

Before the close of evidence in a federal defamation trial, the plaintiff and the defendant each submitted proposed jury instructions on the elements of defamation. Before the trial judge instructed the jury and the parties gave their closing arguments, the trial judge informed the parties of the instructions she would give, which did not include the plaintiff's proposed instructions but did include the defendant's instructions. The plaintiff objected, but the judge overruled the objection. The judge then instructed the jury before the parties gave their closing arguments. The plaintiff objected again, which the judge overruled. The jury returned a verdict for the defendant, and the judge entered judgment on the verdict.

The plaintiff has appealed the verdict on the ground that the trial judge erred when she instructed the jury before closing arguments.

Is the appellate court likely to find that the trial judge erred?

- A. No, because the trial judge may instruct the jury before closing arguments.
- B. No, because the trial judge must instruct the jury before closing arguments.
- C. Yes, because the trial judge must instruct the jury after closing arguments.
- D. Yes, because the trial judge must instruct the jury before the close of evidence.

Explanation:

In a [jury trial](#), the court must provide **jury instructions** that advise jurors on their deliberation procedures and the applicable law. Federal Rule of Civil Procedure 51 sets forth the following requirements for instructing the jury:

- The trial court must **inform the parties** of its proposed instructions **before it instructs the jury** and the parties give their **closing arguments**.
- The trial court must give the parties an **opportunity to object** on the record and outside the presence of the jury **before the instructions and closing arguments** are delivered to the jury.
- The trial court may **instruct the jury** at any time **before the jury is discharged**—ie, released from its duties in the case.

Here, the trial court informed the parties of its proposed instructions and gave them an opportunity to object before it instructed the jury and before closing arguments. And since the trial court has discretion to instruct the jury at any time prior to discharge, it properly instructed the jury before closing arguments **(Choice C)**. Therefore, the trial court did not abuse its discretion and the appellate court is unlikely to find that the trial court erred.

(Choice B) A trial court may, but is not required to, instruct the jury prior to the parties' closing arguments.

(Choice D) The parties generally must submit their proposed jury instructions before the close of evidence. However, the trial court need not instruct the jury before this time.

Educational objective:

In a jury trial, a court (1) must inform the parties of its proposed instructions before instructing the jury and closing arguments, (2) must allow the parties to object on the record and outside the jury's presence before the instructions and closing arguments are delivered, and (3) may instruct the jury at any time before it is discharged.

References

- Fed. R. Civ. P. 51(b) (court requirements for providing jury instructions).

Timeline for instructing the jury

