

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. C.R.C.P. 51.1; *see Gasteazoro v. Catholic Health Initiatives Colo.*, 2014 COA 134, ¶ 15, 408 P.3d 874, 878 (“A trial court may depart from CJI where ‘the factual situation or changes in the law warrant a departure from the CJI instructions.’” (quoting C.R.C.P. 51.1(2))); *Short v. Kinkade*, 685 P.2d 210 (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. To the extent the relevant law has been modified by statute or appellate decisions after the annual update, 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. *Krueger*, 205 P.3d at 1157; *Patterson v. BP Am. Prod. Co.*, 2015 COA 28, ¶ 67, 360 P.3d 211.

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.

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 (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.