

**MINUTES**  
Advisory Committee on Model Civil Jury Instructions  
October 3, 2022  
4:00 p.m.

Present: Judge Kent Holmberg, Judge Keith A. Kelly, Lauren A. Shurman, Alyson McAllister, Ruth A. Shapiro, William Eggington, Randy Andrus, Mark Morris, Samantha Slark, Adam D. Wentz, Stacy Haacke (staff), Jace Willard (staff).

Also present: Robert Cummings, Robert Fuller, Marianna Di Paolo

Excused: Douglas G. Mortensen, Ricky Shelton.

1. *Welcome.*

Alyson McAllister welcomed the Committee.

2. *Approval of Minutes.*

September 2022 meeting minutes approved.

3. *Easement by Necessity Instruction.*

- The Committee continued making edits to Easement by Necessity Instruction.
- Debated whether laymen terms within the language of the instruction should be used as opposed to the legal terminology followed by a definition of the term. The Committee determined to use the legal terminology with definitions.
- Debated whether the second and fourth elements as drafted by the subcommittee are proper for this instruction and, if not, should be removed. Determined that they should be removed with a cautionary comment.
- The Committee deleted unnecessary definitions.

4. *Introduction of Mark Morris, new Committee member.*

5. *Implicit Bias Instruction.*

- The Committee reviewed and discussed the latest version of the instruction, titled “Avoiding Bias.”
- The subcommittee removed any reference to “implicit bias” and replaced it with “bias.” The Committee discussed and approved this change.
- The Committee approved the instruction as drafted, which will be published for public comment.

- Discussed where within the MUJI index of instructions this new instruction should be located.
- Lauren Shurman moved to number the instruction CV135; Randy Andrus opposed and suggested that it be given to the jury earlier, even prior to voir dire. The Committee agreed to request guidance from the judicial council as to the timing of this instruction before making a final decision.

6. *Proposed Pretrial Delay Instruction.*

- Judge Kelly's externship clerk, Chandler Blount, provided the Committee with a memorandum addressing whether there exist specific pretrial delay instructions in other jurisdictions. The memorandum concluded that are not. However, Alyson McAllister noted that similar instructions in other jurisdictions may be consistent with the concerns the proposed instruction seeks to address. Armed with this information, the Committee discussed whether this instruction would be helpful or necessary.
- Discussed whether including the instruction with a cautionary comment on its relevancy in some but not all circumstances may be a good compromise.
- Alyson McAllister agreed to make the suggested edits from the Committee and return next month to finalize.

7. *Discussion of Future Instructions.*

Committee addressed upcoming queue.

8. *Adjournment.*

The meeting concluded at 5:44 PM.