

Model Jury Instructions Commission to present plain language report Oct. 24

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Jury service comes with instructions, and a group of judges, lawyers and legal scholars have spent more than three years working to make those instructions easier to follow.

The Mississippi Model Jury Instructions Commission will present new Model Jury Instructions to the Mississippi Supreme Court at 10:30 a.m. Oct. 24 at the Gartin Justice Building, 450 High Street in Jackson.

The 21-member Commission has worked since early 2009 to craft plain language jury instructions which are intended to offer clearer guidance regarding application of the law for lay persons who serve on juries. The Commission will submit a 668-page Model Criminal Jury Instructions, and a 479-page Model Civil Jury Instructions. The models will provide instructions which can be used for every kind of criminal or civil trial which could come before a Mississippi state court jury.

Chief Justice Bill Waller Jr. said, "This is going to help jurors to make better decisions."

Court of Appeals Judge David M. Ishee of Gulfport, chair of the subcommittee which drafted new model criminal jury instructions, said, "What we hoped to achieve was to simplify the jury instructions for the lay people as jurors. I think there were many instructions which were very technical, using legal technical terms, and we have simplified them so that the average lay person can more easily understand them.

"It's been my fear that a lot of jurors ignored the jury instructions. They might be overwhelmed at all the legalese that was thrust at them just before they were to deliberate. I think this will make the law easier to apply on a case by case basis," Judge Ishee said. "I think it will lead to more well reasoned outcomes and a more thorough understanding of the law by the individual jurors."

University of Mississippi School of Law Professor Emeritus Guthrie T. "Guff" Abbott of Oxford, who chaired the civil instructions subcommittee, said creating plain language instructions "is a good and practical thing to do...In the past it's been lawyers drafting these for judges in legalese, but the group that is supposed to use this is the jurors, who for the most part are not lawyers."

The new civil jury instructions include forms of the verdict for various kinds of cases. Each form of the verdict requires jurors to go step by step through elements of the case. "The thrust of our instructions is to identify those elements, and on the verdict form it asks if those elements have been met," Abbott said. "It just insures that the jury has their eye on the ball and is educated about what the elements are."

Abbott said he is excited about the completed work. "It is something that is going to be helpful for the bench, the bar and the public."

Presiding Justice George C. Carlson Jr. of Batesville served as overall chair of the Model Jury Instructions Commission. Justice Carlson said, "The concept of plain language jury instructions has worked extremely well in other states. My jury instruction experience through the years as a lawyer, trial judge and appellate judge has been that lawyers want to draft jury instructions which they think will gain approval from the trial judges, and that the trial judges will approve or disapprove jury instructions based on their understanding of the case law pronounced by our appellate courts. But the focus has not been on the very ones whose understanding of the law is critical to the fair disposition of any case, namely the lay citizens in the jury box.

“While the lawyers and judges will very often attempt to simplify jury instructions, they are reluctant to stray very far from the boilerplate model jury instructions which previously have gained appellate court approval through court decisions. Now this process changes, with the submission of these proposed simplified, plain language jury instructions,” Presiding Justice Carlson said.

Chief Justice Waller said, “This has been a monumental effort by the Commission to respond to a need to have jury instructions that are up to date, reflect the current status of the law, and are written in language that the everyday person can understand when deliberating the cases that come into our courts”

Both subcommittees spent hundreds of hours preparing the Model Jury Instructions. Some were completely rewritten, and new instructions were created for recently enacted laws which had not previously been addressed by model instructions.

Former Chief Justice James W. Smith Jr. signed an order creating the Mississippi Model Jury Instructions Commission shortly before he left office in 2008. At that time, he said there had been revisions of the model jury instructions, but no major overhaul since the model instructions were put in place in the 1970s.

“It’s been a long, time-consuming task, and I appreciate each one’s hard work on the committee. None of this would have been possible without the help of the Mississippi Judicial College,” Judge Ishee said.

Judge Ishee and Abbott praised the work of their committees, and the research and drafting of Mississippi Judicial College Staff Attorney Carole Murphey.

Murphey said, “It was a wonderful experience to serve on this Commission. I am honored to have participated in such an important task for the benefit of the judicial system.”

Presiding Justice Carlson thanked Judge Ishee, Abbott, Murphey and the members for their service. “I am proud to have been a part of this blue-ribbon commission made up of outstanding and experienced members of the legal profession, as well as lay persons, all of whom were very important to this entire process,” he said.

Other members of the Commission include: Circuit Judge James T. Kitchens Jr., Caledonia; Circuit Judge Clarence E. Morgan III, Kosciusko; Circuit Judge Betty W. Sanders, Greenwood; County Court Judge Michael W. McPhail, Hattiesburg; attorney Ramel L. Cotton, Jackson, representing the Magnolia Bar Association; attorney C. Joy Harkness, Meridian, representing the Mississippi Bar; attorney Lance L. Stevens, Jackson, representing the Mississippi Association for Justice; attorney James D. Holland, Jackson, representing the Mississippi Defense Lawyers Association; Special Assistant Attorney General John R. Henry; attorney Thomas Fortner, Hattiesburg, representing the Mississippi Public Defenders Association; Assistant District Attorney Archibald W. Bullard, Corinth, representing the Mississippi Prosecutors Association; Mississippi Judicial College Executive Director Cynthia D. Davis, Oxford; attorney Forrest W. Stringfellow, Jackson, representing the Mississippi College School of Law; Libby Riley, Meridian, representing the Governor; attorney R. Keith Foreman, Ridgeland, representing the Lieutenant Governor; businessman Jimmy Murphy, Booneville, representing the Speaker of the House; and at-large members attorney Merrida P. Coxwell Jr., Jackson; and attorney Philip W. Gaines, Jackson.

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