

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

Florida Jury Trial Innovations

1. Note Taking

In any civil action which the court determines is likely to exceed 5 days, the court shall instruct that the jurors may take notes regarding the evidence and keep the notes to refresh their memories and to use during recesses and deliberations. The court may provide materials suitable for this purpose. The court should emphasize the confidentiality of the notes. After the jury has rendered its verdict, any notes shall be collected by the bailiff or clerk who shall promptly destroy them.

West's F.S.A. § 40.50(2)

Recommendation

Jurors in both civil and criminal trials should be permitted to take notes and be advised they may do so. This right should be incorporated into the rules of civil and criminal procedures. Such rules would clarify that juror notes may be taken with them from the courtroom to the jury room. These notes may be shared with other jurors, but must be destroyed after the verdict is delivered. Appropriate jury instructions must be given.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 18)

2. Juror Handbooks/Notebooks

Recommendation

Juror notebooks, which can serve a useful function (especially in civil cases) in lengthy and complex trials, should be specifically authorized by court rule.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 23)

3. Juror Questions and Questioning of Witnesses

Jury Duty and Instructions in Civil Cases

The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. The court shall give counsel an opportunity to object to such questions outside the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.

West's F.S.A. § 40.50(3)

Jury Duty and Instructions in Civil Cases

The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If the court rejects a juror's question, the court should tell the jury that trial rules do not permit some questions and that the juror's should not attach any significance to the failure of having their question asked.

West's F.S.A. § 40.50(4)

Recommendation

Jurors in both civil and criminal trials should be permitted to submit to the judge written questions to be asked of witnesses by the judge. The judge has the discretion to determine which jury questions are to be asked of witnesses. The Supreme Court should incorporate this right into the rules of civil and criminal procedure.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 16)

4. Juror Pay/Compensation

Compensation and Reimbursement Policy

(1) The compensation policy of this chapter shall be to prevent financial hardship being imposed upon any juror because of performance of juror service.

(2) Juror service constitutes being summoned and reporting for jury service as well as actual service on a jury. Juror service does not include days for which the juror was notified before reporting that his or her presence was not required. Regular employment includes full-time employment and part-time, temporary, and casual employment, as long as the employment hours of a juror can be reasonably determined by a schedule or by custom and practice established during the 3-month period preceding the term of service as a juror.

(3) (a) Jurors who are regularly employed and who continue to receive regular wages while serving as a juror are not entitled to receive compensation from the state for the first 3 days of juror service.

(b) Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive \$

15 per day for the first 3 days of juror service.

(4) Each juror who serves more than 3 days is entitled to be paid by the state for the fourth day of service and each day thereafter at the rate of \$ 30 per day of service.

(5) Jurors are not entitled to additional reimbursement by the state for travel or other out-of-pocket expenses.

(6) A juror who receives unemployment benefits does not lose such benefits because he or she receives compensation for juror service.

(7) Any juror who is excused from jury service at his or her own request is not entitled to receive any compensation under subsection (3).

(8) In circuits that elect to allow jurors to donate their jury service fee upon conclusion of juror service, each juror may irrevocably donate all of the juror's compensation to the [26 U.S.C. s. 501\(c\)\(3\)](#) organization specified by the guardian ad litem program or to a domestic violence shelter as specified annually on a rotating basis by the clerk of court in the circuit for the juror's county of residence. The funds collected may not reduce or offset the amount of compensation that the guardian ad litem program or domestic violence shelter would otherwise receive from the state. The clerk of court shall ensure that all jurors are given written notice at the conclusion of their service that they have the option to so donate their compensation, and that the applicable program specified by the guardian ad litem program or a domestic violence shelter receives all funds donated by the jurors. Any guardian ad litem program receiving donations of juror compensation must expend such moneys on services for children for whom guardians ad litem have been appointed.

Fla. Stat. § 40.24 (2005)

Payment for Jury Duty and Employee Rights

Effective July 1, 1993, jurors who are regularly employed and who continue to receive regular wages while serving as a juror are not entitled to receive compensation from the state for the first three days of juror service.

Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive \$15 per day for the first three days of juror service.

Each juror who serves more than three days will be paid by the state for the fourth day of service and each day thereafter at the rate of \$30 per day of service.

Juror service includes being summoned and reporting for jury service as well as actual service on a jury. Juror service does not include days when the juror was notified before reporting that it was not necessary

to appear. Regular employment includes full-time employment and part-time, temporary, and casual employment, as long as the employment hours of a juror can be reasonably determined by a schedule or by custom and practice established during the three-month period preceding the term of service as a juror.

Jurors are not entitled to additional reimbursement from the state for travel or other out-of-pocket expenses.

A juror who receives unemployment benefits does not lose such benefits because he or she receives compensation for juror service.

Any juror who is excused from jury service at the juror's own request is not entitled to receive any compensation.

<http://www.floridabar.org/tfb/TFBConsum.nsf/48e76203493b82ad852567090070c9b9/60499fb38e92be2f85256b2f006c5852?OpenDocument>

Recommendation

Juror per diem rates should be reviewed every five years by the Legislature and any increase should be tied to the rate of inflation as identified by the Consumer Price Index or some comparable index.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2004 (Recommendation 44)

5. Alternate Jurors

Alternate Jurors

(1) The court may direct that 1 or 2 jurors be impaneled to sit as alternate jurors in addition to the regular panel. Alternate jurors in the order in which they are called shall replace jurors who have become unable or disqualified to perform their duties before the jury retires to consider its verdict. Alternate jurors shall be drawn in the same manner, have the same qualifications, be subject to the same examination, take the same oath, and have the same functions, powers, facilities, and privileges as principal jurors. An alternate juror who does not replace a principal juror shall be discharged when the jury retires to consider the verdict.

(2) If alternate jurors are called, each party shall be entitled to one peremptory challenge in the selection of the alternate juror or jurors, but when the number of parties on opposite sides is unequal, the opposing parties shall be entitled to the same aggregate number of peremptory challenges to be determined on the basis of 1 peremptory challenge to each party on the side with the greater number of parties. The additional peremptory challenges allowed pursuant to this subdivision may be used only against the alternate jurors. The peremptory challenges allowed pursuant to subdivision (d) of this rule shall not be used against the alternate jurors.

Fla. R. Civ. P. 1.431(g) (2005)

Recommendation

Judges should be encouraged to not reveal to an alternate juror that person's status so as not to reduce the alternate's incentive to closely follow the trial. Under any circumstances, the number of alternates should be limited to those likely to be needed.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 12)

6. Discussions pre-deliberation

Separation and detention of jurors; admonition by court

The court shall admonish the jury that it is their duty not to converse among themselves or with anyone else on a subject connected with the trial or to form or express an opinion on a subject connected with the trial until the cause is submitted to them. When the jurors leave the jury box, the court may direct that the jury be kept together in the charge of a proper officer or allow them to separate. If the court permits the jurors to separate, it shall admonish them not to view the place where the offense appears to have been committed.

West's F.S.A. § 918.06

7. Deliberation

Recommendation

Judges should instruct jurors on procedures for conducting their deliberations, including an instruction suggesting to the jury how it should use the instructions during deliberations. Jurors should be given instructions on how to organize their deliberations and what assistance, if any, they can ask of the court. Jurors need to be instructed that no new evidence can be presented to them once their deliberations have begun.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 29)

Recommendation

Reasonable amenities, such as recesses, snacks, and refreshments should be provided to deliberating jurors. The State of Florida should reimburse the county for the costs thereof.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 29)

8. Length of Service

Petit jurors; length of service

The length of the term of service for a petit juror shall not exceed 1 day unless the juror is assigned to or impaneled on a trial that is not completed

in 1 day or unless the court orders otherwise. Petit jurors awaiting assignment to a trial must be discharged as early as possible after it has been determined that their services will not be needed.

Fla. Stat. § 40.41 (2005)

Length of Service

The length of the term of service for a petit juror shall not exceed one day, unless the juror is assigned to or impaneled on a trial that is not completed in one day or unless the court orders otherwise. This means if you are selected for a jury on the day you report for service, you will serve until that trial is completed. The average trial lasts about three days (although some are shorter and some are longer). If you are not selected as a juror on your first day, your service will be complete at the end of that day. Every effort will be made to release you as early in the day as possible after it is determined your services will not be needed.

<http://www.floridabar.org/tfb/TFBConsum.nsf/48e76203493b82ad852567090070c9b9/60499fb38e92be2f85256b2f006c5852?OpenDocument>

9. Length of Time Restrictions on Trials

Time Standards. The following time standards are hereby established as a presumptively reasonable time period for the completion of cases in the trial and appellate courts of this state. It is recognized that there are cases that, because of their complexity, present problems that cause reasonable delays. However, most cases should be completed within the following time periods:

(1) Trial Court Time Standards.

(B) Civil.

Jury cases--18 months (filing to final disposition)

Fla. R. Jud. Admin. 2.085(e) (2005)

Expedited Trials

Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:

(1) All discovery shall be completed within 60 days after the court enters an order adopting the joint expedited trial stipulation.

(2) All interrogatories and requests for production must be served within 10 days after the court enters the order adopting the joint expedited trial stipulation, and all responses must be served within

20 days after receipt.

(3) The court shall determine the number of depositions required.

(4) The case may be tried to a jury.

(5) The case may be tried within 30 days after the 60-day discovery cutoff, if such schedule would not impose an undue burden on the court calendar.

(6) The trial must be limited to 1 day.

(7) The jury selection must be limited to 1 hour.

(8) The plaintiff will have no more than 3 hours to present its case, including the opening, all testimony and evidence, and the closing.

(9) The defendant will have no more than 3 hours to present its case, including the opening, all testimony and evidence, and the closing.

(10) The jury may be given "plain language" jury instructions at the beginning of the trial as well as a "plain language" jury verdict form. The parties must agree to the jury instructions and verdict form.

(11) The parties may introduce a verified written report of any expert and an affidavit of the expert's curriculum vitae instead of calling the expert to testify at trial.

(12) At trial the parties may use excerpts from depositions, including video depositions, regardless of where the deponent lives or whether the deponent is available to testify.

(13) Except as otherwise provided in this section, the Florida Evidence Code and the Florida Rules of Civil Procedure apply.

(14) The court may refuse to grant continuances of the trial absent extraordinary circumstances.

Fla. Stat. § 45.075.

10. Judge's Responses to Jury Questions

Recommendation

Trial judges should be as responsive as possible and fully answer deliberating jurors' questions, consistent with applicable case law. The

trial judge, when possible, should not ask jurors to rely on their “collective memory” when the judge is faced with questions from a deliberating jury, but rather respond more directly to their inquiries.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 32)

11. Jury Size

Number of jurors

”In all civil actions when a jury is impaneled, a jury of six qualified jurors is sufficient.”

Fla. Stat. § 69.071 (2005)

Recommendation

“There should be no reduction in the size of either criminal or civil juries.”

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 8)

12. Number of Jurors Needed to Return a Verdict

N/A

13. Juror Admonition

Separation and detention of jurors; admonition by court

The court shall admonish the jury that it is their duty not to converse among themselves or with anyone else on a subject connected with the trial or to form or express an opinion on a subject connected with the trial until the cause is submitted to them. When the jurors leave the jury box, the court may direct that the jury be kept together in the charge of a proper officer or allow them to separate. If the court permits the jurors to separate, it shall admonish them not to view the place where the offense appears to have been committed.

West’s F.S.A. § 918.06

14. Jury Nullification

N/A

15. The Use of Plain English

N/A

16. Absence of the Jury

Recommendation

A procedure of videotaping court proceedings for subsequent review by jurors should not be adopted.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 19)

17. Jury Instructions

Jury duty and instructions in civil cases

In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses, and the legal issues involved in the proceeding.

Fla. Stat. § 40.50(1) (2005)

Jury duty and instructions in civil cases

In any civil action which the court determines is likely to exceed 5 days, the court shall instruct that the jurors may take notes regarding the evidence and keep the notes to refresh their memories and to use during recesses and deliberations. The court may provide materials suitable for this purpose. The court should emphasize the confidentiality of the notes. After the jury has rendered its verdict, any notes shall be collected by the bailiff or clerk who shall promptly destroy them.

Fla. Stat. § 40.50(2) (2005)

Jury duty and instructions in civil cases

The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. The court shall give counsel an opportunity to object to such questions outside the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.

Fla. Stat. § 40.50(3) (2005)

Jury duty and instructions in civil cases

The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If the court rejects a juror's question, the court should tell the jury that trial rules do not permit some questions and that the jurors should not attach any significance to the failure of having their question asked.

Fla. Stat. § 40.50(4) (2005)

Jury duty and instructions in civil cases

The court may give final instructions to the jury before closing arguments of counsel to enhance jurors' ability to apply the law to the facts. In that event, the court may withhold giving the necessary procedural and housekeeping instructions until after closing arguments.

Fla. Stat. § 40.50(5) (2005)

Recommendation

Copies of the written jury instructions should be given to jurors for their use during deliberations.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 26)

Recommendation

Case-specific preliminary jury instructions should be given at the outset of trial. In complex or technical cases, definitions of terms and other information to help orient the jury should be included.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 27)

18. Child-Care for Jurors

N/A

19. Jury Room

N/A

20. Accommodation

Juror Accommodations

Whenever jurors are required by law or by order of court to be kept together during the conduct of a trial or while considering their verdict, or whenever by order of court lodging is required to be furnished jurors, separate lodging and restroom facilities shall be provided for jurors of different sexes; and, under contemplation of law, jurors shall be deemed to have been kept together whenever the jurors of different sexes occupy the accommodations provided for their respective sexes.

Fla. Stat. § 40.235 (2005)

21. Juror's Bill of Rights

Recommendation

Florida should adopt a juror bill of rights. The Supreme Court of Florida should adopt a rule to such effect and/or have the Chief Justice issue an administrative order.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 36)

22. Materials Permitted in Possession of the Jury

N/A

23. Various Rules

N/A

24. Various Recommendations

Recommendation: Post-Verdict Discussions

Judges should advise jurors of their rights regarding post-verdict discussions at the conclusion of a trial.

Final Report of the Jury Innovations Committee, Judicial Management Council, Supreme Court of Florida, May 2001 (Recommendation 41)