

2.00(A) [2024 Revision] Recommended Explanatory Instruction Before Jury Selection

(Approved March 5, 2024; Effective July 1, 2024)

The trial of a lawsuit involves a considerable amount of time, effort, and expense, and the parties are entitled to have their rights finally determined. The failure on your part to follow the rules and instructions I give to you may result in a miscarriage of justice, and a new trial may be required.

You have been summoned today as prospective jurors for the trial of a civil case. Civil cases begin with the selection of a qualified and impartial jury. You will be asked a series of questions to determine if you have any personal interest in or knowledge of the case that would make it difficult for you to be fair and impartial. The questions asked are not meant to pry into your personal life; they are simply a necessary part of the process of selecting a jury.

Your answers must be truthful and complete. Therefore, please listen to the questions carefully and take your time in answering. If you do not understand a question, raise your hand and it will be clarified. If later in the questioning process you remember something that you failed to mention earlier, raise your hand and let us know. If your answer to any of these questions involves matters of a sensitive nature, raise your hand and you will be given an opportunity to state your answer privately to the court and attorneys.

Following the questioning process, some of you will be chosen as jurors and some will not. Please understand that not being chosen does not reflect on your ability

or integrity. You will now take an oath to honestly answer these questions [The panel will be sworn].

The parties have a right to have this case decided only on the evidence presented in this court. You must not conduct your own research or investigation into any issues in this case. You must not attempt to obtain any outside information whatsoever about the case.

You must not comment, discuss, or communicate with anyone, by any means, not even among yourselves, what you hear or learn in trial until the case is concluded and, then, only when all of you are present in the jury room for deliberation of the case under the final instructions I give to you.

During the jury selection process, I want to emphasize that you are not allowed to use any electronic communication devices or the Internet to search for, receive, send, or post any information about the parties, the lawyers, the judge, the witnesses, or any evidence or locations mentioned. Do not discuss or attempt to research what the law may be in this case. This ban applies to all electronic devices, [such as smartphones, lap-tops, or iPads]; all forms of electronic communication, [such as email, text messages, or blogging]; and Internet research tools and social media [like Google, Facebook, or Twitter] (*insert current examples*).

Committee Comment [2014 New] (NO CHANGE)

2.08 [2024 New] Deadlocked Jury – Continuing Deliberations

(Approved March 5, 2024; Effective July 1, 2024)

You should make every reasonable effort to reach a verdict, as it is desirable that there be a verdict in every case. Each of you should respect the opinions of your fellow jurors as you would have them respect yours. In a spirit of tolerance and understanding, each of you should continue to deliberate in an attempt to reach a verdict in accordance with the court's instructions. Do not be afraid to change your opinion if the discussion persuades you that you should. But no juror should agree to a verdict that violates the instructions of the court, nor should a juror agree to a verdict that is against his or her honest belief regarding the evidence.

Notes on Use [2024 New]

(Approved March 5, 2024; Effective July 1, 2024)

1. This instruction should not be given as part of the final instructions provided to the jury at the time the case is submitted. But if the jury communicates it has reached an impasse, and the court believes the jury appears to be unable to reach a verdict, this instruction may be given in the sound discretion of the court. In exercising its discretion, the court should consider all relevant circumstances, including but not limited to, the length of deliberations, the nature and complexity of the case, and any agreement of the parties as to the giving and timing of this instruction.

2. Prior to the giving of this instruction, and outside the presence and hearing of the jury, the attorneys should be permitted to make any objections on the record related to the

giving of this instruction.

3. This instruction shall be read to the jury, numbered and given in writing to the jury. This instruction shall be filed with the other instructions of the court.

4. The court should note on the record the time that the jury first retired to deliberate, the time of giving this instruction, and the time that the jury returns a verdict or a mistrial is declared.

Committee Comment [2024 New]

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A. Cases that may be instructive with respect to the giving of a so-called "hammer" instruction, the factors to be considered, and circumstances under which it may be considered coercive or an abuse of discretion include: *Klotz v. St. Anthony's Med. Ctr.*, 311 S.W.3d 752, 768 (Mo. banc 2010); *Nash v. Plaza Elec., Inc.*, 363 S.W.2d 637, 641 (Mo. 1962); *Anderson v. Bell*, 303 S.W.2d 93, 98-100 (Mo. 1957); *Cowan v. McElroy*, 549 S.W.2d 543, 546-47 (Mo. App. 1977).