

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

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Oregon Jury Innovations

1. Note Taking

Notes

Jurors may take notes of the testimony or other proceeding on the trial and may take such notes into the jury room.

ORCP 59(C)(4) (2004)

2. Juror Handbooks/Notebooks

N/A

3. Juror Questions and Questioning of Witnesses

N/A

4. Juror Pay/Compensation

N/A

5. Alternate Jurors

ALTERNATE JURORS

The court may direct that not more than six 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 retired to consider 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 as the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by these rules or other rule or statute if one or two alternate jurors are to be impanelled, two peremptory challenges if three or four alternate jurors are to be impanelled, and three peremptory challenges if five or six alternate jurors are to be impanelled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by these rules or other rule or statute shall not be used against an alternate juror.

ORCP 57(F) (2004)

6. Discussions pre-deliberation

N/A

7. Deliberation

DELIBERATION

C.(1) **Exhibits.** Upon retiring for deliberation the jury may take with them all exhibits received in evidence, except depositions.

C.(2) **Written statement of issues.** Pleadings shall not go to the jury room. The court may, in its discretion, submit to the jury an impartial written statement summarizing the issues to be decided by the jury.

C.(3) **Copies of documents.** Copies may be substituted for any parts of public records or private documents as ought not, in the opinion of the court, to be taken from the person having them in possession.

C.(4) **Notes.** Jurors may take notes of the testimony or other proceeding on the trial and may take such notes into the jury room.

C.(5) **Custody of and communications with jury.** After hearing the charge and submission of the cause to them, the jury shall retire for deliberation. When they retire, they must be kept together in some convenient place, under the charge of an officer, until they agree upon their verdict or are allowed by the court to separate or are discharged by the court. Unless by order of the court, the officer must not suffer any communication to be made to them, or make any personally, except to ask them if they are agreed upon a verdict, and the officer must not, before their verdict is rendered, communicate to any person the state of their deliberations, or the verdict agreed upon. Before any officer takes charge of a jury, this subsection shall be read to the officer who shall be then sworn to follow its provisions to the utmost of such officer's ability.

C.(6) **Separation during deliberation.** The court in its discretion may allow the jury to separate during its deliberation when the court is of the opinion that the deliberation process will not be adversely affected. In such cases the court will give the jury appropriate cautionary instruction.

C.(7) **Juror's use of private knowledge or information.** A juror shall not communicate any private knowledge or information that the juror may have of the matter in controversy to other jurors nor shall the juror be governed by the same in giving his or her verdict.

ORCP 59(C) (2004)

8. Length of Service

N/A

9. Length of Time Restrictions on Trials

N/A

10. Judge's Responses to Jury Questions

N/A

11. Jury Size

Juries of less than 12 jurors

Provision may be made by law for juries consisting of less than 12 but not less than six jurors.

Ore. Const. Art. VII, § 9 (2003)

12. Number of Jurors Needed to Return a Verdict

Juries; indictment; information; verdict in civil cases

In civil cases three-fourths of the jury may render a verdict.

Ore. Const. Art. VII, § 5(7) (2003)

Number of jurors concurring

In civil cases three-fourths of the jury may render a verdict.

ORCP 59(G)(2) (2004)

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

RECORDED OR WRITTEN JURY INSTRUCTIONS

No identifying information relating to the parties or any other extraneous material, including authorities, shall appear on submitted jury instructions.

Ore. UTCR 6.070 (2003)

PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

(1) All requested jury instructions and verdict forms must be in writing and delivered concurrently to the trial judge and to opposing parties.

(2) The original and one copy of the requested jury instructions and verdict forms must be submitted to the court.

(3) Requested instructions may include any *Uniform Oregon Jury Instruction* by reference only to its instruction number and title: such as "Instruction No. 70.04 Lookout." If the uniform instruction contains blanks or alternative choices, the appropriate material to complete the instruction must be supplied in the request.

(4) Requested jury instructions, including references to *Uniform Oregon Jury Instructions*, must be prepared as follows:

(a) Requested uniform instructions must be identified in accordance with [UTCRC 6.060\(3\)](#).

(b) Instructions, including uniform instructions, must be numbered consecutively, beginning with the number "1" for the first requested instruction.

(c) Except for requested uniform instructions, not more than one proposed instruction must appear on each sheet of paper.

(d) If any requested jury instruction requires more than one page to be set out, each of the pages must be numbered at the lower left-hand corner; the number must contain the consecutively assigned requested jury instruction number provided pursuant to subparagraph (b) of this paragraph, followed by a hyphen, followed by the consecutive number for each page.

(e) The designation of the party requesting the instruction must be typed on each page.

(f) Below each requested instruction must be a statement citing the statute, decision or other legal authority which supports the requested instruction.

(5) The court must inform the parties before argument of the instructions that it proposes to give.

(6) Proposed verdict forms and written interrogatories, if any, must be prepared without the name of the attorney or the name of the firm and must be submitted at commencement of trial and as otherwise allowed by the court.

PROPOSED INSTRUCTIONS

Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions shall be submitted at the commencement of the trial. Proposed instructions upon questions of law developed by the evidence, which could not be reasonably anticipated, may be submitted at any time before the court has instructed the jury. The number of copies of proposed instructions and their form shall be governed by local court rule.

ORCP 59(A) (2004)

CHARGING THE JURY

In charging the jury, the court shall state to them all matters of law necessary for their information in giving their verdict. Whenever the knowledge of the court is by statute made evidence of a fact, the court shall declare such knowledge to the jury, who are bound to accept it as conclusive. The court shall reduce, or require a party to reduce, the charge to writing. However, if the preparation of written instructions is not feasible, the court may record the instructions electronically during the charging of the jury. The jury shall take such written instructions or recording with it while deliberating upon the verdict and then return the written instructions or recording to the clerk immediately upon conclusion of its deliberations. The clerk shall file the written instructions or recording in the court file of the case.

ORCP 59(C) (2004)

FURTHER INSTRUCTIONS

After retirement for deliberation, if the jury requests information on any point of law, the judge may require the officer having them in charge to conduct them into court. Upon the jury being brought into court, the information requested, if given, shall be given either orally or in writing in the presence of, or after notice to, the parties or their counsel.

ORCP 59(D) (2004)

COMMENTS ON EVIDENCE

The judge shall not instruct with respect to matters of fact, nor comment thereon.

ORCP 59(E)(4) (2004)

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

OATH OF JURY

As soon as the number of the jury has been completed, an oath or affirmation shall be administered to the jurors, in substance that they and each of them will well and truly try the matter in issue between the plaintiff and defendant, and a true verdict give according to the law and evidence as given them on the trial.

ORCP 57(E) (2004)

TRIAL BY JURY DEFINED

A. Twelve-person juries. A trial jury in the circuit court is a body of 12 persons drawn as provided in Rule 57. The parties may stipulate that a jury shall consist of any number less than 12 or that a verdict or finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

B. Six-person juries. Notwithstanding section A of this rule, a jury in circuit court shall consist of six persons if the amount in controversy is less than \$10,000.

ORCP 56 (2004)

JUROR HANDLING OF CONTROLLED, HAZARDOUS, OR INFECTIOUS SUBSTANCES AND CHEMICALS

Jurors must be advised if any controlled, hazardous, or infectious substances or chemicals to be handled in the jury room present a danger and must be provided instructions on safe handling, including providing protective devices, if necessary.

Ore. UTCR 6.170 (2003)

DISCHARGE OF JURY WITHOUT VERDICT

F.(1) When jury may be discharged. The jury shall not be discharged after the cause is submitted to them until they have agreed upon a verdict and given it in open court unless:

F.(1)(a) At the expiration of such period as the court deems proper, it satisfactorily appears that there is no probability of an agreement; or

F.(1)(b) An accident or calamity requires their discharge; or

F.(1)(c) A juror becomes ill as provided in Rule 58 D.

F.(2) New trial when jury discharged. Where the jury is discharged

without giving a verdict, either during the progress of the trial or after the cause is submitted to them, the action may be again tried immediately, or at a future time, as the court directs.

ORCP 59(F) (2004)

RETURN OF JURY VERDICT

G.(1) **Declaration of verdict.** When the jurors have agreed upon their verdict, they shall be conducted into court by the officer having them in charge. The court shall inquire whether they have agreed upon their verdict. If the foreperson answers in the affirmative, it shall be read.

G.(2) **Number of jurors concurring.** In civil cases three-fourths of the jury may render a verdict.

G.(3) **Polling the jury.** When the verdict is given, and before it is filed, the jury may be polled on the request of a party, for which purpose each juror shall be asked whether the verdict is the juror's verdict. If fewer jurors answer in the affirmative than the number required to render a verdict, the jury shall be sent out for further deliberations.

G.(4) **Informal or insufficient verdict.** If the verdict is informal or insufficient, it may be corrected by the jury under the advice of the court, or the jury may be required to deliberate further.

G.(5) **Completion of verdict; form and entry.** When a verdict is given and is such as the court may receive, the clerk shall file the verdict. Then the jury shall be discharged from the case.

ORCP 59(G) (2004)

24. Various Recommendations

N/A