

Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error**51.01 Requests**

(a) **At or Before the Close of Evidence.** A party may, at the close of the evidence or at an earlier reasonable time that the court directs, file and furnish to every other party written requests that the court instruct the jury on the law as set forth in the requests.

(b) **After the Close of Evidence.** After the close of the evidence, a party may:

(1) file requests for instructions on issues that could not reasonably have been anticipated at an earlier time for requests set under Rule 51.01(a), and

(2) with the court's permission file untimely requests for instructions on any issue.

(Added effective January 1, 2006.)

51.02 Instructions

The court:

(a) must inform the parties of its proposed instructions and proposed action on the requests before instructing the jury and before final jury arguments;

(b) must give the parties an opportunity to object on the record and out of the jury's hearing to the proposed instructions and actions on requests before the instructions and arguments are delivered; and

(c) may instruct the jury at any time after trial begins and before the jury is discharged.

(Added effective January 1, 2006.)

51.03 Objections

(a) **Form.** A party who objects to an instruction or the failure to give an instruction must do so on the record, stating distinctly the matter objected to and the grounds of the objection.

(b) **Timeliness.** An objection is timely if:

(1) a party that has been informed of an instruction or action on a request before the jury is instructed and before final jury arguments, as provided by Rule 51.02(a), objects at the opportunity for objection required by Rule 51.02(b); or

(2) a party that has not been informed of an instruction or action on a request before the time for objection provided under Rule 51.02(b) objects promptly after learning that the instruction or request will be, or has been, given or refused.

(Added effective January 1, 2006.)

51.04 Assigning Error; Plain Error

(a) **Assigned Error.** A party may assign as error:

(1) an error in an instruction actually given if that party made a proper objection under Rule 51.03, or

(2) a failure to give an instruction if that party made a proper request under Rule 51.01, and - unless the court made a definitive ruling on the record rejecting the request - also made a proper objection under Rule 51.03.

(b) Plain Error. A court may consider a plain error in the instructions affecting substantial rights that has not been preserved as required by Rule 51.04(a)(1) or (2).

(Added effective January 1, 2006.)

Advisory Committee Comment - 2006 Amendment

Rule 51 is entirely new with this amendment. The new rule is modeled on its federal counterpart, Fed. R. Civ. P. 51, as it was amended in 2003. The changes are intended primarily to provide detailed procedural guidance where the existing rule is either silent or vague. See generally Fed. R. Civ. P. 51, Advis. Comm. Notes - 2003 Amend., reprinted in FED. CIV. JUD. PROC. & RULES 227 (West 2005 ed.).

Rule 51.02(c) continues to recognize that the court may give instructions to the jury at any time after trial begins, including preliminary instructions before opening statements or the taking of evidence, during the trial, and at the end of trial either before or after the arguments of counsel.