

Civil Jury Instructions Committee

State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016
November 1, 2023
3:00 pm

Virtual Meeting

Minutes

MEMBER ATTENDANCE:

P = present virtually; A= absent.

Justin Ackerman	P	Judge Melissa Julian	A
Judge Bradley Astrowsky	P	Jack Klecan	A
Arcangelo Cella	P	Steven Kramer	P
Lincoln Combs	A	Richard Langerman	P
Ben Cooper	A	Greg Larson	P
Alicia Funkhouser	A	PJ Lopez - Chair	P
Dominic Gomez	P	Jesse Ritchey	P
Darlene Gonzalez	A	Joel Robbins	P
Robert Greer	P	James Smith	P
Douglas Imperi	P	Daniel Torrens	P
Jesse Egbert	A	Jayme Weber	P

Call to Order – P.J. Lopez called the meeting to order at 3:04 p.m.

The minutes of the 10/4/23 meeting were approved.

APSA Subcommittee: Subcommittee chair, Judge Astrowsky, reported on the work of the subcommittee. Judge Astrowsky reported that the subcommittee was gathering sample instructions. A subcommittee meeting was scheduled for 11/27/23.

Fault Subcommittee: Subcommittee chair, Steve Kramer, reported that the subcommittee continued its work and that a subcommittee meeting was scheduled for 11/21/23.

Commercial Torts Subcommittee: Jayme Weber reported on her review of the commercial law instructions. Jayme pointed out potential issues regarding the fiduciary duty of escrow agents, tortious interference with contract, and negligent misrepresentation. Jayme also identified a number of areas where there were no instructions including breach of the duty of good faith, implied warranty of habitability, aiding and abetting, civil conspiracy, fraudulent concealment, and piercing the corporate veil.

Chair Lopez appointed a new subcommittee to consider changes and additions to the commercial instructions. Jayme Weber will chair the subcommittee and Dan Torrens, James Smith, Arcangelo Cella, and Doug Imperi volunteered to serve on the subcommittee.

Premises Liability Subcommittee: Subcommittee chair, Steve Kramer, reported on the work of the subcommittee. Steve reported that the subcommittee had not decided whether to restructure the instructions to a format similar to the other instructions such as the bad faith instructions.

Guidelines Subcommittee: Subcommittee chair, Richard Langerman, presented the issue of whether a guideline should be adopted regarding the inclusion of lists of factors in jury instructions. There was a lengthy discussion in which various points of view were presented including: (1) factors should be included in an instruction if the factors are elements of a cause of action or defense, (2) factors should not be included in instructions, but should be left to argument by lawyers, (3) the listing of some factors in an instruction might be seen as placing undue importance on that evidence, (4) if an instruction includes a list of factors, there may be some factors that are not relevant in a particular case, (5) perhaps a comment could be included in an instruction indicating that the court has the option of including a list of factors, and (6) in observing a mock jury deliberation, it was noted that when the judge listed factors to consider, the mock jurors treated the factors as elements of the claim. No consensus was reached and no votes were taken.

Other Business: Richard Langerman reported that the State Bar Rules Committee approved the revisions to the Punitive Damages Instruction.

Call to the Public: Chair Lopez made a call to the public.
The meeting was adjourned at 4:13