

**Civil Jury Instructions Committee**  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016

August 8, 2018  
3:00 to 5:00 pm  
Location: State Bar of Arizona

**Minutes (September 5, 2018)**

**MEMBER ATTENDANCE:**

**P = present in person; T = present telephonically; A= absent.**

Steve Kramer (Chair)	P	Kevin Myer	A
Alicia Funkhouser (Secretary)	P	Benjamin Naylor	A
		Rodney Ott	P
Lincoln Combs	P	Sara Regan	A
Ben Cooper	P	Carrie Ryerson	A
Hon. David Gass	A	Daniel Torrens	T
Dominic Gomez	T		
Ivan Hannel	T		
Richard Langerman	A		
Patrick Lopez	A		
Hon Karen Mullins	P		

**OTHER ATTENDEES:**

**State Bar Staff: Iona Kukan**

**Minutes taken by: Alicia Funkhouser**

**I. CALL TO ORDER**

**Called to Order by: Steve Kramer**

**Time: 4:02 p.m.**

- II. Review and approval of meeting minutes of May 2, 2018:** Alicia moved to approve the minutes subject to the change. Rodney seconded. Motion carried.

### **III. Agenda Items**

1. Negligence Instructions – We received no comments. The proposal is to submit them to the Rules Committee. Steve and Rodney will present to the committee. Judge Mullins moves to approve. Rodney seconds. Motion carried.
2. Review and discuss new/revised instructions prepared by Miscellaneous (Other) Subcommittee – Judge Mullins  
Judge Gass was not present and there was no red-lined version available to review. The subcommittee will present a redlined version of the instructions at the next meeting.
  - a. Review and discuss revised Standard 8 – Judge Mullins
  - b. Review and discuss revised Preliminary/Standard Final Instructions – Mullins
3. Review and discuss new revisions to Medical Malpractice – Emergency Room Instructions – Alicia Funkhouser  
The subcommittee is considering a new Standard instruction regarding the “clear and convincing” burden of proof for emergency room treatment in medical malpractice.
4. Review and discuss member comments on Spoliation – Richard Langerman  
Dan Torrens, Dominic Gomenz, Judge Mullins and Richard Langerman will form the subcommittee.  
Request for Richard to send a copy of the instructions to the committee. There were substantive comments received and the subcommittee will review. Rodney moved to send the instruction back to the subcommittee with comments, Lincoln seconded.
5. Update on Subcommittee status/New business.
  - a. Upcoming discussions: new instructions?
  - b. Recruiting new members to serve on the committee?

Bad Faith – Ben Cooper, PJ Lopez, Rodney Ott, Lincoln Combs, Judge Mullins, Richard Langerman, Daniel Torrens, Steve Kramer

Medical Malpractice – Alicia Funkhouser, Dan Torrens, Ivan Hannel, Lincoln Combs, Steve Kramer

Misc. Committee – Steve Kramer, Judge Gass, Barry Schneider (public attendee), Judge Mullins, the members will attempt to recruit a new appellate court judge.

Discussion held regarding a public request for revisions to the employment instructions. Discussion regarding whether Sara Regan and Ben Naylor should form a subcommittee to determine whether changes are necessary.

Lincoln – No Fault Instructions. There has been a lot of criticism among the Plaintiff's bar listserve. The instructions are characterized as "Fault not at Issue" the instructions should be called "negligence not at issue" and not "fault not at issue." Perhaps we should call it admitted or determined liability instructions. We can discuss this change at the next meeting.

Discussion held regarding how to get the word out to request ideas for new instructions to the bench and bar. Alicia suggested asking at the Bench/Bar committee and Ben suggested posting something in the Arizona Attorney. Judge Mullins had sent an email out in Maricopa County but will send an email out state-wide.

**Agenda Items Not Reached:**

Review and discuss Traffic Citations Instruction – Judge Gass

**CALL TO THE PUBLIC Steve Kramer**

**Individuals addressing the (Board/Committee). None present.**

**Meeting adjourned by: Steve Kramer** (Lincoln moves, Rodney seconds. Motion carried) at (4:50 P.M. time)