



*Unveiling the
8th Circuit
Jury Instruction Builder*

Judge Abbie Crites-Leoni
Eastern District of Missouri

May 25, 2022

How many cases really go to trial?

Data Source: Administrative Office of the United States Courts
U.S. District Courts Caseload Tables C-4A (civil) and D-7 (criminal)

Calendar Year		Civil			Criminal		
		%	Jury	Bench	%	Jury	Bench
National Total	2021	0.69%	1,134	651	1.83%	1,064	177
	2020	0.40%	594	521	1.86%	1,029	154
	2019	0.71%	1,534	641	2.25%	1,673	289
Eighth Circuit	2021	0.77%	73	24	2.50%	114	14
	2020	0.49%	32	29	2.38%	103	12
	2019	0.63%	81	42	2.81%	150	13
Eastern Missouri	2021	1.12%	20	3	1.16%	13	0
	2020	0.21%	5	0	0.69%	7	0
	2019	0.47%	11	6	1.00%	11	2

Percents are of civil cases and criminal defendants terminated during 12-month period.



Committee on Model Jury Instructions for the Eighth Circuit

*Full Committee consists of 11 District Judges and 3 Magistrate Judges from throughout the Circuit.

*Attorney members make substantial contributions in the Civil (13) and Criminal Sub-Committees:

- Ann E. Buckley*, Buckley & Buckley, LLC
- Douglas E. Gossow*, Goldstein & Price
- Sheena Hamilton*, St. Louis City Counselor
- Angela B. Kennedy & Mark A. Thomas*, Armstrong Teasdale LLP
- Caitlin E. O'Connell*, Dowd Bennett LLP
- Charles E. Reis, IV*, Littler Mendelson, PC
- Kevin Curran*, Federal Public Defender's Office
- Tiffany Becker*, U.S. Attorney's Office





UNITED STATES COURT OF APPEALS for the Eleventh Circuit

Honorable William H. Pryor Jr., Chief Judge

About the Court	Judges	E-Filing Information (CM/ECF)	Fees & Filing Instructions	Rules & Procedures	Forms & Information	Opinions / Oral Arguments	En Banc Matters
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- [Attorney Forms and Information](#)
- [Pro Se Forms and Information](#)
- [Law Student Practice Forms](#)
- [General Practice Forms and Checklists](#)
- [Mediation Forms and Information](#)
- [Pattern Jury Instructions](#)**
- [Disability Access Information](#)

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Pattern Jury Instructions

Pattern Jury Instructions

The Eleventh Circuit Judicial Council has authorized the Council's Committee on Pattern Jury Instructions to publish the following Civil and Criminal Pattern Jury Instructions provided, however, that its authorization shall not be construed as an adjudicative approval of the content of such instructions which must await case-by-case review by the Court.

Pattern Jury Instructions Builder

The Pattern Jury Instructions Builder, found at the following link, allows users to generate customized pattern jury instructions for a particular case. All current Civil and Criminal Pattern Jury Instructions have been uploaded into the Pattern Jury Instructions Builder.

[Pattern Jury Instructions Builder](#)

UNITED STATES FEDERAL COURTS
Eighth Circuit
Model Jury Instructions Builder

Help Information ?

This Jury Instructions Builder is intended to serve as an aid to practitioners and the District Courts throughout the Eighth Circuit in preparing instruction packets for trial with the understanding that the posting of these instructions is not an adjudicative approval of the content which must await case-by-case review by the Eighth Circuit.


Create Jury Instructions:


Select Case Type


- Civil
- Criminal


Begin Jury Instructions Builder

Reference Materials

Current Complete Civil Model Jury Instructions (PDF) 

Current Complete Civil Model Jury Instructions (DOCX) 

Current Complete Criminal Model Jury Instructions (PDF) 

Current Complete Criminal Model Jury Instructions (DOCX) 

Feedback

Substantive comments about the Model Jury Instructions or the usability of the Builder application may be sent to Jury_Instruction_Feedback@ca8.uscourts.gov.

Security Notice

This is a restricted government system for official judiciary business only. All activities on this system for any purpose, and all access attempts, may be recorded and monitored or reviewed by persons authorized by the federal judiciary for improper use, protection of system security, performance of maintenance, and appropriate management by the judiciary of its systems. By using this system or any connected system, users expressly consent to system monitoring and to official access to data reviewed and created by them on the system. Any evidence of unlawful activity, including unauthorized access attempts, may be reported to law enforcement officials.



Our District is the home for the JIB.

IT Manager Angel Hernandez and his team worked tirelessly with Eighth Circuit Librarian Eric Brust and his assistant Diane Neske to make it a reality.

The JIB officially launched in February.

	Civil	Criminal	Total
February 17 - 28	103	66	169
March 1 - 31	117	120	237
April 1 - 27	82	81	163
Total	302	267	569

How do you find the JIB?

Use the “Quick Links” from the 8th Circuit Court of Appeals home page:

<https://www.ca8.uscourts.gov/>

Create a shortcut on your desktop for the Model Instructions landing page:

<https://www.ca8.uscourts.gov/model-jury-instructions>

Or, the JIB landing page:

<https://www.juryinstructions.ca8.uscourts.gov/>

Options

Include Annotations Continuous Page Numbering

Display Current Instructions Display Prior Instructions

Select Instructions:

^ Preliminary Instructions For Use At Commencement Of Trial

- 1.01 EXPLANATORY: BEFORE VOIR DIRE
- 1.02 EXPLANATORY: RECESS AT END OF VOIR DIRE
- 1.03 EXPLANATORY: GENERAL; NATURE OF CASE; DUTY OF JURY; CAUTIONARY
- 1.04 EXPLANATORY: EVIDENCE; LIMITATIONS
- 1.05 EXPLANATORY: BENCH CONFERENCES AND RECESSES
- 1.06 EXPLANATORY: NO TRANSCRIPT AVAILABLE [NOTE-TAKING]
- 1.07 EXPLANATORY: QUESTIONS BY JURORS
- 1.08 EXPLANATORY: CONDUCT OF THE JURY
- 1.09 EXPLANATORY: OUTLINE OF TRIAL

^ Instructions For Use During Trial

- 2.01 EXPLANATORY: DUTIES OF JURY; RECESSES
- 2.02 EXPLANATORY: STIPULATED TESTIMONY
- 2.03 EXPLANATORY: STIPULATED FACTS
- 2.04 EXPLANATORY: JUDICIAL NOTICE
- 2.05 EXPLANATORY: TRANSCRIPT OF TAPE-RECORDED CONVERSATION
- 2.06 EXPLANATORY: PREVIOUS TRIAL
- 2.07 EXPLANATORY: CROSS-EXAMINATION OF PARTY'S CHARACTER WITNESS
- 2.08 EXPLANATORY: EVIDENCE ADMITTED AGAINST ONLY ONE PARTY
- 2.09 EXPLANATORY: EVIDENCE ADMITTED FOR LIMITED PURPOSE
- 2.10 EXPLANATORY: IMPEACHMENT OF WITNESS BY PRIOR CONVICTION
- 2.11 EXPLANATORY: DEMONSTRATIVE SUMMARIES NOT RECEIVED AS EVIDENCE
- 2.12 EXPLANATORY: FRE RULE 1006 SUMMARIES
- 2.13 EXPLANATORY: WITHDRAWAL
- 2.14 EXPLANATORY: DEPOSITION EVIDENCE AT TRIAL
- 2.15 EXPLANATORY: LIFE EXPECTANCY EVIDENCE

^ Instructions For Use At Close Of Trial

- 3.01 EXPLANATORY: ADDITIONAL INSTRUCTIONS
- 3.02 EXPLANATORY: JUDGE'S OPINION
- 3.03 EXPLANATORY: CREDIBILITY OF WITNESSES
- 3.04 EXPLANATORY: BURDEN OF PROOF (ORDINARY CIVIL CASE)
- 3.05 EXPLANATORY: EXPERT OPINION
- 3.06 EXPLANATORY: WITHDRAWAL OF CLAIM OR DEFENSE
- 3.07 EXPLANATORY: ELECTION OF FOREPERSON; DUTY TO DELIBERATE; COMMUNICATIONS WITH COURT; CAUTIONARY; UNANIMOUS VERDICT; VERDICT FORM
- 3.08 EXPLANATORY: "ALLEN" CHANGE TO BE GIVEN AFTER EXTENDED DELIBERATION

Prisoner/Pretrial Detainee Civil Rights Cases

- 4.01 § 1983 CLAIM—INTRODUCTORY INSTRUCTION
- 4.20 DEFINITION: UNDER COLOR OF STATE LAW
- 4.21 DEFINITION: SUBSTANTIAL RISK OF SERIOUS HARM
- 4.22 DEFINITION: SERIOUS MEDICAL NEED
- 4.23 DEFINITION: DELIBERATE INDIFFERENCE
- 4.24 DEFINITION: MALICIOUSLY
- 4.25 DEFINITION: SADISTICALLY
- 4.40 ELEMENTS OF CLAIM: EXCESSIVE USE OF FORCE—ARREST OR OTHER SEIZURE OF PERSON BEFORE CONFINEMENT
- 4.41 ELEMENTS OF CLAIM: EXCESSIVE USE OF FORCE—PRETRIAL DETAINEES
- 4.42 ELEMENTS OF CLAIM: EXCESSIVE USE OF FORCE—CONVICTED PRISONERS
- 4.43 ELEMENTS OF CLAIM: DENIAL OF MEDICAL CARE
- 4.44 ELEMENTS OF CLAIM: FAILURE TO PROTECT FROM ATTACK
- 4.45 ELEMENTS OF CLAIM: RETALIATION AGAINST PRISONERS FOR PARTICIPATING IN PROTECTED ACTIVITY
- 4.46 ELEMENTS OF CLAIM: CONDITIONS OF CONFINEMENT
- 4.47 ELEMENTS OF CLAIM: SUPERVISORY LIABILITY—FAILURE TO TRAIN OR SUPERVISE
- 4.48 ELEMENTS OF CLAIM: MUNICIPAL LIABILITY FOR OFFICIAL POLICY OR UNOFFICIAL CUSTOM
- 4.49 FRAUDULENTLY OBTAINED WARRANT
- 4.50 ELEMENTS OF CLAIM: UNREASONABLE STOP
- 4.51 ELEMENTS OF CLAIM: FALSE ARREST
- 4.52 ELEMENTS OF CLAIM: § 1983 CIVIL CONSPIRACY
- 4.70 DAMAGES: ACTUAL—PRISONER CIVIL RIGHTS
- 4.71 DAMAGES: NOMINAL—PRISONER CIVIL RIGHTS
- 4.72 PUNITIVE—CIVIL RIGHTS
- 4.80 GENERAL VERDICT FORM: ONE PLAINTIFF, TWO DEFENDANTS, ONE INJURY CASE

Title VII Cases

- 5.01 EXPLANATORY: "SAME DECISION"
- 5.02 EXPLANATORY: BUSINESS JUDGMENT
- 5.20 DEFINITION: PRETEXT
- 5.21 DEFINITION: MOTIVATING FACTOR
- 5.22 DEFINITION: AFTER-ACQUIRED EVIDENCE
- 5.23 DEFINITION: AGENCY
- 5.40 ELEMENTS OF CLAIM
- 5.41 ELEMENTS OF CLAIM: CONSTRUCTIVE DISCHARGE
- 5.70 DAMAGES: ACTUAL
- 5.71 DAMAGES: NOMINAL
- 5.72 DAMAGES: PUNITIVE
- 5.80 GENERAL VERDICT FORM
- 5.81 GENERAL VERDICT FORM—AFTER-ACQUIRED EVIDENCE

Age Discrimination In Employment Act Cases

- 6.20 DEFINITION: WILLFULNESS
- 6.40 ELEMENTS OF CLAIM
- 6.41 ELEMENTS OF CLAIM: CONSTRUCTIVE DISCHARGE
- 6.70 DAMAGES: ACTUAL
- 6.71 DAMAGES: NOMINAL
- 6.80 GENERAL VERDICT FORM

Equal Pay Act Cases

- 7.20 DEFINITION: "SUBSTANTIALLY EQUAL"
- 7.21 DEFINITION: WILLFULNESS
- 7.40 ELEMENTS OF CLAIM
- 7.60 ELEMENTS OF DEFENSES
- 7.70 DAMAGES: ACTUAL
- 7.80 GENERAL VERDICT FORM

Harassment Cases Under Title VII, Sections 1981 and 1983, ADA, and ADEA

- 8.01 EXPLANATORY: "SAME DECISION"
- 8.20 DEFINITION: SUPERVISORY LIABILITY
- 8.40 ELEMENTS OF CLAIM: HARASSMENT (BY SUPERVISOR WITH TANGIBLE EMPLOYMENT ACTION)
- 8.41 ELEMENTS OF CLAIM: HARASSMENT (BY SUPERVISOR WITH NO TANGIBLE EMPLOYMENT ACTION)
- 8.42 ELEMENTS OF CLAIM: HARASSMENT (BY NONSUPERVISOR)
- 8.60 ELEMENTS OF DEFENSE: AFFIRMATIVE DEFENSE (FOR USE IN SUPERVISOR CASES WITH NO TANGIBLE EMPLOYMENT ACTION)
- 8.70 ACTUAL DAMAGES
- 8.71 NOMINAL DAMAGES
- 8.72 PUNITIVE DAMAGES
- 8.80 GENERAL VERDICT FORM
- 8.81 GENERAL VERDICT FORM

Americans With Disabilities Act

Employment - Retaliation (Anti-Discrimination Statutes)

Employment - Race Discrimination (42 U.S.C. § 1981)

Employment - Public Employers (42 U.S.C. § 1983)

Employment - First Amendment Retaliation (42 U.S.C. § 1983)

Employment - Family And Medical Leave Act

Employment - Federal Employers Liability Act

Employment - Fair Labor Standards Act

Admiralty And Maritime

Employment - Federal Railway Safety Act

Odometer Fraud





























Instructions Selected Drag/Drop to Reorder

Undo Reorder











Clear All Generate Jury Instructions

1. Select Civil or Criminal
2. Select annotations/Page Numbering
3. Select individual instructions
4. Reorder?
5. Generate Jury Instructions





^ Final Instructions For Use In Every Trial (Boilerplate)

- 3.01 Introduction  
- 3.02 Duty of Jury  
- 3.03 Evidence; Limitations  
- 3.04 Credibility of Witnesses  
- 3.05 Description of Charge; Indictment Not Evidence; Presumption of Innocence; Burden of Proof (Single Defendant, Single Count)  
- 3.06 Description of Charges; Indictment Not Evidence; Presumption of Innocence; Burden of Proof (Single Defendant, Multiple Counts)  
- 3.07 Description of Charges; Indictment Not Evidence; Presumption of Innocence; Burden of Proof (Multiple Defendants, Single Count)  
- 3.08 Description of Charges; Indictment Not Evidence; Presumption of Innocence; Burden of Proof (Multiple Defendants, Multiple Counts)  
- 3.09 Elements of Offense—Burden of Proof  
- 3.10 Lesser-Included Offense  
- 3.11 Reasonable Doubt  
- 3.12 Election of Foreperson; Duty to Deliberate; Punishment Not a Factor; Communications with Court; Cautionary; Verdict Form  
- 3.13 Venue  
- 3.14 Date of Crime Charged  

^ Final Instructions: Consideration of Mental State

- 7.01 Specific Intent  
- 7.02 Willfully  
- 7.03 Knowingly  
- 7.04 Deliberate Ignorance/Willful Blindness  
- 7.05 Proof of Intent or Knowledge  





^ Final Instructions: Definitions

- 8.01 Attempt  
- 8.02 Possession: Actual, Constructive, Sole, Joint  

^ Final Instructions: Defenses and Theories of Defense

^ Supplemental Instructions












^ Verdict Forms

- 11.01 General Verdict  
- 11.02 General Verdict - with Lesser-Included Offense  

Instructions Selected

- 3.01
- 3.02
- 3.03
- 3.04
- 3.05
- 3.11
- 3.12
- 3.09
- 7.05
- 8.02
- 11.01

Drag/Drop to Reorder

-  3.01
-  3.02
-  3.03
-  3.04
-  3.05
-  3.11
-  3.12
-  3.09
-  7.05
-  8.02
-  11.01

Undo Reorder

Clear All

Generate Jury Instructions

Eighth Circuit

Pattern Jury Instructions Builder - Criminal Cases

Pattern Jury Instructions - Criminal

Option Requested: Include Annotations, Continuous Page Numbering.

Jury Instructions Selected (11):

3.01, 3.02, 3.03, 3.04, 3.05, 3.11, 3.12, 3.09, 7.05, 8.02, 11.01

[View Merged Document.](#) 

DONE.

Build another instruction set

*Show example of Annotated Instruction Packet





*Fellow
Reunion
Lunch (top)*



*Classes of
2020 & 2021*

2022 Program set for July 6 – August 2

Trevor Andershock (St. Louis University, 20 years old, projected graduation May 2023, from St. Peters)

Miracle Bird (Southeast Missouri State University, 21 years old, projected graduation December 2022, Cape Girardeau)

Jowairia Khalid (Southeast Missouri State University, 21 years old, projected graduation December 2022, Cape Girardeau)

Grant Slusher (Rhodes College, 21 years old; projected graduation May 2023, Columbia)

Andrew West (University of Missouri, 21 years old, projected graduation May 2023, Cape Girardeau)

Abigail Wilson (Southeast Missouri State University, 19 years old, projected graduation May 2024, 1st generation college student, Cape Girardeau)



***Rule 13.05—Model Sealing Forms**

Rule 13.05 (Effective 6-01-21)

Rule 13.05 (FRCP 83) Sealing of Materials Filed in Civil and Criminal Cases

(For procedural instructions, see the Sealed and Ex Parte Documents section of the Court's CM/ECF Procedures Manual at <http://www.moed.uscourts.gov/cmecf-procedures-manual>)

(A) General Provisions for Civil and Criminal Cases

(1) Except as otherwise provided in this Rule, all pleadings, documents, and other materials (collectively “material”) received in the Office of the Clerk for filing must ultimately be filed in the public record, unless (a) the docket reflects prior entry of an Order to file under seal or (b) a Judge of this Court otherwise orders pursuant to this Local Rule.

(2) The Court recognizes the right of the public to access material filed with the Court in civil and criminal cases. The Court also recognizes the right of parties in cases to seek the filing under seal of material and information lawfully kept confidential in civil and criminal cases, and the right of parties and non-parties to support or challenge the filing of such material under seal.

(3) The fact that certain information or material has been protected as confidential by parties in a case pursuant to a Protective Order is relevant to, but not dispositive of, whether this information or material will be sealed when filed with the Court.

(4) Subject to the provisions of Sections (B) (Civil Cases) and (C) (Criminal Cases) below, the following procedures must be followed for filing material under seal or for contesting the sealing of such material:



UNITED STATES DISTRICT COURT

Eastern District of Missouri

Hon. Rodney W. Sippel, Chief Judge • Gregory J. Linhares, Clerk of Court

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Clerk's Office

CM/ECF

Probation

Pretrial Services

Jurors

Attorneys

Self-Repres

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Guidance on Filing Sealed Materials Pursuant to Amended Local Rule 13.05

Movant must file an unsealed motion for sealing ([docketing event can be found under Motions and Related Filings - Motions – Leave to File Under Seal](#)) or an unsealed motion for continued sealing ([docketing event can be found under Motions and Related Filings - Motions – Motion for Continued Sealing](#)). The sealed document **SHOULD NOT** be attached to this docket entry. **Note: Movant may include in this document a certification that opposing counsel/parties do not object to the motion for leave to file under seal. If such certification is included, it is not necessary to file responses and replies to the motion.**

Model Forms available on the Court Business Tab (bottom left)

<https://moed-admin.jdc.ao.dcn/news/2022/model-forms-available-assist-filings-sealed-cases-under-local-rule-1305>

Model Forms Available to Assist with Filings in Sealed Cases under Local Rule 13.05

Friday, March 18, 2022

On June 1, 2021, revisions to Local Rule 13.05 – Sealing of Materials Filed in Civil and Criminal Cases – took effect in the Eastern District of Missouri and some guidance on filing sealed materials was provided at that time. Since that date, the Court has worked with the Criminal Justice Act Committee, Federal Practice Committee, and members of the Bar to develop [model Forms](#) to assist counsel with drafting Sealing Motions. These Forms are not mandatory, nor are they meant to be comprehensive as to what should be included in such motions. The Forms do serve as a basic starting point from which attorneys can then submit their proposed legal and factual bases for the sealing of documents as set forth in Local Rule 13.05. These forms will also be made permanently available with other sealing-related materials on the Court's website. If you have further questions on the use of these forms, please contact Clerk of Court Greg Linhares at greg_linhares@moed.uscourts.gov or (314)244-7890.

News Category: News