

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

Indiana Jury Innovations

1. Note Taking

N/A

2. Juror Handbooks/Notebooks

N/A

3. Juror Questions and Questioning of Witnesses

Jury questions during deliberations

If, after the jury retires for deliberation:

- (1) there is a disagreement among the jurors as to any part of the testimony; or
- (2) the jury desires to be informed as to any point of law arising in the case;

the jury may request the officer to conduct them into court, where the information required shall be given in the presence of, or after notice to, the parties or the attorneys representing the parties.

Burns Ind. Code Ann. § 34-36-1-6 (2004)

4. Juror Pay/Compensation

N/A

5. Alternate Jurors

Alternate jurors

(a) In a civil case, the court may direct that no more than three (3) jurors be called and impanelled, in addition to the regular jury, to sit as alternate jurors.

(b) Alternate jurors shall, in the order in which they are called, replace jurors who, before the time the jury returns its verdict, become unable or disqualified to perform their duties.

(c) Alternate jurors:

- (1) shall be drawn in the same manner;
- (2) must have the same qualifications;
- (3) are subject to the same examination and challenges;
- (4) shall take the same oath; and
- (5) shall perform the same function and hold the same powers and privileges;

as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury brings in its verdict.

Burns Ind. Code Ann. § 34-36-3-2 (2004)

Alternate jurors

The Court may direct that no more than three (3) jurors in addition to the regular jury be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury returns its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury brings in its verdict. If alternate jurors are permitted to attend deliberations, they shall [be] instructed not to participate.

Burns Ind. TR. 47(B) (2004)

Review Court Orders that may amend this Rule

6. Discussions pre-deliberation

N/A

7. Deliberation

Jury deliberations

(a) When a case is submitted to the jury, the jury may:

- (1) decide in court; or
- (2) retire for deliberation.

(b) Except as provided in subsection (c), if the jury retires, the members of the jury must be kept together in some convenient place, under the charge of a sworn officer, until the members of the jury:

- (1) agree upon a verdict; or
- (2) are discharged by the court.

(c) The court may, in its discretion, permit the jury to separate temporarily and for meals.

(d) The officer in charge of the jury shall not permit any communication to be made to the jury. The officer in charge of the jury shall not communicate with the jury, except:

- (1) to ask the jury if it has agreed upon a verdict; or
- (2) by order of the court.

(e) The officer in charge of the jury shall not, before the verdict is rendered, communicate to any person the state of the jury's deliberations or the jury's verdict.

Burns Ind. Code Ann. § 34-36-1-4 (2004)

Jury questions during deliberations

If, after the jury retires for deliberation:

- (1) there is a disagreement among the jurors as to any part of the testimony; or
- (2) the jury desires to be informed as to any point of law arising in the case;

the jury may request the officer to conduct them into court, where the information required shall be given in the presence of, or after notice to, the parties or the attorneys representing the parties.

Burns Ind. Code Ann. § 34-36-1-6 (2004)

Separation of jury during trial or deliberations

(a) If the members of the jury are permitted to separate, either during the trial or after the cause is submitted to them, the court shall admonish the jurors that it is their duty not to:

- (1) converse with each other; or
- (2) permit themselves to be addressed by any other person, on any subject of the trial.

(b) If the members of the jury are permitted to separate during the trial, the court shall admonish the jurors that it is their duty not to form or express among themselves an opinion on the cause until the cause is finally submitted to them.

Burns Ind. Code Ann. § 34-36-1-5 (2004)

8. Length of Service

Length of jury service -- Selection for subsequent jury panel

(a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

- (1) serves as a juror under this chapter; or
- (2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

Burns Ind. Code Ann. § 33-28-5-23 (2004)

9. Length of Time Restrictions on Trials

N/A

10. Judge's Responses to Jury Questions

N/A

11. Jury Size

Number of jurors in civil cases

In all civil cases, the jury shall consist of six (6) members
Burns Ind. TR. 47(A) (2004)

Review Court Orders that may amend this Rule

12. Number of Jurors Needed to Return a Verdict

Six-member juries -- Majority verdicts

(a) In a civil case, the jury consists of six (6) members.

(b) At any time before the verdict is announced, the parties may stipulate that a verdict or finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

Burns Ind. Code Ann. § 34-36-3-1 (2004)

Juries of less than six -- Majority verdict

The parties may stipulate that the jury shall consist of any number less than six (6) at any time before the jury is selected or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury at any time before the verdict has been announced.

Burns Ind. TR. 48 (2004)

Review Court Orders that may amend this Rule

13. Juror Admonition

N/A

14. Jury Nullification

N/A

15. The Use of Plain English

N/A

16. Absence of the Jury

N/A

17. Jury Instructions

General instructions at commencement of action

When the jury has been sworn the court shall instruct in writing as to the issues for trial, the burden of proof, the credibility of witnesses, and the manner of weighing the testimony to be received. Each party shall have reasonable opportunity to examine such instructions and state his specific objections thereto out of the presence of the jury and before any party has stated his case. The court may of its own motion and, if requested by either party, shall reread to the jury all or any part of the instructions so given along with the other instructions given to the jury at the close of the case. The parties shall be given reasonable opportunity to submit requested instructions prior to the swearing of the jury, and object to instructions requested or proposed to be given
Burns Ind. TR. 51(A) (2004)

Review Court Orders that may amend this Rule

Instructions after arguments -- On court's own motion -- Request for written instructions

After argument the judge shall instruct the jury as to the law upon the issues presented by the evidence. Such instructions given by the court of its own motion shall be in writing when any party so requests. This request must be made before the commencement of the argument.
Burns Ind. TR. 51(B) (2004)

Review Court Orders that may amend this Rule

Objections and requested instructions before submission

At the close of the evidence and before argument each party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform counsel of its proposed action upon the requests prior to their arguments to the jury, but the court shall instruct the jury after the arguments are completed. No party may claim as error the giving of an instruction unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury. The court shall note all instructions given, refused or tendered, and all written objections submitted thereto shall be filed in open court and become a part of the record. Objections made orally shall be taken by the reporter and thereby shall become a part of the record.
Burns Ind. TR. 51(C) (2004)

Review Court Orders that may amend this Rule

Limit upon requested instructions

Each party shall be entitled to tender no more than ten [10] requested instructions to be given to the jury; however, the court in its discretion for good cause shown may fix a greater number. Each tendered instruction

shall be confined to one [1] relevant legal principle. No party shall be entitled to predicate error upon the refusal of a trial court to give any tendered instruction in excess of the number fixed by this rule or the number fixed by the court order, whichever is greater.
Burns Ind. TR. 51(D) (2004)

Review Court Orders that may amend this Rule

Indiana pattern jury instructions

Any party requesting a trial court to give any instruction from the Indiana Pattern Jury Instructions, prepared under the sponsorship of the Indiana Judges Association, may make such request in writing without copying the instruction verbatim, by merely designating the number thereof in the publication. In event the trial court desires to give any instructions contained in said publication, it shall be sufficient to read the numbered instruction from the publication orally to the jury and indicate in the order book entry the number or numbers of such instructions, along with any objection thereto. It shall be unnecessary for the trial court to copy said instruction in writing and file the same with other written instructions given; provided, however, that in the event of an appeal, where any objections are made to the giving of such instructions or the refusal to give such instructions, such numbered instructions shall beset forth verbatim in the argument section of the brief where argument is presented with reference to the refusal to give or the giving of such numbered instruction.

Burns Ind. TR. 51(E) (2004)

Review Court Orders that may amend this Rule

18. Child-Care for Jurors

N/A

19. Jury Room

N/A

20. Accommodation

N/A

21. Juror's Bill of Rights

N/A

22. Materials Permitted in Possession of the Jury

N/A

23. Various Rules

Jury viewing of places or property

(a) Whenever, in the opinion of the court, it is proper for the jury to have a view of:

(1) real or personal property that is the subject of litigation; or
(2) the place in which a material fact occurred;
the court may order the jury to be conducted in a body, under the charge of a sworn officer, to the place.

(b) The place shall be shown to the jury by a person appointed by the court for that purpose.

(c) While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial.

Burns Ind. Code Ann. § 34-36-1-3 (2004)

Impanelment of special jury

If the parties:

- (1) agree upon the jurors to compose a special jury; and
- (2) notify the court;

the court shall direct the sheriff to impanel a special jury if it can be done without unreasonable delay of the cause.

Burns Ind. Code Ann. § 34-36-2-2 (2004)

Discharge of jury prior to verdict

The jury may be discharged by the court under any of the following circumstances:

- (1) Sickness of a juror.
- (2) Other accident or calamity requiring the discharge.
- (3) Both parties consent to the discharge.
- (4) The jury has been kept together until it satisfactorily appears that there is no probability of the members agreeing upon a verdict.

Burns Ind. Code Ann. § 34-36-1-7 (2004)

24. Various Recommendations

N/A