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## GENERAL DIRECTIONS FOR USE

1. Rules 51.1 and 351.1 of the Colorado Rules of Civil Procedure state that in instructing the jury in a civil case, “the court shall use such instructions as are contained in Colorado Jury Instruction (CJI) as are applicable to the evidence and the prevailing law.” *See also* **Krueger v. Ary**, 205 P.3d 1150 (Colo. 2009) (a pattern instruction should be modified, or not used, if it does not reflect the prevailing law).

2. In using the instructions, keep in mind the following principles:

a. These instructions are neither a restatement nor an encyclopedia of the prevailing law. The intent is to provide forms of instructions for specific subjects that are frequently litigated.

b. These instructions are not all-inclusive. Where these instructions do not cover a relevant legal principle or the particular factual situation presented, the court shall instruct the jury as to the prevailing law applicable to the evidence in a manner that is clear, unambiguous, impartial, and free from argument, using these instructions as models as to the form so far as possible. *See* C.R.C.P. 51.1(2); *see also* **Gasteazoro v. Catholic Health Initiatives Colo.**, 2014 COA 134, ¶ 14 (“A trial court may depart from CJI where ‘the factual situation or changes in the law warrant a departure from the CJI instructions.’”); **Short v. Kinkade**, 685 P.2d 210, 211 (Colo. App. 1983) (reversing trial court’s refusal to modify pattern instruction, although absence of Colorado precedent required that prevailing law be derived from secondary authority).

c. A compilation of these instructions is published annually, and reflects the law effective as of August 1 of the year preceding the edition date. To the extent the relevant law has been modified by statute or appellate decisions after this effective date, these instructions *must* be modified accordingly. **Short**, 685 P.2d at 211 (a “pattern jury instruction is intended as a model and will yield to prevailing law”).

d. So long as the court correctly instructs the jury on the law applicable to the evidence presented, the court retains broad discretion over the form and style of the instructions. **Patterson v. BP Am. Prod. Co.**, 2015 COA 28 ¶ 67; **Krueger v. Ary**, 205 P.3d 1150, 1157 (Colo. 2009).

3. Generally, the instructions have been drafted in the singular. Names of the parties should be used wherever possible.

4. In many instances, alternatives have been included in parentheses or brackets. Where alternatives are indicated, the more appropriate one, in the light of the evidence and the theory of the case, should be used.

5. Notes on Use following each instruction contain cross-references, directions, and cautions with respect to the use of the instructions.





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6. Each party is entitled to instructions as to that party's theory or theories of the case, if supported by the evidence. **Hansen v. State Farm Mut. Auto. Ins. Co.**, 957 P.2d 1380, 1384 (Colo. 1998).

7. With respect to each claim for relief, the jury should be instructed as to the elements of liability for such claim and the requirements to establish any applicable affirmative defenses.

8. The court may give identical copies of the instructions to each juror. However, only the original, and no copies, of the verdict forms should be submitted to the jury.

9. When the instructions are read or given to the jury, the title, Notes on Use, and Source and Authority must be omitted.

10. The pronouns used in these instructions may be modified to reflect the pronoun with which a party identifies, e.g., she/hers, he/his, they/them/theirs.







# **COLORADO RULES OF CIVIL PROCEDURE RELATING TO JURY INSTRUCTIONS**

## **Rule 51. Instructions to Jury (District Court)**

The parties shall tender jury instructions pursuant to C.R.C.P. 16(g). All instructions shall be submitted to the parties, who shall make all objections thereto before they are given to the jury. Only the grounds so specified shall be considered on motion for a new trial or on appeal or certiorari. Before argument, the court shall read its instructions to the jury but shall not comment upon the evidence. Such instructions shall be taken by the jury when it retires. All instructions offered by the parties, or given by the court, shall be filed with the clerk and, with the endorsement thereon indicating the action of the court, shall be taken as a part of the record of the cause.

## **Rule 16(g). Jury Instructions and Verdict Forms (District Court)**

Counsel for the parties shall confer to develop jointly proposed jury instructions and verdict forms to which the parties agree. No later than 7 days prior to the date scheduled for commencement of the trial or such other time as the court shall direct, a set of the proposed jury instructions and verdict forms shall be filed with the courtroom clerk. The first party represented by counsel to demand a jury trial pursuant to C.R.C.P. 38 and who has not withdrawn such demand shall be responsible for filing the proposed jury instructions and verdict forms. If any jury instruction or verdict form is disputed, the party propounding the instruction or verdict form shall separately file with the courtroom clerk a set of the disputed jury instructions and verdict forms. Each instruction or verdict form shall have attached a brief statement of the legal authority on which the proposed instruction or verdict form is based. Compliance with this Rule shall not deprive parties of the right to tender additional instructions or verdict forms or withdraw proposed instructions or verdict forms at trial. All jury instructions and verdict forms submitted by the parties shall be in final form and reasonably complete. The court shall permit the use of photocopied instructions and verdict forms, without citations, in its submission to the jury.

## **Rule 351. Instructions to Jury (County Court)**

(a) Any party may submit proposed jury instructions by filing with the court two sets of proposed jury instructions and verdict forms. Both sets may be photocopies, but one copy of each instruction shall contain a brief statement of the legal authority on which the proposed instruction is based. The party submitting such instructions and forms shall, simultaneously with the filing of the jury instructions and forms, serve copies on all other appearing parties or their counsel of record.

(b) The parties shall make all objections to the instructions before they are given to the jury. Only the objections specified shall be considered on motion for post-trial relief or on appeal or certiorari.





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Before closing argument, the court shall read its instructions to the jury but shall not comment upon the evidence. The court's instructions may be taken by the jury when it retires. All instructions offered or given shall be filed with the clerk and, with the indorsement thereon indicating the action of the court, shall be taken as a part of the record of the cause.

**Rules 51.1 and 351.1. Colorado Jury Instructions**

(1) In instructing the jury in a civil case, the court shall use such instructions as are contained in Colorado Jury Instruction (CJI) as are applicable to the evidence and the prevailing law.

(2) In cases in which there are no CJI instructions on the subject, or in which the factual situation or changes in the law warrant a departure from the CJI instructions, the court shall instruct the jury as to the prevailing law applicable to the evidence in a manner which is clear, unambiguous, impartial and free from argument, using CJI instructions as models as to the form so far as possible.

