

**FROM THE COMMITTEE ON
MODEL CIVIL JURY INSTRUCTIONS**

The Committee has adopted the following amended model civil jury instructions effective October 31, 2019.

ADOPTED

M Civ JI 97.01 Preliminary Instructions to Prospective Jurors

(1) Ladies and gentlemen, I am Judge [_____] and it is my pleasure and privilege to welcome you to the [_____] County Circuit Court.

(2) I know that jury service may be a new experience for some of you. Jury duty is one of the most serious duties that members of a free society are called upon to perform.

(3) The jury is an important part of this court. The right to a trial by jury is an ancient tradition and is part of our legal heritage. The parties have a right to a jury that is selected fairly, that comes to the case without bias, and that will attempt to reach a verdict based on the evidence presented. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law and your oath demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice. Jurors must be as free as humanly possible from bias, prejudice, or sympathy for either side. Each side in a trial is entitled to jurors who keep open minds until the time comes to decide the case. Take the time you need to test what might be reflexive unconscious responses and to reflect carefully and consciously about the evidence. I caution you to avoid reaching conclusions that may have been influenced by unintended stereotypes or associations. You must each reach your own conclusions about this case individually, but you should do so only after listening to and considering the opinions of the other jurors, who may have different backgrounds and perspectives from yours. Working together will help achieve a fair result.

History

M Civ JI 97.01 was added March 2005. Amended October 2019.

M Civ JI 97.13 Judging Credibility and Weight of Evidence

(1) It is your job to decide what the facts of this case are. You must decide which witnesses you believe and how important you think their testimony is. You do not have to accept or reject everything a witness says. You are free to believe all, none, or part of any person's testimony.

(2) In deciding which testimony you believe, you should rely on your own common sense and everyday experience. However, in deciding whether you believe a witness's testimony, you must set aside any bias or prejudice you have based on the witness's disability, gender, race, religion, ethnicity, sexual orientation, age, national origin, socioeconomic status or any other factor irrelevant to the rights of the parties.

Each of us may have biases about or certain perceptions or stereotypes of other people. We may be aware of some of our biases, though we may not share them with others. We may not be fully aware of some of our other biases. Our biases often affect how we act, favorably or unfavorably, toward someone. Bias can affect our thoughts, how we remember, what we see and hear, whom we believe or disbelieve, and how we make important decisions. Witnesses can have the same implicit biases. As jurors you are being asked to make very important decisions in this case. You must not let bias, prejudice, or public opinion influence your decision. You must not be biased in favor of or against any party, witness, or lawyer because of his or her disability, gender, race, religion, ethnicity, sexual orientation, age, national origin, socioeconomic status or any other factor irrelevant to the rights of the parties. Your verdict must be based solely on the evidence presented. You must carefully evaluate the evidence and resist any urge to reach a verdict that is influenced by bias for or against any party, witness, or lawyer.

Take the time you need to test what might be reflexive unconscious responses and to reflect carefully and consciously about the evidence. I caution you to avoid reaching conclusions that may have been influenced by unintended stereotypes or associations. You must each reach your own conclusions about this case individually, but you should do so only after listening to and considering the opinions of the other jurors, who may have different backgrounds and perspectives from yours. Working together will help achieve a fair result.

(3) There is no fixed set of rules for judging whether you believe a witness, but it may help you to think about these questions:

(a) Was the witness able to see or hear clearly? How long was the witness watching or listening? Was anything else going on that might have distracted the witness?

(b) Does the witness seem to have a good memory?

(c) How does the witness look and act while testifying? Does the witness seem to be making an honest effort to tell the truth, or does the witness seem to evade the questions or argue with the lawyers?

(d) Does the witness's age or maturity affect how you judge his or her

testimony?

(e) Does the witness have any bias or prejudice or any personal interest in how this case is decided?

(f) Have there been any promises, threats, suggestions, or other influences that affect how the witness testifies?

(g) In general, does the witness have any special reason to tell the truth, or any special reason to lie?

(h) All in all, how reasonable does the witness's testimony seem when you think about all the other evidence in the case?

History

M Civ JI 97.13 was added March 2005. Amended October 2019.

M Civ JI 97.19 Jurors Not to Discuss Case

(1) Because the law requires that cases be decided only on the evidence presented during the trial and only by the deliberating jurors, you must keep an open mind and not make a decision about anything in the case until after you have (a) heard all of the evidence, (b) heard the closing arguments of counsel, (c) received all of my instructions on the law and the verdict form, and (d) any alternate jurors have been excused. At that time, you will be sent to the jury room to decide the case. Sympathy must not influence your decision. Nor should your decision be influenced by prejudice regarding disability, gender, race, religion, ethnicity, sexual orientation, age, national origin, socioeconomic status, or any other factor irrelevant to the rights of the parties.

(2) [Alternative A] (Before you are sent to the jury room to decide the case, you may discuss the case among yourselves during recesses in the trial, but there are strict rules that must be followed:

First, you may only discuss the case when (a) all of you are together, (b) you are all in the jury room, and (c) no one else is present in the jury room. You must not discuss the case under any other circumstances. The reason you may not discuss the case with other jurors while some of you are not present is that all of you are entitled to participate in all of the discussions about the case.

Second, as I stated before, you must keep an open mind until I send you to the jury room to decide the case. Your discussions before then are only tentative.

Third, you do not have to discuss the case during the trial. But if you choose to do

so, you must follow the rules I have given you.)

[Alternative B] (Before you are sent to the jury room to decide the case, you are not to discuss the case even with the other members of the jury. This is to ensure that all of you are able to participate in all of the discussions about the case, and so that you do not begin to express opinions about the case until it has been submitted to you for deliberation.)_

Note on Use

The court will choose between Alternative A or B in paragraph 2 based on the court's decision whether to permit the jurors to discuss the evidence among themselves during trial recesses.

History

M Civ JI 97.19 was added March 2005. Amended November 2015, October 2019.

M Civ JI 97.33 Witnesses-Credibility

(1) As I said before, it is your job to decide what the facts of this case are. You must decide which witnesses you believe and how important you think their testimony is. You do not have to accept or reject everything a witness said. You are free to believe all, none, or part of any person's testimony.

(2) In deciding which testimony you believe, you should rely on your own common sense and everyday experience. However, in deciding whether you believe a witness's testimony, you must set aside any bias or prejudice you may have regarding a witness's disability, gender, race, religion, ethnicity, sexual orientation, age, national origin, socioeconomic status or any other factor irrelevant to the rights of the parties.

Each of us may have biases about or certain perceptions or stereotypes of other people. We may be aware of some of our biases, though we may not share them with others. We may not be fully aware of some of our other biases. Our biases often affect how we act, favorably or unfavorably, toward someone. Bias can affect our thoughts, how we remember, what we see and hear, whom we believe or disbelieve, and how we make important decisions. Witnesses can have the same implicit biases. As jurors you are being asked to make very important decisions in this case. You must not let bias, prejudice, or public opinion influence your decision. You must not be biased in favor of or against any party, witness, or lawyer because of his or her disability, gender, race, religion, ethnicity, sexual orientation, age, national origin, socioeconomic status or any other factor irrelevant to the rights of the parties. Your verdict must be based solely on the evidence presented. You must carefully evaluate the evidence and resist any urge to

reach a verdict that is influenced by bias for or against any party, witness, or lawyer.

(3) There is no fixed set of rules for judging whether you believe a witness, but it may help you to think about these questions:

(a) Was the witness able to see or hear clearly? How long was the witness watching or listening? Was anything else going on that might have distracted the witness?

(b) Did the witness seem to have a good memory?

(c) How did the witness look and act while testifying? Did the witness seem to be making an honest effort to tell the truth, or did the witness seem to evade the questions or argue with the lawyers?

(d) Does the witness's age or maturity affect how you judge his or her testimony?

(e) Does the witness have any bias or prejudice or any personal interest in how this case is decided?

(f) Have there been any promises, threats, suggestions, or other influences that affected how the witness testified?

(g) In general, does the witness have any special reason to tell the truth, or any special reason to lie?

(h) All in all, how reasonable does the witness's testimony seem when you think about all the other evidence in the case?

(4) Sometimes the testimony of different witnesses will not agree, and you must decide which testimony you accept. You should think about whether the disagreement involves something important or not, and whether you think someone is lying or is simply mistaken. People see and hear things differently, and witnesses may testify honestly but simply be wrong about what they thought they saw or remembered. It is also a good idea to think about which testimony agrees best with the other evidence in the case.

(5) However, you may conclude that a witness deliberately lied about something that is important to how you decide the case. If so, you may choose not to accept anything that witness said. On the other hand, if you think the witness lied about some things but told the truth about others, you may simply accept the part you think is true and ignore the rest.

History

M Civ JI 97.33 was added March 2005. Amended October 2019.

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

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