GOALS FOR JURY INSTRUCTIONS

Hon Janice R. Wilson

In my court, the overriding goal of all jury instructions is to help jurors do their jobs. To this end, I seek always to give instructions that:

1. are in plain, understandable language;

2. state the applicable law in a neutral manner;

3. cover the issues actually raised in the trial;

4. do not address issues that were not raised in the trial (except for issues that research or my own experience show jurors routinely speculate about, such as the existence of insurance).

Language from Appellate Decisions

The fact that a statement of law appears in an appellate decision is not a basis to include it in my instructions – see #1 above. *Rogers v. Meridian Park Hospital*, 307 Or 612, 616, 772 P2d 929 (1989).

Uniform Jury Instructions

The fact that an instruction appears in the Oregon State Bar Uniform Jury Instructions is not persuasive to me. The committees that draft these instructions have memberships carefully balanced by partisan interests. The committees work very, very hard and usually produce instructions that are accurate and neutral statements of the law. Nevertheless, the instructions are often not understandable by a lay person.

Draft Instructions Proposed by the Judge

If I have given you proposed instructions in draft form, these will be our starting point. I want to hear from you if:

1. the instructions can be stated more clearly; (I still have many blind spots about my own "legalese," and seek constant improvement in this area.) Please be prepared to suggest clearer language.

2. the instructions do not correctly state the applicable law;

3. the instructions do not cover an issue raised in the trial on which the jurors will need guidance;

4. the instructions cover something that is *not* an issue in the trial; (In my experience it is at least as confusing to the jury to include an instruction on something that is *not* an issue, or to define a word that has its ordinary meaning, as it is not to instruct on something that *is* an issue.)

5. you find a typographical error (there will probably be plenty for everyone).

Instructions Requested by the Parties

I do not want to hear a complaint that I have not included an instruction you requested unless you contend that your requested instruction:

1. is clearer and more understandable than what I have proposed; or

2. is a correct statement of the law where my proposed instruction is incorrect (and your requested instruction is both correct and understandable); or

3. covers an issue that my proposed instructions have omitted.

Jury Instruction Conferences

I try to avoid pride of authorship in my proposed instructions. I do intend them to be a starting point and will listen to your criticisms and suggestions. I have never failed to improve my draft instructions after hearing the suggestions and arguments of counsel in our jury instruction conferences. The instructions can always be made better, and I welcome your help in that process.

"The parties to any jury case are entitled to have the jury instructed in the law which governs the case in plain, clear, simple language. The objective of the mold, framework and language of the instructions should be to enlighten and to acquaint the jury with the applicable law. Everything which is reasonably capable of confusing or misleading the jury should be avoided. Instructions which mislead or confuse are ground for reversal or a new trial." *Williams v. Portland Gen. Elec.*, 195 Or 597, 610, 247 P2d 494 (1952).

"Jury instructions should reduce the relevant law to terms readily grasped by the jury without doing violence to the applicable legal rule." *Rogers v. Meridian Park Hospital*, 307 Or 612, 616, 772 P2d 929 (1989)(citation omitted).