

MINUTES

Advisory Committee on Model Civil Jury Instructions

August 8, 2022

4:00 p.m.

Present: Randy Andrus, Marianna Di Paolo, Joel Ferre, Judge Keith Kelly, Lauren Shurman, Ruth Shapiro, William Eggington, Ricky Shelton, Alyson McAllister, Stacy Haacke (Staff)
Also present: Robert Fuller

Excused: Samantha Slark, Adam Wentz

1. Welcome.

Lauren Shurman welcomed everyone to the meeting.

2. Approval of Minutes.

Judge Kelly moves to approve the minutes. Ricky Shelton seconds. All approve.
May 2022 meeting minutes approved

3. Farewell to members and welcome to new members.

Alyson McAllister thanked Marianna Di Paolo and Joel Ferre for their years of service on the Committee and everyone wished them farewell. Ms. McAllister welcomed Dr. William Eggington to the Committee as the new linguist. Dr. Eggington gave a brief history of his experience and work as a linguist. He is originally from Australia and has worked on civil and criminal cases. Mark Morris was unable to attend as he is on vacation but he will be welcomed at the next meeting.

4. Implicit Bias Update.

Ms. McAllister provided an update on the subcommittee's work. The subcommittee met last week and made some good progress. They are hoping to have one or two instructions at next meeting. Ms. Di Paolo crafted some language that she circulated to the subcommittee. They are looking to present one instruction at the beginning and maybe some language to give in closing. Other jurisdictions use a video that they use in the initial gathering of jurors. Judge Kelly notes importance of including Judge Landau who is doing some work with Harvard on implicit bias studies with jurors. Great input from other subcommittee members. Ms. McAllister notes the original discussion in 2019 included concerns about knowing whether these type of instructions are harmful or useful. Ms. Di Paolo states her draft was based largely on what Judge Landau had provided, and there is a lot of material out there.

5. *Discussion of Easement by Necessity Instructions.*

Robert Fuller is present with new easement by necessity instructions. Mr. Fuller reviewed the proposed language along with the caselaw research supporting the instructions. The Committee began the thorough review of the instructions, including making the language more understandable to the lay person. The group ran out of time to finish the review. Mr. Fuller will continue with the review and return in October.

6. *Discussion of Boundary by Acquiesce.*

There is not a reserved set of numbers for the Boundary by Acquiesce instructions. The Committee discusses where these might go and there are some numbers available. Stacy Haacke will find a place to publish these instructions.

7. *In person vs. virtual meetings.*

The Committee discusses having in-person and virtual meetings. Agree that once a quarter in-person with a virtual link available would be a good start. Lauren, Alyson, and Stacy will look at the calendar to find a good time for an in-person meeting and this may depend upon the groups presenting instructions.

8. *Adjournment.*

The meeting concluded at 6:05 PM.