

IN THE SUPREME COURT OF FLORIDA

**In the matter of Standard Jury
Instructions (Civil),**

Committee Report 12-01

**Typographical Revisions to
Reorganized Civil Jury Instructions.**

**REPORT (NO. 12-01) OF THE
COMMITTEE ON STANDARD
JURY INSTRUCTIONS (CIVIL)**

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July 18, 2012

**To the Chief Justice and Justices of
the Supreme Court of Florida:**

The Committee on Standard Jury Instructions in Civil Cases requests that this Court approve for publication and use revised Florida Standard Jury Instructions (Civil) making Typographical Revisions to the Reorganized Civil Jury Instructions, as set forth in Appendix A. This Report is filed pursuant to article V, section 2(a), of the Florida Constitution.

I. INTRODUCTION AND PROCEDURAL NOTE

In March 2010, the Court adopted the Committee's proposal to reorganize the Standard Jury Instructions in Civil Cases and simplify the language used throughout the instructions. *See In re Standard Jury Instructions in Civil Cases Report No. 09-01 (Reorganization of the Civil Jury Instructions)*, 35 So. 3d 666 (Fla. 2010) (Case No. SC09-284).

The Committee has discovered several typographical errors that should be corrected in the reorganized instructions. These errors and omissions occur in Florida Standard Jury Instructions (Civil) Instructions 401.13, 401.20, 401.22a, 401.22f, 402.4c, 402.4d, 402.12, 406.5, 406.6, 408.6, 409.7, 409.8, 409.9, 410.8, 412.1, 413.2, 501.1, 501.3, 501.4, 501.9, 502.1, 502.2, 502.5, 502.8, Model Instructions 1 through 4, and 6, as well as the Note on Use for Punitive Damages Charges, all as set forth in Appendix A.

In the opinion of the Committee, these revisions are minor, typographical changes, or the reinstatement of material that was inadvertently omitted from the book when it was reorganized. The Committee does not intend any of these changes to substantively change the law.

II. DESCRIPTION OF APPENDICES

The following appendices are attached to this Report:

- Appendix A: Proposed instructions
Appendix B: October 1, 2011, and April 15, 2012, *Florida Bar News* notices.
Appendix C: Comments received by the Committee in response to the publications.
Appendix D: Relevant excerpts from the Committee's minutes.
Appendix E: Committee materials relevant to this proposal.

III. THE PROPOSED REVISIONS

As part of its continuing review of the Standard Jury Instructions for Civil Cases, the Committee proposes this series of revisions. The Committee considers these revisions to be in the nature of typographical changes and does not intend any of these changes to substantively change the law. The proposed revisions to these instructions are set forth in Appendix A to this report. Below is a summary of the changes proposed.

Instruction 401.13 (correcting cross-references in instruction on preemptive charges)

Instruction 401.20a (making language gender neutral)

Instruction 401.22:

401.22a (correcting legal citation in note on use); and

401.22f (revising the instruction on apportionment of fault to address situations when a non-party is alleged to be strictly liable)

Instruction 402.4:

402.4c (correcting legal citation in note on use); and

402.4d (deleting the word “and” to correct a grammatical error)

Instruction 402.12 (correcting cross-reference in note on use)

Instruction 406.5 (making malice instruction gender neutral)

Instruction 406.6 (making language gender neutral)

Instruction 408.6 (revising note 6 to correct grammatical error)

Instruction 409.7 (revising instruction on fraudulent misrepresentation to make clear that causation is an element)

Instruction 409.8 (revising instruction on negligent misrepresentation to make clear that causation is an element)

Instruction 409.9 (revising instruction on false information negligently supplied for the guidance of others to make clear that causation is an element)

Instruction 410.8 (correcting legal citations in note on use)

Instruction 412.1 (correcting cross-reference to instructions on the “Joint Liability of Joint Tortfeasors” and changing the name of that instruction to “Liability of Multiple Tortfeasors”)

Instruction 413.2 (correcting misspelling of “medical” in second sentence)¹

Section 500 — Damages (revising index to the damages instructions to reflect amendments renumbering of instructions 501.3 and 501.4 and renaming instruction 502.8)

Instruction 501.1 (correcting the instruction providing the introduction to personal injury and property damages to remove incorrect language applicable in wrongful death cases; revising the instruction to make it more understandable and eliminate repetitive language; revising to reflect renumbering of instructions 501.3 and 501.4)

Instructions 501.3 and 501.4 (reverses the numbering of instructions 501.3 and 501.4. The current instruction 501.4, Motor Vehicle Fault Threshold Instruction, will be renumbered to instruction 501.3. The current instruction 501.3, Comparative Negligence and Non-Party Fault, will be renumbered instruction 501.4. The title of the “Motor Vehicle Fault Threshold Instruction” will be changed to “Motor Vehicle No-Fault Instruction.” In the Comparative Negligence and Non-Party Fault Instruction (currently 501.3, to be renumbered 501.4), the proposal adds the word “[fault]” to address situations where a party or nonparty is alleged to be strictly liable.

Instruction 501.9 (changing name of instruction on “Joint Liability of Joint Tortfeasors” to “Liability of Multiple Tortfeasors”)

Instruction 502.1 (revising the instruction providing the introduction to wrongful death damages to make it more understandable and eliminate repetitive language)

Instruction 502.2 (added gender neutral language)

¹ This particular typographical error was discovered after the last publication date. The Committee includes it in this report because fixing this mistake now appears to be an obvious solution, but the Committee notes for the Court that this correction has not been published for comment.

Instruction 502.5 (revising instruction in wrongful death cases on Comparative Negligence, Non-Party Fault and Multiple Defendants to address situations where the party or non-party is alleged to be strictly liable; correcting legal citations in the notes on use)

Instruction 502.8 (changing name of instruction on “Joint Liability of Joint Tortfeasors” to “Liability of Multiple Tortfeasors”)

Note on Use for Punitive Damages Charges (republishing notice previously found in the civil jury instructions)

Model Instructions 1 through 4 and 6 (making several revisions to the model charges to make them consistent with the revisions to the instructions)

IV. DISSENTING VIEWS FROM THE COMMITTEE

There are no dissenting views from the Committee. The Committee believes that the reorganized instructions are greatly improving the process of jury instruction in Florida and that these typographical revisions will make the published instructions even clearer and cleaner. The Committee unanimously recommends their publication.

V. COMMENTS RECEIVED AND ACTION TAKEN IN RESPONSE

These proposed typographical corrections were published for comments in two parts, on October 1, 2011, and on April 15, 2012. The publication notices are found in Appendix B to this report. No comments were received that were directed to the changes proposed in this report. Any comments received by the Committee in the relevant time period, though inapposite to these proposals, are included in Appendix C for the Court’s convenience.

VI. CONCLUSION

WHEREFORE, for the above reasons, the Committee respectfully requests that the Court approved these instructions for publication and their inclusion in the reorganized book as standard jury instructions for civil cases.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this report complies with the font requirements set forth in Florida Rule of Appellate Procedure 9.210 by using Times New Roman 14-point font.

By: _____
Joseph Hagedorn Lang, Jr.