

A man was apprehended for illegally crossing the U.S. border. The man was held at a detention facility for over a month before the government realized that he was a U.S. citizen. After he was released, the man filed a complaint in federal court against the government under a federal statute that waives the federal government's immunity in these types of suits. The man sought \$100,000 in damages and demanded a jury trial.

At the close of evidence at trial, the government and the man both submitted proposed jury instructions. The court decided to hear the parties' closing arguments before ruling on which instructions to use. Both parties made their closing arguments. The court then informed the parties outside the jury's presence of its proposed instructions, which differed significantly from the instructions proposed by the parties. Both parties objected on the record.

Did the court err in providing its proposed jury instructions in this manner?

- A. No, because the court has complete authority to decide when and how to provide jury instructions.
- B. No, because the court need not to inform the parties of its proposed instructions until after closing arguments.
- C. Yes, because the court failed to inform the parties of its proposed instructions and give them an opportunity to object before closing arguments.
- D. Yes, because the court failed to instruct the jury before closing arguments.

Explanation:

Jury instructions

(FRCP 51)

Requests Party:

- must file request by close of evidence unless earlier, reasonable deadline set by court
- may file request after close of evidence when:
 - request relates to issue that party could not have reasonably anticipated by deadline *or*
 - court permits late submission related to any issue

Instructions Court:

- must inform parties of proposed instructions before instructing jury & closing arguments
- must allow parties to object on record & outside jury's presence before instructing jury & closing arguments
- may consider objection made after court instructs jury if instruction constituted plain error
- may instruct jury at any time before discharge

Objections Party:

- must distinctly state objection & its grounds on record
- must object at court-appointed time or promptly after learning of proposed instruction

FRCP = Federal Rule of Civil Procedure.

In a **jury trial**, the court must provide **jury instructions** that advise jurors on their deliberation procedures and the applicable law. The court has the ultimate authority to decide when and how to provide jury instructions so long as it complies with the requirements of Federal Rule of Civil Procedure (FRCP) 51 (**Choice A**). Under FRCP 51, the court:

- may **instruct the jury** at any time **before the jury is discharged**—ie, released from its duties in the case
- must **inform the parties** of its **proposed instructions before** it **instructs the jury** and the parties give their **closing arguments** *and*

- 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.

Here, the court properly informed the parties of its proposed instructions and gave them an opportunity to object before it instructed the jury. But the court erred in failing to do so before closing arguments **(Choice B)**. As a result, the parties could not tailor their closing arguments to the applicable law provided in the court's jury instructions.

(Choice D) The court did not err in failing to instruct the jury before the parties gave their closing arguments because a court may instruct the jury at any time before the jury is discharged. Instead, the court erred in failing to inform the parties of its proposed instructions and give them an opportunity to object before closing arguments.

Educational objective:

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

References

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