

## ***MINUTES***

Advisory Committee on Model Civil Jury Instructions

November 8, 2021

4:00 p.m.

Present: Ruth A. Shapiro (chair), Stacy Haacke (staff), Marianna Di Paolo, Douglas G. Mortensen, Randy Andrus, Joel Ferre, Alyson McAllister, Lauren A. Shurman, Judge Kent Holmberg, Adam D. Wentz  
Also present: Tracy Fowler, Paul Simmons, Robert Cummings

Excused: Samantha Slark, Ricky Shelton, Judge Keith A. Kelly

1. *Welcome.*

Ruth Shapiro welcomed everyone to the meeting.

2. *Approval of Minutes.*

Ruth Shapiro asked for a motion on the October 2021 meeting minutes. Minutes approved.

3. *Timeline.*

Timeline discussed.

4. *Discussion of Product Liability Instructions.*

- CV10\_\_ (Implied Indemnity - Introduction)
  - Tracy Fowler and Paul Simmons outlined arguments as to whether or not the implied indemnity introduction instructions—and specifically the precedent set by the *Bylsma v. R.C. Willey* decision—are appropriate for inclusion in MUJI. The committee debated the same.
  - The committee agreed to send these instructions back to the subcommittee for additional work.
- CV\_\_\_\_ (Boundary by Acquiescence)
  - The committee discussed whether the language “visible line” between the properties would make sense to the layperson jury. Committee members suggested including a separate definition. The subcommittee agreed to prepare the same.
  - Marianna Di Paolo suggested providing further definition of the term “occupation” as it is not immediately clear.

- The committee debated whether to clarify the meaning of the phrase “continuous period”. Committee agreed that adding the phrase “without interruption” solved the concern.
- Continued to the next meeting.
- **CV118 (Clear and convincing evidence)**
  - The committee suggested re-wording the language of the “mutual acquiescence” definition as it is difficult to understand to the layperson as currently constructed. The committee made significant changes to the same.
  - Continued to the next meeting.

5. *Adjournment.*

The meeting concluded at 6:02 PM.