

Table of Contents

	Page
CHAIRMAN'S PREFACE	v
REPORTER'S PREFACE.....	vii
COMMITTEE HISTORY: SUPREME COURT COMMITTEE ON PRACTICE AND PROCEDURE	xi
USE NOTE.....	xiii
WESTLAW ELECTRONIC RESEARCH GUIDE	xvi

CHAPTER 1 PRELIMINARY INSTRUCTIONS; RECESS INSTRUCTIONS; "FUNCTION OF JUDGE, JURY, AND COUNSEL"; INSTRUCTIONS ON EVIDENCE

Inst. No.

1.00	Preliminary Instruction to Jury Before Civil Trial
1.00A	Admonition at Recess
1.01	Function of Judge, Jury, and Counsel
1.02	Evidence
1.11	Statements of Counsel
1.21	Rulings Upon Evidence
1.31	Direct and Circumstantial Evidence
1.41	Evaluation of Testimony—Credibility of Witnesses
1.41A	Credibility of Party's Witness
1.42	Expert Testimony
1.43	Hypothetical Question Answered by Expert
1.44	Evaluation of Deposition Evidence
1.45	False Testimony (<i>Falsus in Uno.</i> , <i>Falsus in Omnibus</i>)
1.46	Witness Fees—No Unfavorable Inferences
1.51	Failure to Produce Evidence—Inferences
1.52	Dead Man's Statute
1.53	Admissions
1.61	Uncontradicted or Uncontroverted Evidence
1.70	Limited Use—Impeachment—Evidence of a Conviction of a Crime
1.71	Limited Use—Impeachment—Opinion Evidence of a Witness' Character, or General Reputation, or Both, Regarding Truthfulness or Untruthfulness
1.72	Evidence Admitted for a Limited Purpose

CIVIL JURY INSTRUCTIONS

CHAPTER 2 NEGLIGENCE: STATEMENT OF THE CASE; AFFIRMATIVE DEFENSES; BURDENS OF PROOF; RES IPSA LOQUITUR; PRESUMPTIONS; NUMBER AND NATURE OF PARTIES

A. STATEMENT OF THE CASE AND AFFIRMATIVE DEFENSES

- 2.01 Statement of the Case—Negligence
- 2.01A Statement of the Case—Negligence—Effect of Findings—
Tort Action of a Kind to Which Contributory Negligence *Is*
an Allowable Defense but in Which it Is not Submitted to
the Jury and Where Joint and Several Liability Is an
Issue
- 2.02A Contributory and Comparative Negligence
- 2.02A-1 Statement of the Case—Contributory Negligence—Effect of
Findings—Tort Action Where Contributory Negligence is
Submitted to the Jury and Joint and Several Liability *Is*
an Issue
- 2.02A-2 Statement of the Case—Contributory Negligence—Effect of
Findings—Tort Action Where Contributory Negligence is
Submitted to the Jury and Joint and Several Liability *Is*
not an Issue
- 2.02B Assumption of Risk
- 2.02C Extraordinary Force of Nature
- 2.02D Miscellaneous Affirmative Defenses
- 2.03 Statement of the Case—Where Defendant Files a
Counterclaim
- 2.04 Cross-Claim—Third Party Claim
- 2.05 Contribution
- 2.06 Admitted Liability—Damages Denied
- 2.07 Pleadings Are Not Evidence
- 2.08 Facts Determined by Court

B. BURDENS OF PROOF

- 2.12A Burden of Proof—Greater Weight of the Evidence Defined
- 2.12B Burden of Proof—Clear and Convincing Evidence Defined

C. RES IPSA LOQUITUR

- 2.13 Res Ipsa Loquitur

TABLE OF CONTENTS

D. PRESUMPTIONS

- 2.14A Presumptions—Basic Facts Not Contested; Presumed Fact Not Contested
- 2.14B Presumptions—Basic Fact(s) Contested; Presumed Fact Not Contested
- 2.14C Presumptions—Basic Fact(s) Contested; Presumed Fact Contested
- 2.14D Presumptions—Basic Facts Not Contested; Presumed Fact Contested

E. THE NUMBER AND NATURE OF THE PARTIES

- 2.20 Multiple Plaintiffs
- 2.21 Multiple Defendants
- 2.22 Party Suing or Being Sued in a Representative Capacity
- 2.23 Corporate Party

CHAPTER 3 NEGLIGENCE—GENERAL INSTRUCTIONS

- 3.01 Right to Assume Another's Reasonable Care
- 3.02 Definition of Negligence
- 3.03 Effect of Violation of Statutes, Ordinances, Rules, or Regulations
- 3.04 Care Required for Safety of Child
- 3.05 Negligence—Children
- 3.06 "Presumption" Deceased Exercised Due Care
- 3.07 Intoxication
- 3.08 Duty—Volunteers
- 3.09 Sudden Emergency
- 3.10 Willful and Malicious Conduct—A Special Finding in a Negligence Case
- 3.11 Extraordinary Force of Nature
- 3.12 Assumption of Risk
- 3.13 Comparative Negligence
- 3.23 Last Clear Chance
- 3.24 Contributory Negligence—Child
- 3.25 Parent and Child—Negligence of Child Not Imputed to Parent
- 3.26A Two Causes of Action—Two Parents and a Child—Negligence of Parent Not Imputed to Child
- 3.26B Two Causes of Action—One Parent and a Child—Negligence of Parent Not Imputed to Child

CIVIL JURY INSTRUCTIONS

- 3.41 Proximate Cause
- 3.42 Concurring Cause
- 3.43 Superseding or Intervening Cause
- 3.44 Proximate Cause—Conduct of Nonparty third Person

CHAPTER 4 DAMAGES

A. INTRODUCTION

- 1 The Court's Duty
- 2 The Measure of Damages
- 3 Pleadings and Proof
- 4 Specific Performance
- 5 Noncompensatory Damages
- 6 The Collateral Source Rule
- 7 Judgment Interest
- 8 Breach of Contract: Liquidated-Damages Provisions versus
Penalty Provisions
- 9 Court Awarded Attorney Fees in Civil Actions

B. PERSONAL INJURY

- 4.00 General Instruction on Damages in a Tort Action Where Joint
and Several Liability *Is* an Issue—Economic and
Noneconomic Damages
- 4.01 General Instruction on Damages in a Tort Action Where Joint
and Several Liability *Is Not* an Issue
- 4.02 Verdict Determined by Chance—Quotient Verdict
- 4.09 Activation or Aggravation of a Preexisting Condition—
Existence of Condition in Issue
- 4.12 Mortality Tables—Personal Injury Cases
- 4.13 Present Cash Value

C. DAMAGES TO PROPERTY

- 4.20 Damages to Property—Repairs Will Restore Property at a Cost
Lower Than Property's Pre-damage Value
- 4.21 Damages to Property—Repairs Will Not Restore Property, or
Repairs Will Do So, but at a Cost in Excess of Property's Pre-
damage Value
- 4.22 Damages to Property—Repairs Will Restore Property—Issue of
Fact Whether Cost of Repair Exceeds Property's Pre-Damage
Value

TABLE OF CONTENTS

- 4.23 Damages to Property—No Issue as to Whether Cost of Repairs Exceeds Market Value—Issue of Fact Whether or Not Repairs Will Restore Property
- 4.24 Damages to Property—Issue of Fact Whether or Not Repairs Will Restore Property and, If So, Whether Cost of Repairs Exceeds Property's Pre-damage Value
- 4.25 Damages to Leasehold Interest—Lessee
- 4.26 Destruction of Leasehold Interest—Lessee
- 4.27 Damages—Conversion of Property

D. DAMAGES TO CROPS

- 4.30 General Instruction on Damages to Crops

E. DAMAGES FOR BREACH OF CONTRACT

- 4.40 General Instruction on Damages for Breach of Contract
- 4.41 Buyer's Damages for Breach of Contract to Convey Land
- 4.42 Seller's Damages for Breach of Contract to Purchase Real Estate
- 4.43 Damages for Breach of Contract to Restore Property to Its Original Condition
- 4.44 Damages for Breach of Contract—Substantial Performance—Contractor's Damages
- 4.45 Damages for Breach of Construction Contract—Owner's Damages; Substantially Performed Contract; and Defective Work or Unsuitable Materials
- 4.46 Damages for Breach of Contract for Construction or Repair—Builder's Damages Where Owner's Breach Does Not Allow Builder to Complete Performance
- 4.47 Damages for Breach of Contract for Construction or Repair—Contractor's Damages Where Contract Completed But Owner's Breach Caused Contractor to Incur Extra Cost
- 4.48 Damages for Breach of Contract to Return Specific Property
- 4.49 Damages for Breach of Contract—Seller's Breach of Warranty or Misrepresentation as to Condition of Real Property in Contract for Sale of Real Property
- 4.50 Damages for Breach of Contract to Lend Money Where a Substitute Loan Is Obtained
- 4.51 Damages for Breach of Covenant Not to Compete or Breach of Contract for Exclusive Distributorship
- 4.52 Damages for Breach of Contract for Personal Services—Employee's Damages for Breach by Employer
- 4.53 Damages for Breach of Contract—Seller's Damages for Buyer's Breach of Contract to Purchase Goods

CIVIL JURY INSTRUCTIONS

- 4.54 Damages for Breach of Contract—Buyer’s Damages for Seller’s Breach of Contract to Sell Goods
- 4.55 Damages for Breach of Contract—Client’s Damages for Breach of Contract to Obtain Insurance Coverage—No Coverage Obtained
- 4.56 Damages for Breach of Contract—Insured’s Damages for Breach of Contract to Obtain Insurance Coverage—Some Coverage Obtained
- 4.59 Damages for Breach of Contract—Actual, Consequential, or Special Damage

F. WRONGFUL DEATH

- 4.60 Wrongful Death

G. MITIGATION OF DAMAGES

- 4.70 Mitigation of Damages

CHAPTER 5 SUBMISSION TO THE JURY

- 5.01 Submission to the Jury
- 5.02 Verdict Form 5.02: Tort Action of a Kind to Which Contributory Negligence Is an Allowable Defense but in Which It Is Not Submitted to the Jury and Where Joint and Several Liability Is an Issue
- 5.03 Verdict Form 5.03: Tort Action Where Contributory Negligence Is Submitted to the Jury and Joint and Several Liability Is an Issue and the Jury Finds Plaintiff’s Burden of Proof Has Been Met and Defendants’ Burden Has Not
- 5.04 Verdict Form 5.04: Tort Action Where Contributory Negligence Is Submitted to the Jury and Joint and Several Liability Is an Issue and the Jury Finds That Both Plaintiff and Defendants Have Met Their Burdens of Proof
- 5.05 Verdict Form 5.05: Tort Action Where Contributory Negligence Is Submitted to the Jury and Joint and Several Liability Is Not an Issue and the Jury Finds That Both Plaintiff and Defendants Have Met Their Burdens of Proof

TABLE OF CONTENTS

CHAPTER 6 SPECIAL LEGAL RELATIONSHIPS OF PARTIES—VICARIOUS RESPONSIBILITY

A. AGENCY AND EMPLOYMENT

- 6.01 Agency—Issues and Burden of Proof
- 6.02 Agency—Vicarious Liability, Agency and Scope of Authority in Issue—Effect of Findings
- 6.03 Definition of Agency
- 6.04 Definition of Scope of Authority
- 6.05 Agency—Principal and Agent Sued, Negligence Action, Vicarious Liability, No Issue As to Agency or Scope of Authority—Effect of Findings
- 6.06 Definition of Independent Contractor
- 6.08 Agency—Apparent Authority
- 6.10 Agency—Original Principal Bound by Acts of Loaned or Hired-Out Agent
- 6.11 Agent's Deviation from Principal's Business

B. PARTNERSHIP

- 6.20 Partnership—Issues and Burden of Proof
- 6.21 Partnership—Vicarious Liability in a Negligence Action—Effect of Findings
- 6.22 Partnership—Vicarious Liability in a Contract Action—Effect of Findings
- 6.23 Definition of Partnership
- 6.24 Partnership—Ordinary Course of Business—Negligence Action
- 6.25 Partnership—Ordinary Course of Business—Contract Action
- 6.26 Partner by Estoppel—Liability of One Who Claims to Be a Partner
- 6.27 Partner by Estoppel—Liability of One Who Has Been Represented to Be a Partner
- 6.28 Partnership by Estoppel—Liability of the Partnership

C. CORPORATIONS

- 6.30 A Corporation Acts Through Its Employees or Agents

D. JOINT VENTURE

- 6.40 Joint Venture—Issues and Burden of Proof
- 6.41 Joint Venture—Vicarious Liability in a Negligence Action—Effect of Findings

CIVIL JURY INSTRUCTIONS

- 6.42 Joint Venture—Vicarious Liability in a Contract Action—Effect of Findings
- 6.43 Definition of Joint Venture
- 6.44 Joint Venture—Ordinary Course of Business—Negligence Action
- 6.45 Joint Venture—Ordinary Course of Business—Contract Action

CHAPTER 7 NEGLIGENCE—MOTOR VEHICLES

- 7.01 Statutes and Ordinances Stated
- 7.02 Effect of Violation of Statute or Ordinance Regulating Traffic
- 7.03A Negligence on the Part of a Driver—Lookout, Control, Conditions Affecting Visibility, and Other Considerations
- 7.03B Range of Vision
- 7.04 Stop Signs—Intersections
- 7.05 Stop Signs—Temporarily Removed or Obstructed
- 7.06 Yield Right-of-Way Signs
- 7.07A Green Light—Vehicular Traffic
- 7.07B Green Arrow—Vehicular Traffic
- 7.08A Steady Yellow Light—Vehicular Traffic
- 7.08B Flashing Yellow Light—Vehicular Traffic
- 7.09A Steady Red Light—Vehicular Traffic
- 7.09B Flashing Red Light—Vehicular Traffic
- 7.10 Vehicles Approaching Intersection at Same Time—Right-of-Way
- 7.11 Left Turns—Right-of-Way
- 7.12A Emerging from Private Drive
- 7.12B Entering a Private Drive
- 7.13 Duty of Driver Having Right-of-Way—Stop Sign, Yield Sign, Traffic Light
- 7.14 Speed
- 7.15 Pedestrian Right-of-Way
- 7.17 Moving a Stopped Vehicle—Right-of-Way
- 7.18 Right- and Left-Hand Turns—Required Position and Method of Turning
- 7.19 Turning or Moving Right or Left, or Stopping—Signal Required
- 7.20 U-Turns
- 7.21 Driving on Right Half of Roadway
- 7.22A Passing Vehicles Proceeding in the Same Direction—Passing on the Left
- 7.22B Passing Vehicles Proceeding in the Same Direction—Passing on the Right

TABLE OF CONTENTS

7.23	Passing Vehicles Proceeding in the Opposite Direction
7.24	Following Vehicles Ahead
7.25	Divided Highways—Driving Onto or Across the Median
7.26	Driving on Highway Shoulders
7.27	Entering and Leaving Restricted Access Roadways
7.28	Stopping, Standing, or Parking Upon a Roadway, Freeway, or Bridge
7.29	Equipment of Vehicles: Lights, Mirrors, Brakes, Horns, and the Like
7.30	Authorized Emergency Vehicles—Exceptions from Rules of the Road
7.31	Operation of Vehicles Upon the Approach of Emergency Vehicles
7.32	Backing on Roadway or Shoulder of Freeway
7.33	Driving Upon Sidewalk
7.34	Overloading Front Seat or Obstructing Driver's View
7.40	Automobile Passenger—Lookout, Advice, and Warning
7.50A	through 7.54.
7.60	Family Purpose Doctrine—Definition and Burden of Proof
7.61	Negligence of Driver Not Imputed to Passenger by Reason of Status As Passenger
7.62	Negligent Entrustment
7.70	Failure to Wear Seat Belts—Mitigation of Damages

CHAPTER 8 LIABILITY OF OWNERS, OCCUPANTS, AND LESSORS OF LAND

A. TRESPASSER

8.01	Definition of Trespasser
8.02	Injury to Trespasser—Effect of Findings and Burden of Proof

B. LICENSEE

8.11	Definition of Licensee
8.12	Damage to Licensee—Effect of Findings and Burden of Proof

C. LAWFUL ENTRANTS

8.21	Definition of Business Visitor and Invitee
8.22	Damage to Business Visitor—Condition of Premises—Effect of Findings and Burden of Proof

CIVIL JURY INSTRUCTIONS

- 8.23 Damage to Business Visitor—Activities on Premises—Effect of Findings and Burden of Proof
- 8.24 Damage to Business Visitor—Acts of Third Persons—Effect of Findings and Burden of Proof
- 8.25 Definition of Lawful Entrant
- 8.26 Damage to Lawful Entrant—Condition of Premises—Effect of Findings and Burden of Proof
- 8.27 Damage to Lawful Entrant—Activities on Premises—Effect of Findings and Burden of Proof
- 8.28 Damage to Lawful Entrant—Acts of Third Persons—Effect of Findings and Burden of Proof

D. LEASED PREMISES

- 8.31 Liability of Lessor of Real Property—Concealment of or Failure to Disclose Condition of Premises—Effect of Findings and Burden of Proof
- 8.32 Liability of Lessor of Real Property—Condition of Part of Premises Reserved for Common Use—Effect of Findings and Burden of Proof
- 8.33 Liability of Lessor of Real Property—General Instruction on Condition of Premises Leased for Purpose Involving Admission of Public

E. ULTRAHAZARDOUS ACTIVITIES

- 8.41 Ultrahazardous Activities—Strict Liability
- 8.42 Ultrahazardous Activities—Strict Liability—Assumption of Risk

F. INJURY TO CHILDREN

- 8.51 Injury to Children, Whether Trespassers or Lawful Entrants

G. PERSON USING LAND FOR RECREATIONAL PURPOSES

- 8.61 Landowner's Duty to Those Using Land with Permission, Without Charge, and for Recreational Purposes

H. PUBLIC SIDEWALKS AND THE DUTY OF THE OWNER OF ABUTTING PROPERTY

- 8.71 Public Sidewalks and the Duty of the Owner of Abutting-Property

TABLE OF CONTENTS

I. THE TORT CLAIMS ACTS: TORT ACTIONS AGAINST STATE AND LOCAL GOVERNMENT

8.72 Tort Claims Acts

J. GENERAL DEFINITIONS

- 8.81 Willful and Malicious or Wanton Acts Defined
- 8.82 Reasonable Care Defined
- 8.83 Unreasonable Risk of Harm Defined
- 8.84 Definition—"Should Have Known," "Had Reason to Know" and
"from Facts Within His or Her Knowledge, Should Have
Known"

CHAPTER 9 MISCELLANEOUS CIVIL ACTIONS

- 9.01 Fraudulent Misrepresentation
- 9.02 Fraudulent Concealment—Vendor/Purchaser Setting
- 9.03 Definition of Material Fact
- 9.04 Intentional Infliction of Emotional Distress
- 9.10 Malicious Prosecution—Burden of Proof
- 9.11 Probable Cause Defined
- 9.12 Malice Defined

CHAPTER 10 NEGLIGENCE—COMMON CARRIERS

- 10.01 Definition of Common Carrier
- 10.02 Common Carrier—Definition of Passenger
- 10.03 Common Carrier—Definition of Carrier's Premises
- 10.04 Duty of Common Carrier—General Duty to Passengers
- 10.05 Common Carrier—Duty to Passenger Boarding, Traveling in,
or Getting Off of Vehicle of Carriage
- 10.06 Common Carrier—Duty to Protect Passengers from Other
Passengers
- 10.07 Common Carrier—Duty to Protect Passengers from Assault or
Intentional Harm by Employees
- 10.08 Duty of Common Carrier to Protect Business Visitors and
Licensees from Injury
- 10.09 Common Carrier—Conduct of Passengers—Carrier's Right to
Eject

CIVIL JURY INSTRUCTIONS

CHAPTER 11 LIABILITY OF SUPPLIERS OF PERSONAL PROPERTY FOR DAMAGES CAUSED BY THE CHATTEL SUPPLIED

A. LIABILITY OF LESSOR, LENDER, OR DONOR OF PERSONAL PROPERTY

- 11.01 Liability of Lessor of Personal Property—Liability for Damage
Caused by the Rental Property
- 11.02 Liability of Donor or Lender of Personal Property, for Damage
Caused by That Property—Burden of Proof

B. NEGLIGENCE LIABILITY IN TORT—LIABILITY OF MANUFACTURER OR SUPPLIER

- 11.10 Negligence Liability of Manufacturer or Supplier—Failure to
Use Reasonable Care to See That the Goods Are Safe for
Intended Use—Burden of Proof
- 11.11 Negligence Liability of Manufacturer or Supplier—Failure to
Warn Reasonably Foreseeable Users—Burden of Proof
- 11.12 Negligence Liability of Manufacturer or Supplier—Misuse

C. STRICT LIABILITY IN TORT—LIABILITY OF MANUFACTURER

- 11.20 Strict Liability of Manufacturer—Issues and Burden of Proof
- 11.21 Strict Liability of Manufacturer—Definition of
Defect—Manufacture
- 11.22 Strict Liability of Manufacturer—Definition of Defect—Design
- 11.23 Strict Liability of Manufacturer—Definition of Defect—
Insufficient Warning
- 11.24 Strict Liability of Manufacturer—Definition of Unreasonably
Dangerous
- 11.25 Strict Liability of Manufacturer—Misuse As a Defense
- 11.26 Strict Liability of Manufacturer—Known Defects As a Defense

D. GENERAL INSTRUCTIONS—NEGLIGENCE OR STRICT LIABILITY

- 11.30 Liability of Manufacturer—Sale by Defendant, to Plaintiff,
Not Required
- 11.31 Liability of Manufacturer or Supplier—The “State of the Art”
Defense

TABLE OF CONTENTS

E. LIABILITY FOR BREACH OF WARRANTY UNDER THE UNIFORM COMMERCIAL CODE

- 11.40 Breach of Express Warranty—Burden of Proof
- 11.41 Express Warranty Defined
- 11.42 Breach of Implied Warranty of Merchantability—Burden of Proof
- 11.43 Implied Warranty of Merchantability Defined
- 11.44 Breach of Implied Warranty of Fitness for a Particular Purpose—Burden of Proof
- 11.45 Notice of Breach of Warranty
- 11.46 Implied Warranties—Exclusion or Modification

CHAPTER 12 PROFESSIONAL MALPRACTICE

- 12.01 Duty of a Health Care Provider
- 12.02 Patient's Duty to Follow Instructions
- 12.03 Informed Consent
- 12.04 Duty of One Rendering Professional and Skilled-Trade Services—In General

CHAPTER 13 EMINENT DOMAIN

- 13.01 Eminent Domain—Property Taken—Issues, Burden of Proof, and Condemnee's Compensation
- 13.02 Eminent Domain—General Definition of Fair Market Value
- 13.04 Eminent Domain—Evidence
- 13.06 Eminent Domain—Easement Taken—Issues, Burden of Proof, and Condemnee's Compensation
- 13.07 Eminent Domain—Easement Taken—Definition of Fair Market Value
- 13.08 Eminent Domain—Inverse Condemnation—Issues, Burden of Proof, Effect of Findings, and Plaintiff's Compensation
- 13.10 Special Benefits
- 13.20 All Compensation to Be Assessed Now
- 13.25 Eminent Domain—Total Taking of Leasehold Interest—Issues, Burden of Proof, and Lessee's Compensation
- 13.26 Eminent Domain—Partial Taking of Leasehold Interest—Issues, Burden of Proof, and Lessee's Compensation
- 13.27 Eminent Domain—Taking of or Damage to Leasehold Interest—Definition of Fair Market Value

CIVIL JURY INSTRUCTIONS

- 13.28 Eminent Domain—Growing Crops—Lessee’s Compensation
- 13.40 Interest

CHAPTER 14 RESERVED

CHAPTER 15 CONTRACTS

A. STATEMENT OF THE CASE

- 15.01 Statement of the Case—Breach of Contract

B. DEFINITIONS

- 15.02 Contract—Agreement and Consideration
- 15.03 Definition of Offer
- 15.04 Definition of Acceptance
- 15.05 Silence or Inaction As Acceptance
- 15.06 Consideration
- 15.07 Substantial Performance
- 15.08 Definition of Fraudulent Representation
- 15.09 Definition of Material Fact
- 15.10 Definition of Undue Influence—Contract

C. AFFIRMATIVE DEFENSES

- 15.20 Extreme Difficulty or Impossibility of Performance
- 15.21 Fraud in the Inducement or Fraudulent Representation
- 15.22 Material Misrepresentation
- 15.23 Forms of False Representation
- 15.24 Rescission: Cancellation of Contract by Mutual Consent
- 15.25 Undue Influence—Contract
- 15.26 Duress
- 15.27 Failure of Consideration
- 15.28 Modification

D. MISCELLANEOUS GENERAL CONCEPTS

- 15.40 Terms Imposed by Law
- 15.41 Time During Which an Offer Remains Open
- 15.42 Withdrawal of an Offer

TABLE OF CONTENTS

CHAPTER 16 WILLS

- 16.01 Statement of the Case
- 16.02 Statutes Stated
- 16.03 Disposition As Deceased Pleases
- 16.04 Testamentary Capacity—Definition
- 16.05 Testamentary Capacity—Time When Important
- 16.06 Undue Influence—Statement of the Claim
- 16.07 Undue Influence—Definition
- 16.08 Fraud
- 16.09 Duress
- 16.10 Mistake
- 16.11 Revocation

CHAPTER 17 MISCELLANEOUS CIVIL-ACTION INSTRUCTIONS ADDED AFTER THE FIRST PUBLICATION OF NJI2d CIV.

- 17.01 Private Nuisance
- 17.02 Tortious Interference with a Business Relationship or Expectancy

Table of Laws and Rules to Civil Jury Instructions

Table of Cases to Civil Jury Instructions

Index to Civil Jury Instructions

Table of Contents

	Page
CHAIRMAN'S PREFACE	V to VI
REPORTER'S PREFACE.....	VII to VIII
RULE ADOPTED BY THE SUPREME COURT OF NEBRASKA, REGARDING NEBRASKA JURY INSTRUCTIONS	IX
NEBRASKA LAW GOVERNING PATTERN JURY INSTRUCTIONS.....	XI to XIII
USE NOTE	XV
LANGUAGE OF INSTRUCTIONS	XVII
STYLE CONVENTIONS	XIX to XXII
CONVERGENCE: DESCRIPTION AND EXPLANATION.....	XXIII to XXIV
WESTLAW ELECTRONIC RESEARCH GUIDE.....	XXV to XXVI

CHAPTER 1 PRELIMINARY INSTRUCTIONS; INSTRUCTION AT RECESS

Inst. No.

- 1.0 Function of Judge, Jury, Counsel; Evidence
- 1.1 Nature of Case; Presumption of Innocence; Charge Not
Evidence
- 1.2 Admonition at Recess

CHAPTER 2 BURDEN OF PROOF; PRESUMPTIONS; JUDICIAL NOTICE

- 2.0 Proof Beyond Reasonable Doubt
- 2.1 Presumption (Presumed Fact Element of Crime or Defense for
Which State Has Burden)
- 2.2 Presumption (Presumed Fact Neither Element of Crime Nor
of Defense for Which State Has Burden)
- 2.3 Judicial Notice

CRIMINAL JURY INSTRUCTIONS

CHAPTER 3 GENERAL INSTRUCTIONS: ELEMENTS; MULTIPLE CRIMES; MULTIPLE PERPETRATORS

A. ELEMENTS

- 3.0 Elements; Effect of Findings (No Insanity Defense)
- 3.1 Elements; Effect of Findings; Greater and Included Crimes
(No Insanity Defense)
- 3.2 Elements; Effect of Findings (Insanity Defense)
- 3.3 Elements of Attempt
- 3.4 Elements of Criminal Conspiracy; Withdrawal
- 3.5 Elements of Felony Murder; Effect of Findings
- 3.5A Elements of Murder in the First Degree; Effect of Findings;
Greater And Included Crimes (No Insanity Defense)
- 3.6 Elements of Theft; Effect of Findings; Value Declared

B. MULTIPLE CRIMES; MULTIPLE PERPETRATORS

- 3.7 Multiple Counts; Multiple Defendants
- 3.8 Aider (Same Crime as Principal)
- 3.9 Aider (Different Crime from Principal)

C. WITHDRAWN INSTRUCTION

- 14.09 (1969) Statutes and Ordinances

CHAPTER 4 DEFINITIONS

- 4.0 Definitions (States of Mind)
- 4.1 Definitions (Proximate Cause)
- 4.2 Definitions (Possession; Constructive Possession)
- 4.3 Definitions (Weapons)
- 4.4 Definitions (Terms for Crimes Against Property)
- 4.5 Definitions (Robbery Terms)
- 4.6 Definitions (Penetration)

CHAPTER 5 EVIDENCE AND CREDIBILITY

- 5.0 Direct and Circumstantial Evidence

TABLE OF CONTENTS

5.1	States of Mind Proved Inferentially
5.2	Evaluation of Testimony—Credibility of Witnesses
5.3	Evidence Admitted for a Limited Purpose
5.4	Expert Testimony
5.5	Evidence of Defendant's Character for Pertinent Trait in Issue
5.6	Accomplice Testimony
5.7	Multiple Defendants; Evidence Admissible Against One or More but Not All
5.8	Multiple Defendants; Statement Admissible Only Against Defendant Who Made It
5.9	Jury View
5.10	Limited Use—Other Similar Acts
5.11	Limited Use—Impeachment—Prior Conviction
5.12	Limited Use—Impeachment—Opinion or Reputation Evidence

CHAPTER 6 STATEMENT BY DEFENDANT

6.0	Voluntary Statement
-----	---------------------

CHAPTER 7 AFFIRMATIVE DEFENSES

7.0	Insanity Defense
7.1	Self-Defense (No Deadly Force)
7.2	Self-Defense (Issue as to Deadly Force)
7.3	Self-Defense (Deadly Force)
7.4	Defense of Another
7.5	Defense of Property
7.6	Choice of Lesser Harm
7.7	Entrapment
7.8	Entrapment by Estoppel

CHAPTER 8 DEFENSES NOT AFFIRMATIVE DEFENSES

8.0	Intoxication
8.1	Alibi

CRIMINAL JURY INSTRUCTIONS

CHAPTER 9 GENERAL CLOSING INSTRUCTIONS

- 9.0 Submission to the Jury
- 9.1 Function of Judge, Jury, and Counsel
- 9.2 Nature of Case; Presumption of Innocence; Charge Not Evidence
- 9.3 Evidence
- 9.4 Defendant's Failure to Testify
- 9.5 Jury Not to Consider Disposition

CHAPTER 10 DEATH PENALTY INSTRUCTIONS

- 10.0 Nature of Case; Capital Murder Aggravating Circumstances; Burden of Proof, Elements, and Effect of Findings
- 10.1 Murder by One Previously Convicted of Another Murder or Previously Convicted of a Crime Involving the Use or Threat of Violence to the Person or Substantial Prior History of Serious Assaultive or Terrorizing Criminal Activity
- 10.2 Murder to Conceal Commission of Another Crime or to Conceal the Identity of Its Perpetrator
- 10.3 Murder for Hire or Pecuniary Gain, or Hiring Another to Murder for the Defendant
- 10.4 Murder That Is Especially Heinous, Atrocious, or Cruel, or Murder Manifesting Exceptional Depravity
- 10.5 Murder Committed at the Time the Offender Also Committed Another Murder
- 10.6 Murder Committed While Knowingly Creating a Great Risk of Death to at Least Several Persons
- 10.7 Murder of a Public Servant Having Lawful Custody of Someone When the Offender Knew or Should Have Known the Victim Was a Public Servant Performing Official Duties
- 10.8 Murder Committed Knowingly to Disrupt or Hinder Lawful Exercise of Government Function or Enforcement of the Laws
- 10.9 Murder of a Law Enforcement Officer on Duty

APPENDIX LIMITING INSTRUCTIONS

- X5.3
- X5.7 Limited Use—Multiple Defendants; Evidence Admissible Against One or More but Not All

TABLE OF CONTENTS

X5.10	Other Similar Acts
X5.11	Impeachment—Prior Conviction
X5.12	Impeachment—Opinion or Reputation Evidence
X6.0	Impeachment—Miranda-Violative Previous Inconsistent Statement
X9.0	Sequestration Explained at Voir Dire

Table of Laws and Rules to Criminal Jury Instructions

Table of Cases to Criminal Jury Instructions

Index to Criminal Jury Instructions