

**IN THE SUPREME COURT OF FLORIDA**

**In re Standard Jury Instructions  
(Civil),**

**Committee Report Number 2014-02**

**Communications with Jurors  
(201.2 & 202.4)**

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**REPORT NO. 2014-02 OF THE COMMITTEE ON STANDARD  
JURY INSTRUCTIONS (CIVIL)**

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**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 the following proposed revisions to Florida Standard Jury Instructions (Civil): Instructions 201.2 (Introduction of Participants and Their Roles) and 202.4 (Juror Questions), 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

On November 14, 2013, the Court issued the decision *In Re: Amendments to the Florida Rules of Civil Procedure*, 131 So. 3d 643 (Fla. 2013) (Appendix D, pages D38–D95). In part, the opinion adopted amendments to Florida Rule of Civil Procedure 1.431 to address communications between the judge or courtroom personnel and jurors.

Amended Rule 1.431 sets forth the requirement that communications between the jury and the court or courtroom personnel shall be on the record; provides an exception to the requirement that those communications be on the record; requires the trial court to instruct the jurors and courtroom personnel during *voir dire* regarding the limitations on communications; requires the trial court, upon empanelling the jury, to instruct the jurors that their questions are to be

submitted in writing to the court; and requires that courtroom personnel notify the court of any juror communication in contravention of the court's orders or instructions. *See* Fla. R. Civ. P. 1.431(i)(1) – (i)(4).

In response to the amendments to Rule 1.431, the Committee proposes amendments to Instructions 201.2 (Introduction of Participants and Their Roles) and 202.4 (Juror Questions), as set forth in Appendix A. These proposed amendments address the jury instructions the court is now required to give pursuant to Rule 1.431(i)(3) regarding communications between the judge or courtroom personnel and the jurors.

## II. DESCRIPTION OF APPENDICES

The following appendices are attached to this Report:

Appendix A: Proposed revisions to Civil Instructions 201.2 and 202.4.

Appendix B: March 15, 2014, *The Florida Bar News*, Publication Notice.

Appendix C: Relevant excerpts from Committee's minutes.

Appendix D: Committee materials relevant to this proposal.

## III. THE PROPOSED REVISIONS

The Committee proposes the amendments to Instructions 201.2 and 202.4 contained in Appendix A in response to the Court's amendments to Rule 1.431. On March 31, 2014, the Committee submitted a separate proposal to amend Instruction 201.2 to address jurors' use of electronic devices (Civil Report No.

2014-01, Case No. SC14-623). The pending proposal on electronic devices is in response to the recent amendments to Florida Rule of Judicial Administration 2.451. Because both the pending proposal on electronic devices and the proposed amendments that are the subject of this Report affect Instruction 201.2, the Committee has included two versions of Instruction 201.2 in Appendix A. The first version contains amendments to Instruction 201.2 proposed in response to Rule 1.431, regarding jurors' communications with the Court and courtroom personnel. *See* Appendix A, pp. A-1 – A-5. The second version of Instruction 201.2 includes both the amendments proposed in this Report **and** the amendments that were previously submitted as part of the Committee's Report on jurors' use of electronic devices, Civil Report, Case No. 2014-01, SC14-623. *See* Appendix A, pp. A-6 – A-11.

### **201.2 INTRODUCTION OF PARTICIPANTS AND THEIR ROLES**

This preliminary jury instruction is given during *voir dire*, before the jury is sworn. This instruction introduces the jurors to all the participants in the trial, including the bailiff. Currently, this instruction directs jurors to ask the bailiff about “[a]nything you need or any problems that come up for you during the course of the trial.” The instruction advises jurors that only the judge can answer their questions about the case.

The proposed amendment to Instruction 201.2 advises jurors that their

communications with the court or courtroom personnel about the case must be on the record, either in open court or in writing. However, the jurors may communicate directly with courtroom personnel regarding the jurors' comfort, safety, and other types of routine *ex parte* communications.

#### **202.4 JUROR QUESTIONS**

This preliminary instruction is given after the jury is sworn. Currently, the instruction provides a procedure for jurors to ask questions of witnesses. The proposed amendment provides jurors with a procedure to ask questions of the Court or courtroom personnel.

#### **IV. DISSENTING VIEWS FROM THE COMMITTEE**

There are no dissenting views from the Committee. The Committee believes that the proposed revisions to Instructions 201.2 (Introduction of Participants and Their Roles) and 202.4 (Juror Questions), as set forth in Appendix A, will improve the standard jury instructions by conforming them to the Rules of Civil Procedure, and unanimously recommends their adoption.

#### **V. COMMENTS RECEIVED AND ACTION TAKEN IN RESPONSE**

The Committee did not receive any comments in response to its publication notice in *The Florida Bar News*.

#### **VI. CONCLUSION**

WHEREFORE, for the above reasons, the Committee respectfully requests

that the Court approve for publication and use the proposed revisions to Florida Standard Jury Instructions (Civil) 201.2 (Introduction of Participants and Their Roles) and 202.4 (Juror Questions), as set forth in Appendix A.

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: /s/ Laura Whitmore  
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