2	Multiple Defendants/Others — Form 2
Multiple Defendants/Others — Form 3	Multiple Defendants/Others — Form 3
Single Form of Verdict Combining Plaintiff and Defendant Forms of Verdict in Comparative Fault Cases — Form 4	Single Form of Verdict Combining Plaintiff and Defendant Forms of Verdict in Comparative Fault Cases — Form 4

## Contract Instructions

<b>RAJI (CIVIL) 4th</b>	<b>RAJI (CIVIL) 3d</b>
1 – Burden of Proof (More Probably True)	1 – Burden of Proof (More Probably True)
2 – Claims and Elements	2 – Claims and Elements
3 – Definition and Formation of Contract	3 – Definition and Formation of Contract
4 – Offer	4 – Offer
5 – Revocation of Offer	5 – Revocation of Offer
6 – Acceptance	6 – Acceptance
7 – Consideration	7 – Consideration
8 – Contract Modification	8 – Contract Modification
9 – Failure of Consideration (Material Breach)	9 – Failure of Consideration —Material Breach)
10 – Substantial Performance	10 – Substantial Performance
11 – Failure of Condition	11 – Failure of Condition
12 – Waiver of Condition	12 – Waiver of Condition
13 – Waiver	13 – Waiver
14 – Anticipatory Breach	14 – Anticipatory Breach
15 – Third-Party Beneficiary	15 – Third-Party Beneficiary
16 – Good Faith and Fair Dealing	16 – Good Faith and Fair Dealing
17 – Measure of Direct Damages (Breach of Contract)	17 – Measure of Direct Damages—Breach of Contract)
18 – Consequential Damages	18 – Consequential Damages
19 – Damages for Lost Profits	19 – Damages for Lost Profits
20 – Measure of Damages (Sale of Land)	20 – Measure of Damages (Sale of Land)
21 – Measure of Damages (Purchase of Land)	21 – Measure of Damages—Purchase of Land
22 – Measure of Damages (Breach of Warranty)	22 – Measure of Damages—Breach of Warranty
23 – Mitigation of Damages	23 – Mitigation of Damages
24 – Quantum Meruit	24 – Quantum Meruit
25 – Whether a Standardized Term Is Part of the Agreement	25 – Whether a Standardized Term Is Part of the Agreement
26 – Determining Intent of the Parties	26 – Determining Intent of the Parties
27 – Construction Against the Party Choosing the Words	27 – Construction Against the Party Choosing the Words
28 – Promissory Estoppel	28 – Promissory Estoppel
29 – Impracticability (Commercial Frustration)	29 – Impracticability (Commercial Frustration)
30 – Duress	30 – Duress
31 – Definition of Option (Lease Cases)	31 – Definition of Option (Lease Cases)
32 – Exercising an Option (Burden of Proof — Lease Cases)	32 – Exercising an Option (Burden of Proof — Lease Cases)
33 – Lease Termination (Burden of Proof)	33 – Lease Termination (Burden of Proof)
34 – Damages for Breach or Termination of Lease (Commercial Lease)	34 – Damages for Breach or Termination of Lease (Commercial Lease)
35 – Mitigation of Damages for Past Rent	35 – Mitigation of Damages for Past Rent

### Eminent Domain Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Outline of Trial	N/A
2 – Power of Eminent Domain	1 – Power of Eminent Domain
3 – Definition of Market Value (Non-ADOT cases filed before 8/22/02)	2 – Definition of Market Value
3A – Definition of Market Value (ADOT and cases filed after 8/22/02)	2A – Definition of Market Value (ADOT actions filed after 9/27/90)
N/A	3 – Measure of Just Compensation
4 – Property Use	N/A
5 – Highest and Best Use	N/A
6 – Zoning	N/A
7 – Project Influence (Zoning)	N/A
8 – Project Influence	N/A
9 – Change of Access	5 – Change of Access
10 – Witnesses and Comparable Sales	6 – Witnesses and Comparable Sales
11 – Burden of Proof	7 – Defendant’s Burden of Proof (Eminent Domain)
12 – Severance Damages	4 – Severance Damages
13 – Information Discovered After Date of Valuation	N/A
14 – Value of Easement	N/A
15 – Special Benefits	N/A
16 – Project Constructions	N/A
17 – Cost of Cure	N/A

### Employment Law Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Contracts—Employment-at-Will Presumption (For claims occurring before 7/20/1996)	1 – Implied and Express Contracts—Employment-at-Will Presumption
1A –Contracts—Employment-at-Will Presumption (For claims occurring after 7/20/1996)	N/A
2 – Contracts—Modification of Employment-at-Will (For claims occurring before 7/20/1996)	2 – Implied and Express Contracts—Modification of Employment-at-Will
3 – Implied and Express Contracts (Good Faith and Fair Dealing)	3 – Implied and Express Contracts—Good Faith and Fair Dealing
4 – Breach of an Implied Contract	4 – Implied and Express Contracts—Breach of an Implied Contract
5 – Measure of Damages	5 – Measure of Damages
6 – Implied and Express Contracts (Mitigation of Damages)	6 – Implied and Express Contracts—Mitigation of Damages

### Employment Law Instructions – Continued

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
7A – Public Policy Tort Claims— “At-Will” Exception (For claims occurring after 7/20/1996)	N/A
8 – Public Policy Tort Claims—Conduct That Violates Public Policy (For claims occurring before 7/20/1996)	8 – Public Policy Tort Claims—Conduct That Violates Public Policy
8A – Public Policy Tort Claims—Conduct That Violates Public Policy (For claims occurring after 7/20/1996)	N/A
9 – Public Policy Tort Claims—Whistle Blower– Good Faith (For claims occurring before 7/20/1996)	9 – Public Policy Tort Claims—Tort Claims—Good Faith
9A – Public Policy Tort Claims—Whistle Blower– Good Faith (For claims occurring after 7/20/1996)	N/A
10 – Tort Claims (Damages)	10 – Tort Claims—Damages
11 – Definition of Constructive Discharge (General)	15 – Constructive Discharge — Definition
Eliminated – See 9th Circuit Model Instructions on Employment Law.	11 – Sexual Harassment—Elements of <i>Quid Pro Quo</i> Claim
Eliminated – See 9th Circuit Model Instructions on Employment Law.	12 – Sexual Harassment— <i>Quid Pro Quo</i> Employer Liability
Eliminated – See 9th Circuit Model Instructions on Employment Law.	13 – Sexual Harassment—Elements of Hostile Work Environment Claim
Eliminated – See 9th Circuit Model Instructions on Employment Law	14 – Sexual Harassment—Hostile Work Environment Employer Liability
11 – Constructive Discharge (Written Notice Required)	N/A
11B – Constructive Discharge (Employee Duty To Give Notice)	N/A
12 – Intentional Infliction of Emotional Distress (Elements of Claim)	16 – Intentional Infliction of Emotional Distress—Elements of Claim
13 – Intentional Infliction of Emotional Distress (Extreme and Outrageous Conduct)	17 – Intentional Infliction of Emotional Distress—Extreme and Outrageous Conduct
14 – Tortious Interference with Contract (Elements of Claim)	18 – Tortious Interference with Contract—Elements of Claim
15 – Tortious Interference with Contract (Damages)	19 – Tortious Interference with Contract—Damages

### Commercial Torts Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1A – Fiduciary Duty—Plaintiff’s Burden of Proof (Escrow Agent)	1A – Fiduciary Duty—Plaintiff’s Burden of Proof – Escrow Agent
1B – Fiduciary Duty—Plaintiff’s Burden of Proof (Trustee)	1B – Fiduciary Duty—Plaintiff’s Burden of Proof – Trustee
1C – Fiduciary Duty—Plaintiff’s Burden of Proof (Attorney)	1C – Fiduciary Duty—Plaintiff’s Burden of Proof – Attorney
1D – Fiduciary Duty—Plaintiff’s Burden of Proof (Partner)	1D – Fiduciary Duty—Plaintiff’s Burden of Proof – Partner
2 – Fiduciary Duty—Causation	2 – Fiduciary Duty—Causation
3 – Fiduciary Duty—Measure of Damages	3 – Fiduciary Duty—Measure of Damages
11 – Interference with Contract—Elements	11 – Interference with Contract—Elements
12 – Interference with Contract—Damages	12 – Interference with Contract—Damages
21 – Consumer Fraud—Elements of Claim	21 – Consumer Fraud—Elements of Claim
22 – Consumer Fraud—Measure of Damages	22 – Consumer Fraud—Measure of Damages
23 – Negligent Misrepresentation	23 – Negligent Misrepresentation
24 – Common Law Fraud	24 – Common Law Fraud
31 – Racketeering—Elements	31 – AZRAC—Elements
32 – Racketeering—Unlawful Activity Defined	32 – AZRAC—Unlawful Activity Defined
33 – Racketeering—Pattern of Unlawful Activity Defined	33 – AZRAC—Pattern of Unlawful Activity Defined
34 – Racketeering—Damages	34 – AZRAC—Damages

### Intentional Torts Instructions

RAJI (CIVIL) 4th	RAJI (CIVIL) 3d
1 – Assault	N/A
2 – Battery	N/A
3 – Justifiable Use of Force	N/A
4 – Duress	N/A
5 – Justification for Self-Defense	N/A
6 – Justification for Defense of Another	N/A
7 – Justification for Defense of Property	N/A
8 – Justification for Use of Deadly Force in Law Enforcement	N/A
9 – Justification for Non-Deadly Physical Force in Law Enforcement	N/A
10 – Justification for Using Force in Crime Prevention	N/A
11 – No Justification for Provoking Another	N/A
12 – Justification for Defense of Premises	N/A
13 – False Imprisonment	N/A
14 – Instigating or Participating in False Imprisonment	N/A
15 – Defense to Instigating or Participating in False Imprisonment (Reasonable Actions)	N/A

16 – Intentional Infliction of Emotional Distress (Elements of Claim)

| N/A

**Intentional Torts Instructions – Continued**

<b>RAJI (CIVIL) 4th</b>	<b>RAJI (CIVIL) 3d</b>
17 – Intentional Infliction of Emotional Distress (Extreme and Outrageous Conduct)	N/A
18 – Abuse of Process	N/A
19 – Malicious Prosecution	N/A
20 – Probable Cause for Criminal/Civil Prosecution	N/A
21 – Existence of Probable Cause	N/A
22 – Probable Cause for Prosecution (Advice of Counsel)	N/A
23 – Aiding and Abetting Tortious Conduct	N/A

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF \_\_\_\_\_**

_____	)	
	)	
Plaintiff)	)	Civ. No. _____
vs.	)	
	)	Preliminary Jury Instruction Request
	)	
_____	)	Submitted by:
Defendant)	)	
	)	
_____	)	

Pursuant to Rule 51, Arizona Rules of Civil Procedure, the above-indicated party requests that the Court give the RAJI (CIVIL) 4th Preliminary Instructions indicated by a mark on this Request.

PRELIMINARY

- 1. Duty of Jurors..... \_\_\_\_\_
- 2. Importance of Jury Service..... \_\_\_\_\_
- 3. Evidence..... \_\_\_\_\_
- 4. Rulings of the Court..... \_\_\_\_\_
- 5. Credibility of Witnesses..... \_\_\_\_\_
- 6. Expert Witness..... \_\_\_\_\_
- 7. Evidence, Statements of Lawyers and Rulings..... \_\_\_\_\_
- 8. No Transcript Available to Jury; Taking Notes..... \_\_\_\_\_
- 9. Admonition..... \_\_\_\_\_
- 10. Media Coverage..... \_\_\_\_\_
- 11. Questions by Jurors..... \_\_\_\_\_
- 12. Exclusion of Witnesses..... \_\_\_\_\_
- 13. Alternate Jurors..... \_\_\_\_\_
- 14. Claims Made and Issues To Be Proved..... \_\_\_\_\_
- 15. Scheduling During Trial..... \_\_\_\_\_
- 16. Outline of Trial..... \_\_\_\_\_

The above-indicated party further requests the additional substantive preliminary instructions which follow:

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF \_\_\_\_\_**

<p style="text-align: right;">) Plaintiff)</p>	)	
vs.	)	Civ. No. _____
	)	Final Jury Instructions and Verdict Form Request
<p style="text-align: right;">) Defendant)</p>	)	Submitted by:
	)	
	)	

Pursuant to Rule 51, Arizona Rules of Civil Procedure, the above-indicated party requests that the Court give the RAJI (CIVIL) 4th Instructions indicated by a mark on this Request, and any additional instructions that are submitted with this Request.

STANDARD

1. Impeachment with Felony Conviction ..... \_\_\_\_\_
2. Burden of Proof (More Probably True) ..... \_\_\_\_\_
3. Burden of Proof (Clear and Convincing) ..... \_\_\_\_\_
4. Corporate Party ..... \_\_\_\_\_
5. Respondeat Superior Liability ..... \_\_\_\_\_
6. Impasse in Jury Deliberations ..... \_\_\_\_\_
7. Excused Alternate Jurors ..... \_\_\_\_\_
8. Closing Instruction ..... \_\_\_\_\_
9. Insurance ..... \_\_\_\_\_

FAULT

1. Statement of Claim; Definition of Fault;  
Definition of Negligence (No Comparative Fault) ..... \_\_\_\_\_
2. Definition of Causation (No Comparative Fault) ..... \_\_\_\_\_
3. Plaintiff's Burden of Proof (No Comparative Fault) ..... \_\_\_\_\_
4. Statement of Liability Issues (No Comparative Fault) ..... \_\_\_\_\_
5. Statement of Claims, Definition of Fault;  
Definition of Negligence (Comparative Fault) ..... \_\_\_\_\_
6. Definition of Causation (Comparative Fault) ..... \_\_\_\_\_
7. Burden of Proof (All Parties) (Comparative Fault) ..... \_\_\_\_\_

- 8. Statement of Liability Issues (Comparative Fault) ..... \_\_\_
- 9. Plaintiff's Fault (Contributory Negligence) ..... \_\_\_
- 10. Plaintiff's Fault (Assumption of Risk) ..... \_\_\_
- 11. Determining Relative Degrees of Fault (Comparative Fault)..... \_\_\_
- 12. Plaintiff's Fault (Nonuse of Seat Belt/Motorcycle Helmet)..... \_\_\_

NEGLIGENCE

- 1. Violation of Statute (Negligence Per Se) ..... \_\_\_
- 2. Driving Under the Influence of Alcohol..... \_\_\_
- 3. Presumptions of Intoxication..... \_\_\_
- 4. Assume Laws Obeyed — Duty to Observe..... \_\_\_
- 5. Negligence of a Child, Duty of Adult to Anticipate Behavior of Children..... \_\_\_
- 6. Sudden Emergency ..... \_\_\_
- 7. Res Ipsa ..... \_\_\_
- 8. Negligent Infliction of Emotional Distress (Witnessing Injury to Another) ..... \_\_\_
- 9. Negligent Infliction of Emotional Distress (Direct)..... \_\_\_
- 10. Wilful or Wanton Conduct..... \_\_\_

MEDICAL NEGLIGENCE

- 1. Definition of Medical Negligence; Causation; Fault; Plaintiff's Burden of Proof \_\_\_
- 2. Limiting Instruction — Expert Witnesses ..... \_\_\_
- 3. Collateral Source ..... \_\_\_

PRODUCT LIABILITY

- 1. Statement of Claim; Definition of Fault; Causation ..... \_\_\_
- 2. Defect and Unreasonable Danger Defined (Manufacturing Defect) ..... \_\_\_
- 3. Defect and Unreasonable Danger Defined (Design Defect) ..... \_\_\_
- 4. Defect and Unreasonable Danger Defined (Information Defect) ..... \_\_\_
- 5. Plaintiff's Burden of Proof (Product Liability) ..... \_\_\_
- 6. Statement of Liability Issues (Product Liability)..... \_\_\_
- 7. State of the Art Defense ..... \_\_\_
- 8. Modification of Product Defense..... \_\_\_
- 9. Misuse of Product Defense ..... \_\_\_

BAD FAITH

First Party

- 1. Duty of Good Faith and Fair Dealing ..... \_\_\_
- 2. Adequacy of Investigation ..... \_\_\_
- 3. Definition of Intentional..... \_\_\_
- 4. Causation ..... \_\_\_

- 5. Plaintiff's Burden of Proof (Bad Faith) ..... \_\_\_
- 6. Statement of Liability Issues..... \_\_\_
- 7. Measure of Damages ..... \_\_\_
- Third Party
- 8. Third-Party Standard ..... \_\_\_
- 9. Plaintiff's Burden of Proof; Statement of Liability Issues  
(Assignee-Plaintiff)..... \_\_\_
- 10. Plaintiff's Burden of Proof; Statement of Liability Issues  
(Insured-Plaintiff)..... \_\_\_
- 11. Causation (Insured-Plaintiff) ..... \_\_\_
- 12. Measure of Damages (Insured-Plaintiff) ..... \_\_\_
- 13. *Morris* cases - Burden of Proof..... \_\_\_

PREMISES LIABILITY

- 1. Notice of Unreasonably Dangerous Condition..... \_\_\_
- 1A. Notice of Unreasonably Dangerous Condition (Nonproprietary) ..... \_\_\_
- 2. Mode of Operation Rule..... \_\_\_
- 3. Adult Guest (Licensee)..... \_\_\_
- 4. Child Guest (Licensee) ..... \_\_\_
- 5. Adult Trespasser..... \_\_\_
- 6. Child Trespasser (Attractive Nuisance) ..... \_\_\_

PERSONAL INJURY DAMAGES

- 1. Measure of Damages ..... \_\_\_
- 2. Pre-Existing Condition, Unusually Susceptible Plaintiff..... \_\_\_
- 3. Damages for Wrongful Death of Spouse, Parent or Child..... \_\_\_
- 4. Punitive Damages ..... \_\_\_
- 5. Mortality Tables and Life Expectancy ..... \_\_\_

CONTRACT

- 1. Burden of Proof (More Probably True) ..... \_\_\_
- 2. Claims and Elements ..... \_\_\_
- 3. Definition and Formation of Contract ..... \_\_\_
- 4. Offer ..... \_\_\_
- 5. Revocation of Offer ..... \_\_\_
- 6. Acceptance..... \_\_\_
- 7. Consideration..... \_\_\_
- 8. Contract Modification ..... \_\_\_
- 9. Failure of Consideration (Material Breach) ..... \_\_\_
- 10. Substantial Performance ..... \_\_\_

11.	Failure of Condition .....	___
12.	Waiver of Condition .....	___
13.	Waiver .....	___
14.	Anticipatory Breach .....	___
15.	Third-Party Beneficiary .....	___
16.	Good Faith and Fair Dealing .....	___
17.	Measure of Direct Damages (Breach of Contract) .....	___
18.	Consequential Damages .....	___
19.	Damages for Lost Profits.....	___
20.	Measure of Damages (Sale of Land) .....	___
21.	Measure of Damages (Purchase of Land) .....	___
22.	Measure of Damages (Breach of Warranty).....	___
23.	Mitigation of Damages .....	___
24.	Quantum Meruit.....	___
25.	Whether a Standardized Term Is Part of the Agreement .....	___
26.	Determining Intent of the Parties.....	___
27.	Construction Against the Party Choosing the Words .....	___
28.	Promissory Estoppel .....	___
29.	Impracticability .....	___
30.	Duress .....	___
31.	Definition of Option (Lease Cases) .....	___
32.	Exercising an Option — Burden of Proof (Lease Cases).....	___
33.	Lease Termination — Burden of Proof .....	___
34.	Damages for Breach or Termination of Lease (Commercial Lease).....	___
35.	Mitigation of Damages for Past Rent .....	___

EMINENT DOMAIN

1.	Outline of Trial.....	___
2.	Power of Eminent Domain .....	___
3.	Definition of Market Value (Non-ADOT cases filed before 8/22/02) .....	___
3A.	Definition of Market Value (ADOT and cases filed 8/22/02).....	___
4.	Property Use .....	___
5.	Highest and Best Use .....	___
6.	Zoning .....	___
7.	Project Influence — Zoning .....	___
8.	Project Influence .....	___
9.	Change of Address.....	___
10.	Witnesses and Comparable Sales .....	___
11.	Burden of Proof .....	___
12.	Severance Damages .....	___
13.	Information discovered After Date of Valuation.....	___
14.	Value of Easement.....	___
15.	Special Benefits.....	___

- 16. Project Constructions..... \_\_\_\_\_
- 17. Cost of Cure..... \_\_\_\_\_

EMPLOYMENT

- 1. Contracts — Employment-at-Will Presumption  
(For claims occurring before July 20, 1996)..... \_\_\_\_\_
- 1A. Contracts — Employment-at-Will Presumption  
(For claims occurring after July 20, 1996)..... \_\_\_\_\_
- 2. Contracts — Modification of Employment-at-Will ..... \_\_\_\_\_  
(For claims occurring before July 20, 1996)..... \_\_\_\_\_
- 3. Implied and Express Contracts (Good Faith and Fair Dealing)..... \_\_\_\_\_
- 4. ( Breach of an Implied Contract)..... \_\_\_\_\_
- 5. Contracts (Measure of Damages) ..... \_\_\_\_\_
- 6. Implied and Express Contracts (Mitigation of Damages) ..... \_\_\_\_\_
- 7. Public Policy Tort Claims — “At Will” Exception  
(For claims occurring before July 20, 1996)..... \_\_\_\_\_
- 7A. Public Policy Tort Claims — “At Will” Exception  
(For claims occurring after July 20, 1996) ..... \_\_\_\_\_
- 8. Public Policy Tort Claims — Conduct that Violates Public Policy  
(For claims occurring before July 20, 1996)..... \_\_\_\_\_
- 9. Public Policy Tort Claims — “Whistleblower–Good Faith  
(For claims occurring after July 20, 1996) ..... \_\_\_\_\_
- 9A. Public Policy Tort Claim — “Whistleblower–Good Faith  
(For claims occurring after July 20, 1996) ..... \_\_\_\_\_
- 10. Tort Claims (Damages) ..... \_\_\_\_\_
- 11. Constructive Discharge (Definition)..... \_\_\_\_\_
- 11A. Constructive Discharge (Written Notice Required)..... \_\_\_\_\_
- 11B. Constructive Discharge (Employee Duty to Give Notice)..... \_\_\_\_\_
- 12. Intentional Infliction of Emotional Distress (Elements of Claim)..... \_\_\_\_\_
- 13. Intentional Infliction of Emotional Distress (Extreme and Outrageous Conduct)..... \_\_\_\_\_
- 14. Tortious Interference with Contract (Elements of Claim) ..... \_\_\_\_\_
- 15. Tortious Interference with Contract (Damages) ..... \_\_\_\_\_

COMMERCIAL TORTS

- 1A. Fiduciary Duty — Plaintiff’s Burden of Proof (Escrow Agent)\_\_\_\_\_
- 1B. Fiduciary Duty — Plaintiff’s Burden of Proof (Trustee)\_\_\_\_\_
- 1C. Fiduciary Duty — Plaintiff’s Burden of Proof (Attorney)\_\_\_\_\_
- 1D. Fiduciary Duty — Plaintiff’s Burden of Proof (Partner)\_\_\_\_\_
  - 2. Fiduciary Duty — Causation\_\_\_\_\_
  - 3. Fiduciary Duty (Measure of Damages)\_\_\_\_\_
- 11. Interference with Contracts (Elements)\_\_\_\_\_
- 12. Interference with Contracts (Damages)\_\_\_\_\_

- 21. Consumer Fraud (Elements of Claim)\_\_\_\_
- 22. Consumer Fraud (Measure of Damages)\_\_\_\_
- 23. Negligent Misrepresentation\_\_\_\_
- 24. Common Law Fraud\_\_\_\_
- 31. Racketeering (Elements)\_\_\_\_
- 32. Racketeering (Unlawful Activity Defined)\_\_\_\_
- 33. Racketeering (Pattern of Unlawful Activity Defined)\_\_\_\_
- 34. Racketeering (Damages)\_\_\_\_

INTENTIONAL TORTS

- 1. Assault..... \_\_\_\_\_
- 2. Battery ..... \_\_\_\_\_
- 3. Justifiable Use of Force ..... \_\_\_\_\_
- 4. Duress ..... \_\_\_\_\_
- 5. Justification for Self-Defense ..... \_\_\_\_\_
- 6. Justification for Defense of Another..... \_\_\_\_\_
- 7. Justification for Defense of Property ..... \_\_\_\_\_
- 8. Justification for Use of Deadly Force in Law Enforcement..... \_\_\_\_\_
- 9. Justification for Non-Deadly Physical Force in Law Enforcement ..... \_\_\_\_\_
- 10. Justification for Using Force in Crime Prevention ..... \_\_\_\_\_
- 11. No Justification for Provoking Another..... \_\_\_\_\_
- 12. Justification for Defense of Premises ..... \_\_\_\_\_
- 13. False Imprisonment ..... \_\_\_\_\_
- 14. Instigating or Participating in False Imprisonment ..... \_\_\_\_\_
- 15. Defense to Instigating or Participating in False Imprisonment (Reasonable Actions) ..... \_\_\_\_\_
- 16. Intentional Infliction of Emotional Distress (Elements of Claim) ..... \_\_\_\_\_
- 17. Intentional Infliction of Emotional Distress (Extreme and Outrageous Conduct) .. \_\_\_\_\_
- 18. Abuse of Process..... \_\_\_\_\_
- 19. Malicious Prosecution ..... \_\_\_\_\_
- 20. Probable Cause for Criminal/Civil Prosecution..... \_\_\_\_\_
- 21. Existence of Probable Cause ..... \_\_\_\_\_
- 22. Probable Cause for Prosecution (Advice of Counsel)..... \_\_\_\_\_
- 23. Aiding and Abetting Tortious Conduct..... \_\_\_\_\_

The above-indicated party further requests the additional instructions which follow:

The above-indicated party submits the following forms of verdict:

