

## BIG CHANGES TO MODEL CIVIL INSTRUCTIONS

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The Model Civil Jury Instructions for the Eighth Circuit are being reorganized! The current numbering system has become unwieldy due to changes and additions to instructions over the years. Trying to shoe-horn new instructions into a locked numbering scheme finally reached a breaking point. As uncomfortable as change inevitably is, members of the Instruction Committee believe that users will soon find the new arrangement easier to use. Meanwhile, a Conversion Table will allow users to find a given instruction quickly using an “old” number. Users can expect to find the re-numbered Model Civil Jury Instructions posted online by January 1, 2013.

The Committee has approved three major organizational changes to the manual. First, employment-related instructions have been broken down into separate chapters according to causes-of-action. In the current manual, most employment-related instructions appear in Chapter 5. Through the years, additions to this Chapter (*i.e.*, Family Medical Leave Act) have made it unmanageably large. The revised Chapter 5 will cover only cases arising under Title VII of the Civil Rights Act of 1964. Instructions for other employment-related claims will appear in separate, subsequent chapters.

The reorganized manual will include the following chapters:

<u>Chapter</u>	<u>Title</u>
1 - 4	(No change)
5	Title VII Cases
6	Age Discrimination in Employment Cases
7	Equal Pay Act Cases
8	Harassment Cases Under Title VII, Sections 1981 and 1983, ADA and ADEA
9	Americans with Disabilities Act
10	Retaliation (Anti-Discrimination Statutes)
11	Race Discrimination (42 U.S.C. § 1981)
12	Public Employers (42 U.S.C. § 1983)
13	First Amendment Retaliation (42 U.S.C. § 1983)
14	Family and Medical Leave Act
15	Federal Employers Liability Act
16	Fair Labor Standards Act
17	Admiralty and Maritime
18	Odometer Fraud

The second important organizational change is that the instructions in each chapter will be divided into categories, such as *Definitions*, *Elements of Claims*, and *Damages*. Each category will be assigned a decimal-numerical series for easy location and citation. The numbers

assigned to categories will remain constant from chapter to chapter.

To illustrate the decimal-numerical system for categories, consider the following: Under the new system, instructions that define legal words and terms will appear in a category aptly titled *Definitions*. Definitions relevant to a particular cause of action will be found under the chapter number for that claim, followed by decimals .20 through .39. So in an FELA case, for example, the definition of *Ordinary Care* will be found at 15.21. (FELA instructions are found in Chapter 15; definitions are found at .20 through .39 – thus, find the definition for ordinary care in Instruction 15.21.)

One advantage to the new numbering system is that it allows the Committee to add instructions without disrupting the logical flow and sequence. It also should aid users in the search for the right instruction and in more easily assembling a set of instructions for a given claim.

The categories within each chapter will be:

x.00	Legal Overview
x.01 to x.19	Explanatory Instructions <sup>1</sup>
x.20 to x.39	Definitions
x.40 to x.59	Elements of Claims
x.60 to x.69	Elements of Defenses
x.70 to x.79	Damages
x.80 to x.89	General Verdict Forms
x.90 to x.99	Special Verdict Forms

The third change users will notice in the reorganized instructions is a reduction in cross referencing. This means that some instructions will appear more than once in the manual. For example, punitive damages are available under both Title VII and the Americans with Disabilities Act (“ADA”). Thus, the identical punitive damages instruction appears in both Chapter 5 (Title VII) as 5.72, and in Chapter 9 (ADA) as 9.72. By including the instruction in both chapters, users are spared the task of flipping pages or scrolling to another section of the on-line manual. Reducing cross referencing also means that many definitions are set out within the substantive instructions – again, to minimize the need to flip or scroll from place to place.

Users may also notice other changes to model instructions. The Committee continues, of course, to revise instructions in reaction to changes in the law – both statutory and case law. In addition, however, users may notice that the Committee has revised many instructions to make them easier to understand – the “plain-language” project.

The Table of Contents and Conversion Table will help users during the transition period and will be especially helpful in appeals that involve jury instructions. The Committee is always

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<sup>1</sup> *Explanatory Instructions* will contain instructions that do not easily fall into one of the other groups or types.

open to suggestions to improve, amend, and make the Model Civil Instructions easier to use and understand. Comments may be emailed to [beth\\_deere@ared.uscourts.gov](mailto:beth_deere@ared.uscourts.gov).