

THE SUMMARY
JURY TRIAL:

AN INTRODUCTION

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The summary jury trial (SJT) is a form of alternative dispute resolution designed to facilitate settlement. It is often successful when other forms of ADR (e.g., mediation, arbitration) were attempted but failed. Its goal is to avoid the time and expense of a full-blown trial; the longer the trial the more time and expense are saved. The SJT is counsel's presentation to a 6-person jury of the plaintiff's and defendant's views of the case and the jury's advisory decision to the parties based on the presentations.

SJT is a low cost, no-risk means of obtaining a jury's perception of the merits of a case. SJT is typically a half-day proceeding which is not binding unless all the parties agree it will be binding. The SJT does not preclude the parties' rights to a full trial on the merits should they be unable to agree to a settlement following the SJT. Because the jury's perception of the case is intended to facilitate settlement negotiations between or among the parties, a party representative with complete settlement authority is required to attend the SJT. The proceedings are generally not open to the public nor are they recorded unless specifically ordered by the court at the request of one or both parties. To maintain the atmosphere of an actual trial, the SJT is presided over by a judge or hearing officer.

SUMMARY PROCEDURE

The jury selection process for the SJT is considerably shorter and less involved than for a full jury trial. The jury is selected from a pool of 10 to 12 prospective jurors, often from those summonsed for a regular jury trial. The 6-member jury is selected following a brief *voir dire* with each counsel generally allowed two peremptory challenges. The presiding official advises the jury of the nature and purpose of the SJT during opening comments but does not emphasize that the verdict is non-binding unless the parties advise the official otherwise.

Counsel may only present evidence to the summary jury that would be admissible at trial. Counsel may read from statements, reports, or depositions. Live witnesses are not permitted. Formal objections are permitted but are not encouraged. To the greatest extent possible, they should be handled at the pre-SJT conference in which counsel submit witness and exhibit lists as well as procedural and evidentiary questions which may be expected to arise during the SJT proceedings.

Generally, counsel are given an hour to present the party's case to the jury; time for rebuttal may be reserved. Each side gives a short synopsis of its case to the jury before the main presentations in order. The main presentations consist of counsels' narratives, incorporating evidence and legal arguments, with a summary

of the anticipated testimony of the witnesses who would be called to testify at a full trial. Representations of fact must be supported by discovery materials such as depositions, stipulations, documents and formal admissions, or by the attorney's assurance that he or she is repeating what a witness personally told him or her. Documents may not be read from at length. Counsel may, however, submit them in full to the jury to consider during deliberations. Juror questions are permitted. Note-taking is also permitted. Due to the short duration of the summary trial, however, note-taking will not be encouraged.

At the close of counsels' presentations, the presiding official will give the jury an abbreviated charge, which has previously been approved by the parties, that briefly explains the relevant points of law. The advisory verdict form that contains questions or interrogatories concerning liability and/or damages will be explained at that time. The jury is encouraged to return a unanimous or consensus verdict. However, if the jury is unable to reach a consensus, individual verdict forms are provided, and each juror returns a separate verdict.

The presiding official, parties, or counsel may question jurors regarding the SJT process and the verdict. They may inquire into how the verdict was determined, what the jurors' perspectives on the merits of the case are, as well as their reactions to the manner in which each attorney made the presentation.

CONCLUDING THE SUMMARY JURY TRIAL

The presiding official and the attorneys will engage in post-SJT conference in which settlement is the primary focus of discussion. How much factual information is imparted to the official is for the parties to decide. If discussions fail to produce settlement, the case proceeds to a full jury trial on the date(s) previously scheduled.

MORE INFORMATION IS AVAILABLE

If you would like to read more about summary jury trials, the following publications and internet links are suggested:

Summary Jury Trials in Florida: An Empirical Assessment, Florida Supreme Court Dispute Resolution Center (1989) (Out of print. Contact Judge Bateman at thomasb@leoncountyfl.gov who may loan you his copy);

The Summary Jury Trial and Other Alternative Methods of Dispute Resolution, Thomas D. Lambros, Federal Dist. Ct. Judge, Northern Dist. of Ohio, 103. F.R.D. 461 (1984);

Reconfiguring the Summary Jury Trial, Metzloff, Thomas B., 41 Duke L.J. 807 (1991-1992)
[http://eprints.law.duke.edu/archive/00000080/01/41_Duke_L._J._806_\(1991-1992\).pdf](http://eprints.law.duke.edu/archive/00000080/01/41_Duke_L._J._806_(1991-1992).pdf)

Improving the Summary Jury Trial Process, Metzloff, Thomas B. (1993)
[http://eprints.law.duke.edu/archive/00000675/01/77_Judicature_9_\(1993-994\).pdf](http://eprints.law.duke.edu/archive/00000675/01/77_Judicature_9_(1993-994).pdf)

Rules of the Superior Court of the State of New Hampshire (2005),
Rule 171, Summary Jury Trial,
<http://www.nh.gov/judiciary/rules/sror/sror-h3-171.htm>

North Carolina Rules of Court, Rule 13. Rules For Summary Trials
<http://www.nccourts.org/Courts/CRS/Councils/DRC/MSR/Rules/mscRULE13.doc>

Mecklenburg County, NC, Local Procedure, "How Is A Case Selected For Summary Jury Trial?"
http://www.nccourts.org/county/mecklenburg/documents/summaryjt_faq.doc

The Court Manager: Jury News, "A Cost Free Civil Jury Trial?," Vol. 18, Issue 1, Munsterman, G. Thomas, Court Management Consultant, The Center for Jury Studies, National Center for State Courts
http://www.ncsconline.org/WC/Publications/Res_Juries_JuryNewsCostFreeTrialPub.pdf