

Judicial Branch of Arizona  
in Maricopa County

Alternative Dispute Resolution (ADR)



## SHORT TRIAL PROGRAM BENCHBOOK

**ALTERNATIVE DISPUTE RESOLUTION (ADR)**  
South Court Tower, 12th Floor, 12308A  
175 W. Madison Street  
Phoenix, AZ 85003  
602-506-7884  
FAX: 602-506-5836

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The Short Trial Program is under the direction of Alternative Dispute Resolution (ADR), Judicial Branch of Arizona in Maricopa County. All questions that arise prior to trial, at trial or after trial may be directed to ADR.

**SHORT TRIAL STAFF**

ADR Program Coordinator	602-506-4090
ADR Administrative Assistant (Courtroom Assistant)	
Main Line	602-506-7884
Fax	602-506-5836
E-mail: <a href="mailto:adroffice1@jbazmc.maricopa.gov">adroffice1@jbazmc.maricopa.gov</a>	

- This book is intended to guide and help the judge *pro tempore* when conducting a Short Trial.
- This book **is not** all inclusive of materials that will be necessary for the Short Trial.
- The parties may stipulate to questions for the judge *pro tempore* to ask during *voir dire*.
- The parties may supply the judge *pro tempore* with stipulated jury instructions.
- The parties may stipulate, with judge *pro tempore*'s approval, to change the process and procedures contained in this benchbook.

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## Overview of the Short Trial

The short trial program is intended to provide the parties with the opportunity to present their case to a jury on an accelerated basis. The use of a trained Judge Pro Tem and a jury of four people permit the parties to reach a final resolution much more quickly than if their case was to be heard on a regular trial calendar.

### Jury Size

Four people comprise the jury in a short trial. The venire will be eight.

### Length of Trial:

A short trial will begin and end the same day. If you limit the mid-morning and mid-afternoon break to 10 minutes each, you will have six hours of time. The anticipated schedule is:

Voir Dire and selection of the panel:	20 minutes (10 minutes by the Judge and 5 minutes per side)
Meeting with counsel to select the Jury	10 minutes
Jury Instructions	10 minutes
Opening Statements	20 minutes (10 minutes per side)
Presentation of evidence	100 minutes per side
Closing Statements	20 minutes (10 minutes per side)
Final Jury Instructions:	10 minutes.

### Anticipated Schedule:

- 9:15 Jurors arrive and voir dire begins
- 9:35 Voir Dire concludes and discussion with counsel about selection begins
- 9:45 Discussion with counsel to select the jury concludes and jury instructions begin
- 9:55 Jury Instructions conclude and opening statements begin
- 10:15 Opening Statements conclude and Judge announces short morning break
- 10:30 Return from morning break and Plaintiff begins presentation of evidence
- 12:10: Plaintiff's presentation of evidence concludes and break for lunch
  
- 1:10 Resume after lunch and Defendant's presentation begins
- 2:50 Defendant's presentation concludes and Judge announces afternoon break
- 3:00 Afternoon break concludes and closing arguments begin
- 3:30 Closing statements conclude and jury instructions begin
- 3:40 Final jury instruction concludes and deliberations begin
  
- 5:15 Generally the latest the jurors can remain in the courtroom and still catch the juror bus to their parking lot. If additional time is needed, the Courtroom

assistant must call the jury office to make arrangements.

Within the two hours allotted to a party the party is responsible for introduction of exhibits and examinations, cross examinations, redirect, and rebuttal (if permitted) of witnesses.

*Helpful Hints on timing:*

*Coordinate with the Courtroom assistant to have the jury panel in the courtroom ready for voir dire by **9:00 a.m.** to permit the parties enough time to complete their presentations and to give the jury at least an hour for deliberations.*

Exhibits

Unlike most civil trials, a short trial will use paper exhibits. Please make sure the attorneys know to bring paper exhibits and discuss whether duplicates will be needed and how many. Discuss the use of juror notebooks during your final pretrial conference.

Staffing

You will also have a Courtroom Assistant assisting you. The Courtroom Assistant's role will be to escort the jury to and from the Courtroom, take charge of the jury during deliberations, and assist you with the Courtroom equipment including the Elmo and the headsets for jurors with difficulty hearing.

Remote Appearances

If a Teams link is available, it is possible for witnesses to appear remotely. A Courtroom assistant will need to advise you whether a Teams link is available and will need to assist you with setting up the conference and admitting witnesses.

File

The JPT will have access to the case file through ECR online.

Interpreters

The Court's Interpreters office can be used for short trials if needed. Please keep in mind that coordination to ensure an interpreter is available must be done as far in advance of the trial as possible. If one of the parties needs an interpreter, the Court's file will be flagged, and the ADR office should advise you at the time of assignment that an interpreter is required. However, the Court file will not be flagged if a witness needs an interpreter, so please ask during the Final Pretrial Management Conference, because attorneys often forget that detail until much closer to trial.

The Interpreter's Office does not have interpreters on staff for all languages but does have resources available to obtain interpreters in languages less common in this County, so please contact that office before the final pretrial conference to discuss what is available. In some instances, the interpreter may not reside in Maricopa County and you will need to determine whether the interpreter can appear remotely – which will require consideration of whether simultaneous or sequential interpretation must occur.

If the interpreter is present in the courtroom, headsets are available so the interpreter can interpret simultaneously if that is preferred. The interpreter's office will be able to advise you whether simultaneous interpretation is available.

## Preparation for the Short Trial

There are a few planned steps that must be taken before the first day of the Short Trial to ensure you and the parties are ready and things go smoothly.

### Deadlines and Final Pretrial Conference

While Motions in Limine are rare in short trials they do occur. You need to set a deadline for submissions of motions in limine so they can be fully briefed, and you have an opportunity to consider them before the final pretrial conference.

The final pretrial conference should occur at least 30 days prior to trial.

#### Scheduling Hints:

As soon as you are appointed, determine a pretrial schedule that works for you and the parties. A suggested schedule is:

<i>Due date for Joint Final Pretrial Conference Memorandum:</i>	<i>45 days before Trial</i>
<i>Final Pretrial Conference:</i>	<i>30 days before Trial</i>
<i>Final Status Conference</i>	<i>10 days before Trial</i>

### Final Pretrial Conference Memorandum

At a minimum the final joint pretrial conference memorandum should include:

- List of witnesses who each party will call to testify
- List of exhibits
- Objections, if any, to the opposing party's witnesses
- Objections, if any, to the opposing party's exhibits
- Stipulations to the admission of exhibits
- Stipulations of fact
- Proposed Jury Instructions (preliminary and final)
- Proposed Verdict Forms.

### Conducting the Final Pretrial Conference

During the final pretrial conference, you need to discuss:

- Stipulations to the admission of exhibits
- Stipulations of fact
- Rulings on any Motions in Limine
- Rulings on any evidentiary objections (witnesses and exhibits)
- Selection of jury instructions (preliminary and final)
- Selection of verdict forms
- Any particular voir dire questions the parties may request the Court ask
- Get a list of all representatives and parties who will be present so you can

- introduce them to the jury and determine if the jurors know any of them.
- Is either party invoking the rule of exclusion of witnesses? If not, you can eliminate that jury instruction.
  - Discuss allocation of time for each side and how much is reserved for the court and for breaks
  - Who will be responsible for tracking time.
  - Will any witnesses be appearing remotely?
  - Do any witnesses need interpreters?

### **Final Status Conference**

Approximately ten days before the Trial it is useful to have a final status conference with the parties to address any issues that have arisen since the final pretrial conference and to ensure the trial is still going forward as planned.

### **Final Check-in with ADR and the Courtroom Assistant**

Three days before the Trial will begin, check in with the ADR Department and the Courtroom assistant to confirm everything is proceeding on schedule.

## Overview of Day of Trial

Attorneys and Judge *pro tempore* should meet by 8:30 a.m. to resolve any evidentiary problems or any other disputes between counsel.

Eight jurors are escorted to the courtroom between 9:00 a.m. and 9:15 a.m. Please ask the Courtroom assistant who will be picking up the jury to be at the jury office at 9:00 (when juror check-in closes) to avoid any delays.

Judge will begin voir dire by swearing in the panel and having jurors introduce themselves, disclose employment, marital status, children, etc. NOTE: Typically, one of the first questions the judge will ask is if there is anyone who does not speak or understand English so that those jurors can be released early in the process. The determination of whether a juror can meaningfully participate due to language must be made by the judge, so the jury office does not release anyone for language issues.

1. The judge generally describes the circumstances of the case and asks if the jurors, family members, or friends, have been involved in such an event.
2. Each counsel is then allowed five minutes for follow up questions of the potential jurors. As Judge, do NOT ask leading questions, such as whether the juror believes they can be fair, despite an answer that suggests bias. You will be making any decision to remove jurors, and that decision should be made based on your observations and impressions of the jurors' candid responses.
3. You then privately meet with the lawyers, and ask them if they pass the panel, and if not, to give you their reasons they believe certain jurors are likely to be biased, inattentive or unfair. If both sides agree that they do not want a juror, the judge will usually remove that one (but such an agreement is not binding on the judge). As judge, you decide whether to remove any jurors, based on your assessment that the juror is:
  - Likely to be biased; or
  - Likely to be inattentive or not understand what is said, or
  - Not likely to follow instructions or to base their verdict on the law and the evidence.
4. After the JPT has removed the juror(s) he/she thinks may be biased or inattentive, not likely to understand, or not base their verdict on evidence, the Judge should place the numbers of all jurors who were not removed into a hat/box/cup and randomly select the four jurors who will serve.
5. The Judge will then read the names of the jurors who will sit for the trial. The other jurors are excused and directed to return to the Jury Assembly Room.

6. The Judge swears in the panel. Each juror will be given a note pad and pen by the courtroom assistant.
7. The Judge describes to the panel the expedited nature of the short trial and emphasizes that it is no less official or important than a normal trial.
8. Counsel for plaintiff and defendant are allowed ten minutes each for their opening statement.
9. Counsel for plaintiff and defendant are allowed two hours each to present their case in chief. The Judge or the judge's designee is responsible for ensuring the time limits are abided.
10. Once all evidence is presented, counsel for plaintiff and defendant are allowed ten minutes each for closing arguments.
11. Upon completion of closing arguments, the Judge reads the jury instructions previously stipulated by the parties and supplies the jury with appropriate verdict form(s). Once instructions are given to the jury, they are directed to the jury room for deliberations.

## **OATHS USED IN CIVIL TRIALS**

An oath is the swearing to the truth of a statement or swearing to perform an act faithfully and truthfully.

When administering an oath, remember the following:

- Stand and face the person(s) or jury panel being sworn in.
- Raise right hand and instruct the jury or witness(es) to raise their right hand if they have not done so voluntarily.
- Speak in a clear and normal voice.

### **Witness**

“You (and each of you) do solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?”

### **Courtroom Assistant (To take charge of jury for deliberation)**

“Do you swear that you will take charge of this jury and protect their deliberations from all outside interference and communication, and when they have reached a verdict, you will bring them back into court without revealing their verdict to anyone, so help you God?”

### **Outside Interpreter**

“You do solemnly swear that you will translate from English into the \_\_\_\_\_ language all such oaths as may be administered and such questions as may be asked the witness in this cause, and that you will translate into English their answers thereto, to the best of your skill and ability, so help you God?”

### **Affirmations**

It will sometimes happen that a person does not want to take an oath and will wish to be affirmed. Ask the person to please wait until the rest of the panel has been sworn, and

then give the affirmation.

When administering an affirmation, the courtroom assistant should not raise his/her hand. If a witness or juror does, ignore it.

The affirmation can be applied and substituted for any oath by changing the words **"YOU DO SOLEMNLY SWEAR..."** to **"YOU DO AFFIRM..."** and changing **"SO HELP YOU GOD?"** to **"THIS YOU DO UNDER THE PAINS AND PENALTIES OF PERJURY?"**

# **JURY SELECTION**

## **Judge's Statement to the Jury Venire**

Good morning. This is the time set for trial in civil case CV \_\_\_\_\_ - \_\_\_\_\_. Is the Plaintiff ready to proceed? Is the Defendant ready to proceed?

Ladies and gentlemen, we thank you for coming today. I would like to begin by explaining what will happen in the courtroom this morning. We will start with a panel of eight jurors. For today's trial, we need a panel of four jurors. Therefore, four jurors will be dismissed from this panel and instructed to return to the Jury Assembly Room.

The attorneys and I will ask you questions, which you need to answer honestly. Once questioning is complete, we will take a break to allow the attorneys time to choose the jury.

If you are not excused, you will remain on the panel and participate in today's trial. If you are excused, you must return to the Jury Assembly Room; check in at the desk and await further instructions.

If you are dismissed from the jury, please do not think it is a reflection on you. The jury for this trial will only contain four jurors. Even if all jurors are acceptable, some must be dismissed to arrive at the correct number of jurors.

I will now swear you in and begin questioning the panel.

## **Voir Dire Oath**

I will read a combined oath and affirmation. If you are taking the oath, please raise your right hand; if you are taking the affirmation, you may leave your hand down.

**Do you solemnly swear or affirm that you will answer truthfully all questions asked of you by the judge and attorneys about your qualifications to serve as a trial juror in this case? If swearing - so help you God. If affirming - subject to punishment for perjury.**

## **Speech before Voir Dire**

We are going to ask you some questions to learn more information about you. The goal of this process is to select jurors who can be completely fair to both sides.

We all come to this courtroom with our own feelings, opinions, and life experiences. And sometimes a person's attitudes, feelings and opinions are so strong that they may make it difficult for the person to decide a case impartially and based on the evidence.

Justice requires fairness on both sides. Sometimes, a person's attitudes, feelings, opinions, or life experiences are so strong that they may enter the jury box already favoring one side or another, and that's not fair.

It may feel like we are asking you a lot of personal questions. If you do not feel comfortable answering a question asked of you in front of the rest of the jurors, let me know and we will arrange to talk to you privately.

Please do not withhold information to be seated on the jury. Do not be concerned with whether your answers are “right” or “wrong.” This is not any sort of test. Just be honest and candid in your answers. Do not be concerned with anything other than answering our questions honestly.

You have each been assigned a juror number. Throughout this process, I and the lawyers will be referring to you by that number. If your answer to a question is “yes,” please raise your juror card with the number facing me.

If you can see and hear me, please raise your juror card now.

[Listening devices are available and the Courtroom assistant can assist with distribution of those.]

***Voir Dire by the Judge***

Is there anyone who has any difficulty understanding or reading the English language?

To be qualified as a juror in this case, you must be a resident of Maricopa

County. Is anyone not a resident of Maricopa County?

*[If anyone is not a resident of Maricopa County you must excuse them]*

Has any of you been convicted of a felony? *(If so, ask: Have your civil rights have been restored?)*

*[If anyone has been convicted of a felony and not had their rights restored, you must excuse them.]*

Before we go any further, I want to introduce the court staff who will be assisting us today. *[Introduce members of the court assisting you and introduce yourself.]*

Does anyone know any of us?

Plaintiff's counsel please introduce yourself and your client to the jury. *[After introductions, ask Do any of you know XX or XX? ] [Follow up as needed.]*

Defense counsel, please introduce yourself and your client to the jury. *[After introductions, ask Do any of you know XX or XX? ] [Follow up as needed.]*

The following people may testify as witnesses in today's trial [list them]. Hold up your card if you know any of them. *[If the witness has a common-sounding name, and a juror holds up their card, ask the lawyers to give a couple identifying characteristics, such as occupation or where they live, to see whether the juror*

*knows the witness or another person with the same name.]*

Let me tell you a bit about the schedule for the trial: This case will last only one day. There is a lunch break from 12:10pm to 1:10pm, and usually one mid-morning and one mid-afternoon break. Is there anything about our anticipated trial schedule that presents an undue hardship for you, whether it be personal, business, or health? If so, please hold up your juror card.

In Arizona, jurors must follow the law whether they agree with it or not. I will instruct you on the law you must apply. Please raise your juror card if you believe you will have a difficult time applying the facts to a law you disagree with?

No witness is entitled to receive greater or less weight or credibility just because of their gender, race, or ethnicity. Please raise your juror card if you believe you might give a witness more credibility or weight just because of their gender, their race, or their ethnicity?

Look around at one another. Do you know other members of the jury panel?

*If anyone responds "Yes", ask:* Would the fact that you know juror # \_\_\_\_ affect your decision making on this case? In other words, would you be able to decide on your own, without undue influence from juror # \_\_\_\_?

### ***Some Additional Voir Dire by the Judge***

The following are some typical voir dire questions you may choose to ask, or you can ask counsel to submit proposed voir dire with their joint pretrial conference statement and use some or all of those questions.

1. What is your occupation or profession?
  - a. If retired or unemployed, what type of work did you previously do?
2. Marital status and family
  - a. Are you married?
  - b. Do you have children, and what are their ages?
3. If married, what is your spouse's occupation or profession?
  - a. If your spouse is currently retired or unemployed, what type of work did your spouse previously do?
4. Have you been a juror before?
  - If so, a. How long ago?
  - b. Was the case civil or criminal?
  - c. What was the outcome?
5. Have you been a party to a lawsuit?
  - If so, a. What kind of case?
  - b. What was the outcome?

### **Voir Dire by Counsel**

Counsel are permitted to ask voir dire.

Voir Dire questions should be approved in advance, unless they are follow-up questions to questions previously asked by the Judge.

Voir Dire by each side is limited to five minutes each.

### **EMPANELING THE JURY**

Now that voir dire is completed you begin the process of empaneling the jury. This begins by taking a short break. Please provide the following instruction to the jury before that break.

**We will now take a short recess to complete the process of jury selection. Please wait outside the courtroom, and do not discuss the case among yourselves or**

**with anyone else. This recess will not be long, so be ready to come back into the courtroom when we call you.**

*Keep in mind, as the Judge Pro Tem, have a greater role in deciding who should remain on the jury – so please pay attention to people with difficulty with listening or understanding, people who may be distracted, indications of bias, etc.*

### **Discussion to Select the Jury**

Once the Jury is excused, ask each counsel if they pass the panel.

If an attorney does not pass the panel, the attorney should move to remove a juror or jurors for cause.

The standard requires you to consider the juror's conduct/demeanor and all answers to the questions during voir dire. You should determine whether the moving party has proven by a preponderance of the evidence whether the juror is unable to be fair and impartial. If the party meets the burden, strike the juror for cause.

If both sides agree that they do not want a juror, the judge will usually remove that juror (but such an agreement is not binding on the judge).

As judge, YOU decide whether to remove any jurors, based on your assessment that the juror is:

- Likely to be biased; or
- Likely to be inattentive or not understanding what is said, or
- Not likely to follow instructions or to base their verdict on the law and the evidence.

*After you decide which, if any, jurors to remove, place the numbers of the remaining jurors in a hat, box or cup, and read the four numbers you randomly select.*

### **Return of the Jury**

Ask the courtroom assistant to bring the jury back into the courtroom and announce:

**I will now read the numbers of the jurors selected as jurors in this case. As your number is called, please step forward.**

**Those of you who were not selected as jurors thank you for your participation here today and for your willingness to serve on this jury. You are now excused. Please return to the Jury Assembly Room.**

# **JURY INSTRUCTION**

## **Speech after Jury Selection**

Ladies and gentlemen, you have been selected to participate in what the court calls a “Short Trial”. A Short Trial is a one-day trial where the verdict is to be returned by the end of today. Though this trial is quicker than most trials, your job as a juror is still very important.

Around noon, we will have a lunch break. We will also take periodic breaks during the trial. If there are no questions, I will begin reading my instructions to you.

You will now be given the juror’s oath.

### **Trial Oath**

I will read a combined oath and affirmation. If you are taking the oath, please raise your right hand; if you are taking the affirmation, you may leave your hand down.

**“Do you solemnly swear or affirm that you will try the issues in this case and render a true verdict according to the law and the evidence. If swearing - so help you God. If affirming - subject to punishment for perjury.”**

### **Pre-Trial Jury Instructions**

Ladies and Gentlemen:

Now that you have been sworn, I will briefly tell you something about your duties as jurors and give you some instructions. At the end of the trial, I will give you more

detailed instructions.

It will be your duty to decide the facts. You must decide the facts only from the evidence presented in court. You must not speculate or guess about any fact. You must not be influenced by sympathy or prejudice.

You will hear the evidence, decide the facts, and then apply the law I will give you to those facts. That is how you will reach your verdict(s). In doing so you must follow that law whether you agree with it or not.

You must not take anything I may say or do during the trial as indicating any opinion about the facts. You, and you alone, are the judges of the facts.

You will decide what the facts are from the evidence presented here in court. Later in these instructions, I will explain what is and is not evidence.

You will decide the credibility and weight to be given to any evidence presented in the case, whether it be direct evidence or circumstantial evidence.

Direct evidence is a physical exhibit or the testimony of a witness who saw, heard, touched, smelled, or otherwise actually perceived an event. Circumstantial evidence is the proof of a fact from which another fact may be inferred. You must determine the weight to be given to all the evidence, whether that evidence is direct or circumstantial.

Admission of evidence in court is governed by rules of law. I will apply those rules and resolve any issues that arise during the trial concerning the admission of evidence.

If an objection to a question is sustained, you must disregard the question, and you must not guess what the answer to the question might have been. If an exhibit is offered in evidence and an objection to it is sustained, you must not consider that exhibit as evidence. If testimony is ordered stricken from the record, you must not consider that testimony for any purpose.

Do not concern yourselves with the reasons for my rulings on the admission of evidence. My rulings are based on the law and do not reflect any personal belief on my part.

In deciding the facts of this case, you should consider what testimony to accept, and what to reject. You may accept everything a witness says, or part of it, or none of it.

In evaluating testimony, you should use the tests for accuracy and truthfulness that people use in determining matters of importance in everyday life, including factors such as:

- The witness' ability to see or hear or know the things they testified to.
- The quality of the witness' memory.
- The witness' manner while testifying.

- Whether the witness has any motive, bias, or prejudice.
- Whether the witness is contradicted by anything the witness said or wrote before trial or by other evidence.
- The reasonableness of the witness' testimony when considered in the light of the other evidence.

Consider all the evidence in light of reason, common sense, and experience.

**[Use the following only if a law enforcement officer will testify:** The testimony of a law enforcement officer is not entitled to any greater or lesser believability merely because the witness is a law enforcement officer. You are to evaluate the credibility of the testimony of a law enforcement officer in the same way you have been instructed to evaluate the testimony of other witnesses.]

**[Use the following only if it is known at the start of the trial that the jury will be hearing expert opinion testimony during the trial:** A witness qualified as an expert by education or experience may state opinions on matters in that witness's field of expertise and may also state reasons for those opinions.

Expert opinion testimony should be judged just as any other testimony. You are not bound by it. You may accept or reject it, in whole or in part, and you should give it as much credibility and weight as you think it deserves, considering the witness's qualifications and experience, the reasons given for the opinions, and all the other evidence in the case.]

As I mentioned earlier, it is your job to decide what the facts are from the evidence.

Here are 6 rules on what is and what is not evidence:

1. **Evidence to be considered:** You are to determine the facts only from the testimony of witnesses, from exhibits received in evidence, summaries of or quotes from depositions, sworn statements, and documents, and any facts stipulated or agreed to by the parties or that I instruct you to accept as true.
2. **Lawyers' statements:** Statements or arguments made by the lawyers in the case are not evidence. Their purpose is to help you understand the evidence and apply that evidence to the law. However, summaries of testimony or documents the lawyers present to you is evidence. If the lawyers for all parties agree that a particular fact is true, you should accept that fact as true.
3. **Questions to a witness:** A question is not evidence. A question can be used only to give meaning to a witness's answer.
4. **Objections to questions:** If a lawyer objects to a question and I sustain an objection to the question, the witness will not be allowed to answer the question and you must not try to guess what the witness's answer might have been. You must also not treat the objection as evidence or try to guess the reason why the lawyer objected.
5. **Rejected evidence:** At times during the trial, testimony or exhibits will be offered as evidence, but I might not allow them to become evidence. If they never become evidence, you must not consider them.
6. **Stricken evidence:** At times I may order some evidence to be stricken or thrown out. When evidence is stricken or thrown out, you must not consider it.

You will not be given written transcripts of witness testimony. You should pay close

attention to the testimony as it is given.

You have been provided with note pads and pens. I encourage you to take notes during the trial if you wish to do so. However, do not let note taking distract you so that you miss hearing or seeing other evidence. If you have cell phones, laptops, tablets, cameras, or other electronic devices, please turn them off and do not turn them on while in the courtroom. You may use electronic devices only during breaks, so long as you do not use them to conduct any research of any kind about issues in the case or communicate about anything having to do with the case. You may not use any electronic devices to take notes during the trial. You are permitted only to take notes on the note pads provided by the court.

You may take your notes with you when you leave the courtroom for recesses and may use them during any discussions with other jurors in the jury room during the trial and during your deliberations at the end of the trial. Until then, keep your notes to yourself. If you do not want to take your notes with you during the trial, you should leave them on your seat. Whether you take notes or not, you should rely upon your own memory of what was said and not be overly influenced by the notes of other jurors. After you have rendered your verdict(s), the Courtroom Assistant will collect your notes and destroy them.

Do not be influenced by my notetaking. My reasons for notetaking may not be the same as yours and at times might relate to entirely other matters.

I am now going to discuss your conduct as jurors. In our system it is important that jurors decide the facts based solely on the evidence that is presented by parties here in the courtroom. So, I am going to give you some rules designed to ensure that the parties get a fair hearing, free from outside influences. These rules are known as “The Admonition”.

Research related to the case, including internet research, is strictly forbidden. Do not do any research or conduct any type of investigation about the case, the facts, the parties, the witnesses, the attorneys, or any person or entity related to the case. Do not look for information on the internet, or from any other source, about the case or about the facts or issues related to the case. In other words, do not try to find out information from any source outside this courtroom. The reason for this is that you must base any decision only on the evidence that is produced here in the courtroom. You must base any decision only on the evidence that is produced here in the courtroom, because the fairness of the trial depends on both parties knowing exactly what evidence you are considering so that they can respond to it or address it in their arguments.

Do not view or visit the locations where the events of the case took place.

Do not talk to anyone about the case, or about anyone who has anything to do with the case, and do not let anyone talk to you about this case, until the trial has ended, and you have been discharged as jurors. Until then, you may tell people you are on a jury,

and you may tell them about the estimated schedule for the trial, but do not tell them anything else. You are not allowed to talk about the case with anyone until the trial is over and you have been discharged as jurors.

If someone should try to talk to you about the case, stop him or her or walk away. If you should overhear others talking about the case, stop them or walk away. If anything like this does happen, report it to me or any member of my staff [*insert phone number*] as soon as you can.

The attorneys and parties have been given the same instruction about not speaking with you, so do not think they are being unfriendly to you.

There is one limited exception to the rule about not talking about the case. During recesses from the trial, you may discuss the evidence presented at the trial but: (1) only among yourselves; and (2) only when you are all together; and (3) only in the jury room. Even though you may discuss the case under those conditions, do not form final opinions about any fact or about the outcome of the case until you have heard and considered all the evidence, the closing arguments, and the rest of the instructions I will give you on the law. Both sides have the right to have the case fully presented and argued before you decide any of the issues in the case. Keep an open mind during the trial. Form your final opinions only after you have had an opportunity to discuss the case with each other in the jury room at the end of the trial.

If at any time during the trial you have difficulty hearing or seeing something you should be hearing or seeing, or if you have personal distress for any reason, raise your hand and let me know.

Please always wear your juror badge in and around the courthouse so everyone is aware you are a juror.

If you have any questions about parking, restaurants, or other personal matters relating to your jury service, feel free to ask one of the court staff. But do not try to discuss the case with court staff.

Before each recess, I will not repeat the entire Admonition I have just given you. However, please remember that the Admonition still always applies during the trial.

If you have a question about the case for a witness or for me, write it down, but do not sign it. Hand the question to the Courtroom Assistant. If your question is for a witness who is about to leave the witness stand, please let the Courtroom Assistant or I know you have a question before the witness leaves the stand.

The lawyers and I will discuss the question. The rules of evidence or other rules of law may prevent some questions from being asked. If the rules permit the question, I will ask the witness the question or provide you with an answer at the earliest opportunity. When we do not ask a question, it is no reflection on the juror submitting it. You should

attach no significance to my decision not to ask a question you submitted. I will apply the same legal standards to your questions as I do to the questions asked by the lawyers.

If a particular question is not asked, please do not try to guess why the questions was not asked or what the witness's answer might have been.

This case -- [Give a brief statement of the claims and defenses being asserted and the elements of those claims and defenses. - if the parties have agreed on the Statement and/or elements, use the agreed Statement / elements]

If the case is a "Damages Only" (liability is not at issue, and the trial is only to determine the amount of damages, use the RAJIs for **Personal Injury – DAMAGES ONLY TRIALS**.

The trial will now begin. First, each counsel may make an opening statement. An opening statement is not evidence. It is an outline of the expected evidence. It is offered to help you understand and follow the evidence that will be presented during the trial.

Next, plaintiff will present witnesses and defendant may cross-examine them. Then, defendant may present witnesses and plaintiff may cross-examine them.

After the evidence has been presented, the attorneys will make their closing arguments.

I will then instruct you on the law that you are to apply deciding the case. You will then go to the jury room to deliberate and decide the case.

## **TRIAL BEGINS**

Tips:

- Remember to keep track of the total time used
- Remember there is no Court Clerk, and exhibits are not marked or filed. Counsel should prepare notebooks for each Juror and JPT (total: 5) and notebooks should be prepared with all exhibits admitted prior to the start of the Short Trial. Upon completion of the Short Trial, counsel must take all exhibits and notebooks with them.
- Don't forget to give the jurors breaks

## POST-TRIAL JURY INSTRUCTIONS

(STANDARD, RAJI 3d<sup>1</sup> They are printed below, but in some places stated in past tense.)

Because time is limited, and jurors are likely to remember instructions they were given in the morning, you may consider giving fewer closing instructions than you would in a standard trial.

STANDARD 1	DUTY OF JURORS
STANDARD 2	EVIDENCE
STANDARD 3	RULINGS OF THE COURT
STANDARD 4	ARGUMENTS OF COUNSEL
STANDARD 5	STIPULATIONS
STANDARD 6	CREDIBILITY OF WITNESSES
STANDARD 7	EXPERT WITNESS
STANDARD 9	BURDEN OF PROOF
STANDARD 13	IMPASSE IN JURY DELIBERATIONS
STANDARD 15	CLOSING INSTRUCTIONS

Use other instructions (Fault, Damages, etc., as agreed by the parties and, where disputed, as you find applicable). Current versions of RAJIs can be found at: <https://www.azbar.org/for-lawyers/communities/committees/civil-jury-instructions-committee/>

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<sup>1</sup> After RAJI 3rd, many of the above instructions were moved to the Preliminary Instructions, even though they should also be given at the close of the case.

## **STANDARD 1**

### **Duty of Jurors**

I will now tell you the rules you must follow to decide this case. I will instruct you on the law. It is your duty to follow the law whether you agree with it or not.

It is also your duty to determine the facts. You must determine the facts only from the evidence produced in court. You should not speculate or guess about any fact. You must not be influenced by sympathy or prejudice. You must not be concerned with any opinion you may feel I have about the facts. You are the sole judge of the facts.

You must take account of all my instructions on the law. You are not to pick out one instruction, or part of one, and disregard the others. However, after you have determined the facts, you may find that some instructions do not apply. You must then consider the instructions that do apply, together with the facts as you have determined them.

Decide the case by applying the law in these instructions to the facts.

**SOURCE:** RAJI (CIVIL) 3d Standard 1.

## **STANDARD 2**

### **Evidence**

You will decide what the facts are from the evidence that was presented here in court. That evidence consisted of testimony of witnesses, any documents and other things received into evidence as exhibits, and any facts stipulated or agreed to by the parties or which you were instructed to accept.

You will decide the credibility and weight to be given to any evidence that was presented in the case, whether it was direct or circumstantial evidence.

**SOURCE:** RAJI (CIVIL) 3d Standard 2.

## **STANDARD 3**

### **Rulings of the Court**

Admission of evidence in court is governed by rules of law. I applied those rules during the trial and resolved any issues concerning the admission of evidence.

If an objection to a question was sustained, you must disregard the question and you must not guess what the answer to the question might have been. If an exhibit was offered into evidence and an objection to it was sustained, you must not consider that exhibit as evidence. If testimony was ordered stricken from the record, you must not consider that testimony for any purpose. [If evidence was admitted for a limited purpose, you shall consider that evidence only for that limited purpose.]

Do not concern yourselves with the reasons for my rulings on the admission of evidence. Do not regard those rulings as any indication from me of the credibility or weight you should give to any evidence that has been admitted.

**SOURCE:** RAJI (CIVIL) 3d Standard 3.

## **STANDARD 4**

### **Arguments of Counsel**

In the opening statements and closing arguments the lawyers have talked to you about the law and the evidence. What the lawyers said is not evidence, but it may help you to understand the law and the evidence.

**SOURCE:** RAJI (CIVIL) 3d Standard 4.

## **STANDARD 5**

### **Stipulations**

The parties were permitted to stipulate or agree that certain facts exist. You must regard any stipulated or agreed upon fact as having been proved.

**SOURCE:** RAJI (CIVIL) 3d Standard 5.

## **STANDARD 6**

### **Credibility of Witnesses**

In deciding the facts of this case, you should consider what testimony to accept, and what to reject. You may accept everything a witness says, or part of it, or none of it.

In evaluating testimony, you should use the tests for truthfulness that people use in determining matters of importance in everyday life, including such factors as: the witness's ability to see or hear or know the things the witness testified to; the quality of the witness's memory; the witness's manner while testifying; whether the witness had any motive, bias, or prejudice; whether the witness was contradicted by anything the witness said or wrote before trial, or by other evidence; and the reasonableness of the witness's testimony when considered in the light of the other evidence.

Consider all of the evidence in the light of reason, common sense, and experience.

**SOURCE:** RAJI (CIVIL) 3d Standard 6.

## **STANDARD 7**

### **Expert Witness**

[Give this instruction only if expert opinion testimony was presented during the trial.]

A witness qualified as an expert by education or experience may state opinions on matters in that witness's field of expertise and may also state reasons for those opinions.

Expert opinion testimony should be judged just as any other testimony. You are not bound by it. You may accept it or reject it, in whole or in part, and you should give it as much weight as you think it deserves, considering the witness's qualifications and experience, the reasons given for the opinions, and all the other evidence in the case.

**SOURCE:** RAJI (CIVIL) 3d Standard 7.

## **STANDARD 9**

### **Burden of Proof**

#### **(More Probably True)**

Burden of proof means burden of persuasion. On any claim, the party who has the burden of proof must persuade you, by the evidence, that the claim is more probably true than not true. This means that the evidence that favors that party outweighs the opposing evidence. In determining whether a party has met this burden, consider all the evidence that bore on that claim, regardless of which party produced it.

**SOURCE:** RAJI (CIVIL) 3d Standard 9; Also RAJI (Civil) 7th, Standard 2.

**NOTE:** If the case involves claims or defenses that require the **Clear and Convincing** Evidence Standard, consult RAJI (Civil) 7th, Standard 3

## **STANDARD 13**

### **Impasse in Jury Deliberations**

I have been informed you are having difficulty reaching a verdict. This instruction is offered to help you, not to force you to reach a verdict.

You may want to identify areas of agreement and disagreement and discuss the law and the evidence as they relate to the areas of disagreement.

If you still disagree, you may wish to tell the attorneys and me which issues, questions, law or facts you would like us to assist you with. If you decide to follow these steps, please write down the areas of disagreement and give the note to the courtroom assistant. We will then discuss your note and try to help you.

**SOURCE:** RAJI (CIVIL) 3d Standard 13; Also RAJI (Civil) 7th, Standard 6

## STANDARD 15

### Closing Instruction

The case is now submitted to you for decision. When you go to the jury room you will choose a foreman. He or she will preside over your deliberations.

At least three of you must agree on a verdict. If all four agree on a verdict, only the foreperson need sign it, on the line marked "Foreperson". If three agree on a verdict, all those who agree, and only those who agree, must sign the verdict on the numbered lines provided, leaving the line marked "Foreperson" blank. Please print your name under your signature.

You will be given \_\_\_\_\_ forms of verdict. They read as follows (there is no significance to the order in which they are read):

**SOURCE:** RAJI (CIVIL) 3d Standard 9, as modified; Also RAJI (Civil) 7th, Standard 8.

## **SUBSTANTIVE LAW AND MISCELLANEOUS JURY INSTRUCTIONS**

In order to instruct on the substantive law applicable to your case, you should consider instructions agreed upon or submitted by the attorneys. Also, current versions of RAJIs can be found at: <https://www.azbar.org/for-lawyers/communities/committees/civil-jury-instructions-committee/>

Preliminary and Standard RAJIs may contain instructions dealing with issues, witnesses or parties that may be applicable to your case.

In cases involving alleged negligence, it can be useful to consult:

- Fault Instructions,
- Negligence Instructions
- Personal Injury Damages Instructions.

As noted earlier, if your case is a "Damages Only" trial, in which fault has been admitted or judicially determined, the Personal Injury Damages Only Trial Instructions are particularly useful.

There are also RAJIs for cases involving Contract claims; Premises Liability; Intentional Torts; Medical Negligence; Employment Law; Defamation, and other types of cases.

The following Verdict forms were designed for use in short trials.

**VERDICT FORMS**

1. Plaintiff Verdict - No Claim of Comparative Fault

Superior Court Of Arizona  
Maricopa County

Short Trial Verdict Form

	)	
	)	
Plaintiff(s) Name	)	
	)	
v	)	CV _____
	)	
	)	
Defendant(s) Name	)	Plaintiff Verdict

---

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of plaintiff and find the full damages to be

\$ \_\_\_\_\_

1. \_\_\_\_\_ (Foreperson)

Signature

2. \_\_\_\_\_

Signature

3. \_\_\_\_\_

Signature

4. \_\_\_\_\_

Signature

2. Plaintiff Verdict (Claim of Comparative Fault): Jury to decide comparative fault defenses

Superior Court Of Arizona  
Maricopa County

Short Trial Verdict Form

_____ )	
Plaintiff(s) Name )	
)	
v )	CV _____
)	
_____ )	Plaintiff Verdict
Defendant(s) Name )	

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Plaintiff's Verdict:

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths do find in favor of plaintiff and find the full damages to be

\$ \_\_\_\_\_

We find the relative degrees of fault to be:

Plaintiff \_\_\_\_\_%

Defendant \_\_\_\_\_%

[name of non-party at fault] \_\_\_\_\_%

Total 100%

1. \_\_\_\_\_ (Foreperson)  
Signature

2. \_\_\_\_\_  
Signature

3. \_\_\_\_\_  
Signature

4. \_\_\_\_\_  
Signature

3. Defense Verdict

Superior Court Of Arizona  
Maricopa County

Short Trial Verdict Form

_____ )	
Plaintiff(s) Name )	
)	
v )	CV _____
)	
_____ )	Defendant Verdict
Defendant(s) Name )	

---

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the defendant(s)

1. \_\_\_\_\_ (Foreperson)  
Signature
2. \_\_\_\_\_  
Signature
3. \_\_\_\_\_  
Signature
4. \_\_\_\_\_  
Signature

4. Verdict for Damages Only Trial: Only one form of verdict is needed

**Superior Court Of Arizona  
Maricopa County**

Short Trial Verdict Form

_____	)	
Plaintiff(s) Name	)	
	)	
v	)	CV _____
	)	
_____	)	Verdict
Defendant(s) Name	)	

---

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find plaintiff's full damages to be:

\$ \_\_\_\_\_

1. \_\_\_\_\_ (Foreperson)

Signature

2. \_\_\_\_\_

Signature

3. \_\_\_\_\_

Signature

4. \_\_\_\_\_

Signature