

Jury Instructions

Civil and Criminal Jury Instructions

At the end of a trial, but before the jurors deliberate, the judge reads them “jury instructions.” The instructions explain the laws that apply to the case.

Types of Jury Instructions

Usually, lawyers adapt these instructions from sets of standard jury instructions. In California, there are two main sets of civil jury instructions. One is an “official” plain-English set known as CACI (California Civil Jury Instructions). The other is BAJI (Book of Approved Jury Instructions). Either can be used. If there are no standard instructions that fit the case, “special instructions” are drafted. The special instructions must be based on California statutes or cases.

Purpose of Jury Instructions

Lawyers and litigants use jury instructions for three purposes:

- Starting point for legal research
- Checklist for gathering evidence and witnesses
- Framing the case for the jury at the end of trial

This guide describes each of these uses, then lists some of the resources in the Law Library and on the Internet.

Starting Point for Legal Research

Jury instructions tell what laws apply in simple language. Jury instruction books usually list the statutes, cases or regulations that apply. They are a good place to start your research, and some are even available free on the Internet. **Important:** The instructions are not “the law.” You must use cases, statutes or regulations to support your case when writing papers for court.

Instructions as source of basic legal standard

In every lawsuit the plaintiff has to list at least one *cause of action* – a specific legal claim, such as negligence, breach of contract, or medical malpractice, for which the plaintiff seeks compensation. ([Nolo's Free Dictionary of Law Terms and Legal Definitions](https://www.nolo.com/dictionary/cause-of-action-term.html) (<https://www.nolo.com/dictionary/cause-of-action-term.html>)) To win, the plaintiff has to prove specific things about each cause of action. These are called *elements*. Unless there is evidence for **every** element, the plaintiff will lose.

For instance, to win a motor vehicle accident case, the plaintiff must prove that the defendant failed to meet

the standard of care, which is outlined in CACI Instruction Number 700:

700. Basic Standard of Care

A person must use reasonable care in driving a vehicle. Drivers must keep a lookout for pedestrians, obstacles, and other vehicles. They must also control the speed and movement of their vehicles. The failure to use reasonable care in driving a vehicle is negligence.

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Directions for Use

This instruction states the common-law standard of reasonable care in driving. It applies to negligent conduct that is not covered by provisions of the Vehicle Code: "Aside from the mandate of the statute, the driver of a motor vehicle is bound to use reasonable care to anticipate the presence on the streets of other persons having equal rights with himself to be there." (*Zarzana v. Neve Drug Co.* (1919) 180 Cal. 32, 37 [179 P. 203].)

The instructions in this series should be used in conjunction with instructions on the elements of negligence contained in the negligence series.

Sources and Authority

- The common-law duty supplements statutory driving regulations: "[A driver is] under a duty, both by statute and common law, to operate his vehicle without negligence so as to abstain from injuring any other person or his property." (*Bewley v. Riggs* (1968) 262 Cal.App.2d 188, 194 [68 Cal.Rptr. 520].)

CACI No. 700 lists the basic standard of care for all drivers. Violating this standard of care is negligence, and proving that the defendant violated this standard of care will be necessary for the plaintiff to win this case.

CACI No. 700 is just the first instruction on motor vehicle accidents. The rest of the instructions in that series go into more detail about what the plaintiff must prove. For instance, CACI No. 701 defines the term "right of way." To research or prove a motor vehicle accident, you will have to read all of the related instructions and consider which apply in your case.

Instructions as starting point for case law and statutory research

Each CACI instruction has a "Sources and Authority" section which contains citations to statutes and cases that support the point of law in the instruction. These are excellent starting places for research since they have been identified as relevant and definitive.

Checklist for Gathering Evidence and Witnesses

You can use jury instructions as a checklist to gather evidence and witnesses to prove your case. The instructions give you a list of elements. You can check this list to make sure you have evidence and testimony to prove each one. If you are the defendant, you can use the list to see if the plaintiff is missing any evidence. You can also use the jury instructions on defenses to make your own chart of what you need to prove.

For instance, a plaintiff trying to prove negligence in a motor accident case might make a chart based on CACI No. 700:

Element	Defendant Failure	Witness(es)	Evidence/Documents	Notes
Defendant required to keep a lookout for pedestrians, obstacles, vehicles	Defendant did not notice red light or oncoming traffic	Officer Smith (#123) Witness Plaintiff	1. According to all witnesses, defendant drove through a red light — did not even attempt to stop	There may have been a red light camera at the intersection.
Defendant required to control speed and movement of vehicle	Defendant did not stop at intersection	See Above	2. No skid marks prior to collision. Photos taken by accident investigators, and Plaintiff. 3. According to all witnesses, defendant drove through a red light	See Above

Framing the Case for the Jury

Before a trial, each party writes a set of instructions. Often the lawyers customize the instructions in CACI.

The instructions can influence the jury's decision, so the parties frequently argue about the wording. The judge decides which version will be used. If the judge improperly refuses to use one of your proposed instructions, that can be grounds for an appeal.

Parties have to submit a complete set of instructions in a certain format on the first day of trial. ([Sacramento Local Rule 2.97](https://www.saccourt.ca.gov/local-rules/docs/chapter-02.pdf) (<https://www.saccourt.ca.gov/local-rules/docs/chapter-02.pdf>)). The format is set out in [Cal. Rule of Court 2.1055](http://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_1055) (http://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_1055). The procedure for presenting your version of the jury instructions and arguing for their adoption is set out in [California Code of Civil Procedure \(CCP\) 607a](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=607A.) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=607A.).

Resources Available in the Law Library

Civil Cases, California

CACI (California Civil Jury Instructions) KFC1047 .A65 W48

The *CACI* (pronounced “kay-see”) set is California’s “official” set of plain-English instructions, published by the California Judicial Council. They are not mandatory.

Electronic Access: On the Law Library’s computers, using *Lexis Advance*.

Electronic Access: On the Web: [Civil Jury Instructions](http://www.courts.ca.gov/partners/317.htm) (<http://www.courts.ca.gov/partners/317.htm>) (includes prior editions).

BAJI (Book of Approved Jury Instructions) KFC1047 .A7 S8

BAJI was originally published by the Los Angeles Superior Court and was used statewide for over 50 years, but was replaced as the “official” set by *CACI* in 2003. The *BAJI* set is now updated and published by West, and can still be used.

Both *CACI* and *BAJI* list the laws or cases that support the instructions, so they are excellent places to start your research. However, they do not cover all areas of California law.

If *CACI* and *BAJI* do not fit your case, you can use *California Forms of Jury Instruction* (KFC 1047 .A65 C31), *California Elements of an Action* (KFC 1003 .S74), or various topical guides to research or draft custom instructions.

Civil Cases, Federal

Manual of Model Civil Jury Instructions (Ninth Circuit) (electronic access only) These instructions are written by a committee of Ninth Circuit judges and magistrates. They are not mandatory, but you can use them as standard instructions in federal cases.

Electronic Access: On the Web: [Manual of Model Civil Jury Instructions \(Ninth Circuit\)](http://www3.ce9.uscourts.gov/jury-instructions/model-civil) (<http://www3.ce9.uscourts.gov/jury-instructions/model-civil>)

Two other sources of federal instructions, containing both civil and criminal instructions:

Federal Jury Practice and Instructions KF8984 .D48

Modern Federal Jury Instructions KF8984 .A6M6

Civil Cases, Instructions on Particular Topics

Use these sets when there are no California or federal instructions that fit your case. (You must still reference

cases and statutes to show that the instruction is a correct statement of applicable California or federal law.) You may also find jury instructions in practice guides on your topic. Use our catalog's "Advanced Search" to enter the Series Keyword: California Practice Guide and a subject keyword to retrieve a list of practice guides on that subject

Federal Employment Jury Instructions KF8984 .M23

Jury Instructions on Damages in Tort Actions KF8 984 .E34

Jury Instructions on Medical Issues KF8984.A65 E22

Jury Instructions on Products Liability KF8984 .D688

Model Jury Instructions: Employment Litigation KF8984 .E39

Section 1983 litigation: Jury Instructions KF1325.C58 S362

Criminal Cases, California

CALCRIM (Judicial Council of California Criminal Jury Instructions) KFC1171.A65 J82

The *CALCRIM* set is California's "official" set of plain-English instructions, published by the California Judicial Council. They are not mandatory.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

Electronic Access: On the Web: [Criminal Jury Instructions](http://www.courts.ca.gov/partners/312.htm) (<http://www.courts.ca.gov/partners/312.htm>) (includes prior editions).

CALJIC (California Jury Instructions, Criminal) KFC1171 .A65 S82

CALJIC was originally published by the Los Angeles Superior Court and was used statewide for over 50 years, but was replaced as the "official" set by *CALCRIM* in 2005. The *CALJIC* set is now updated and published by West, and can still be used.

Both *CALCRIM* and *CALJIC* list the laws or cases that support them, so they are excellent places to start your research. Other resources for California criminal jury instructions include:

CJER Mandatory Criminal Jury Instructions Handbook KFC1171 .Z9 M25

Some instructions are required in all criminal cases. If the lawyers do not request them, the judge will give them anyway. This handbook lists the required instructions. Lawyers use it as a checklist to make sure they don't forget important instructions.

Electronic Access: On the Law Library's computers, using *OnLAW*.

FORECITE California KFC1171.A65 F67

Electronic Access: in the library only; see librarian for password.

California Criminal Practice, Motions, Jury Instructions and Sentencing (Chapters 51, 52)

KFC1155 .A65 R83

FORECITE California and *California Criminal Practice, Motions, Jury Instructions and Sentencing* are defense-

oriented resources that review and supplement the *CALCRIM* and *CALJIC* instructions, suggesting modifications for particular cases (and the authorities to support them).

Criminal Cases, Federal

Manual of Model Criminal Jury Instructions for the District Courts of the Ninth Circuit KF9682 .A65 M37

These instructions are written by a committee of Ninth Circuit judges and magistrates. They are not mandatory, but you can use them as standard instructions in federal cases.

Electronic Access: On the Web: [Manual of Model Criminal Jury Instructions \(Ninth Circuit\)](#)

(<https://www.ce9.uscourts.gov/jury-instructions/model-criminal>).

Everytrial Criminal Defense Resource Book (Chapters 50-54) KF9656 .H65

This book is primarily focused on federal criminal cases.

Two other sources of federal instructions, containing both civil and criminal instructions:

Federal Jury Practice and Instructions KF8984 .D48

Modern Federal Jury Instructions KF8984 .A6M6

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