

## INTRODUCTION

This Handbook provides the complete text of the jury instructions given in 82 trials in Oklahoma state and federal courts since 2000. The jury instructions are taken from West's OK-JIF-CIV database. Also included are summaries of the facts of the cases in which the jury instructions were used and the outcomes of the trials. In addition, there are references to pleadings and a number other trial documents for these cases that are found in West's OK-JV-PLUS database.

The Handbook is organized into 15 Chapters that cover the most frequently litigated types of jury cases. Each Chapter has examples of jury instructions for the particular area of coverage.

The jury instructions in the Handbook illustrate that for the most part trial judges follow the Oklahoma Uniform Jury Instructions for Civil Cases ("Civil OUJIs") in accordance with the Oklahoma Supreme Court's Order of February 25, 1993. For many of the cases, the jury instructions consisted entirely of Civil OUJIs that the attorneys and judges selected to cover the issues presented.

Nevertheless, there were a number of instances where the trial judges modified particular OUJIs to fit their cases. For example, the OUJIs dealing with the various color coded verdict forms were drafted for negligence cases, and they need to be modified to cover contracts and other types of cases. In addition, some judges have developed variations of the OUJIs that deal with preliminary and closing matters that are not tied to any particular subject matters. For example, at least one judge customarily combines OUJI 1.4 and OUJI 1.8 into a single jury instruction. These OUJIs deal with the duties of the jurors to follow the other jury instructions in performing their duties of determining the facts and applying the law as well as other preliminary matters. Another judge breaks OUJI 1.4 into two parts that are given at different times.

Because federal judges are not bound to follow the OUJIs, their versions of jury instructions on procedural matters often differ in their wording from the OUJIs, although the substance of their jury instructions is similar. With respect to the substantive law in diversity of citizenship cases, federal judges are bound under the Erie doctrine to follow state law, and accordingly, the jury instructions in federal court on substantive matters that are governed by Oklahoma law track the Civil OUJIs closely.

While the Civil OUIs cover most areas of law that are commonly litigated, they cannot cover every type of case that is tried in Oklahoma. Where the Civil OUIs do not cover a particular subject, trial judges have the responsibility of drafting a non-uniform jury instruction to adequately inform the jury of the applicable law. Examples of subjects that are not addressed in the Civil OUIs include statutes of limitations, the use of depositions at trial, breach of fiduciary duty, conversion, civil rights violations, and many others. Particularly in areas that are not covered by the Civil OUIs, a trial attorney may provide great assistance to the trial judge by preparing proposed jury instructions that set out the applicable Oklahoma law accurately and clearly. Proposed jury instructions should include citations to controlling Oklahoma statutes and cases, if possible, or to persuasive authority from other jurisdictions in the absence of Oklahoma authority. Jury instructions from other states may be useful for drafting well-worded proposed non-uniform jury instructions for Oklahoma cases.

The examples of the jury instructions found in the Handbook show that many of the same jury instructions are used in a large number of the cases. All of the cases began with the OUIs covering the general instructions in Chapter One. Nearly all of the cases used either modified or unmodified versions of the cautionary instructions in OUI 1.4 and OUI 1.8. A number of the cases also used the cautionary instructions in OUI 1.5 or OUI 1.6 admonishing the jury not to consider the race or religion of a party or a party's corporate status in deciding the case. Most cases used OUI 1.9, which instructs the jury to choose a foreperson after arriving in the jury room and then proceed to reach a verdict. In addition, nearly all of the cases used some of the OUIs in Chapter Three covering the burden of proof and evidence. In most cases, the trial judges gave OUI 3.1 concerning the greater weight of the evidence burden of proof; in appropriate cases, they gave OUI 3.2 concerning the clear and convincing evidence burden of proof. In almost every case, the trial judges gave OUI 3.3, which directs the jury not to base its decision on speculation or guesswork. In many cases, trial judges also gave OUI 3.13, which provides guidance on determining the credibility of witnesses. Where expert witnesses testified, trial judges gave OUI 3.21, which deals with expert testimony. Finally, most of the cases used the OUIs in Chapter Nine concerning the use of the color-coded verdict forms.

In addition to giving OUIs covering these general areas, the trial judges used the OUIs from the other Chapters that governed the particular areas of substantive law that governed their cases.

INTRODUCTION—USING THE JURY INSTRUCTION HANDBOOK

The numerous examples of jury instructions found in the Handbook and also in West's OK-JIF-CIV database provide concrete illustrations of jury instructions tested under fire in Oklahoma state and federal courts. Trial attorneys and judges may adapt these examples for use in nearly any type of case.

**New In The 2023–2024 Edition**

New examples in this 2023–2024 Edition include: 1) premises liability—duty to maintain premises; 2) products liability—wrongful death; and 3) breach of contract and tortious interference with contract.