

SUMMARY JURY TRIALS

The Summary Jury Trial (SJT) was developed to target complex cases, which constitute only a small percentage of the overall caseload, but consume a disproportionate amount of time and resources. In 1987 the Supreme Court of New Jersey authorized the Superior Court in Gloucester County to conduct a pilot program to study the effectiveness of the SJT, originally developed for use in the Federal courts, in the State trial courts. Participation in the program was voluntary. The purpose of the SJT is to provide the parties with a way to learn the probable outcome of an actual jury trial using an abbreviated trial lasting approximately one-half to one full day with little or no live testimony, before an advisory jury. These cases would otherwise take significantly longer to try to completion and would involve the concomitant expenditure of time and resources. Since live, expert testimony is not needed, the technique is inexpensive and easy to schedule. No record is made at the proceeding, but is conducted with the same decorum as a trial. Essentially, all aspects of the traditional trial are streamlined: limited challenges to the jury are allowed and the attorneys present their respective cases, usually by oral summary, based upon discovery documents and the affidavits of experts. It is explained to the advisory jury, after the verdict is rendered, that they are participating in a streamlined, innovative proceeding. In order to best approximate an actual trial, however, the jury is not told that the verdict is nonbonding. Sample forms and jury charges developed by retired Assignment Judge Samuel G. DeSimone appear in the Civil CDR Program Resource Book appendix.

The SJT provides a cathartic effect to litigants who, for emotional reasons, require a "day in court," and it does so at a substantially lower cost, in a significantly shorter time, and in a manner which litigants can understand and appreciate. It also avoids litigants having to be subjected to rigorous examination and a complex web of technical or legal jargon and procedure. After the jurors have rendered their verdict and the advisory nature of the proceeding is explained to them, the jurors are asked to informally discuss with the participants the strengths and weaknesses of each side's case. This has been recognized as being extremely instrumental in efforts to settle the cases. Subjective feedback received from participants indicates that this technique provides a high level of satisfaction and meets the various criteria for which it was developed.

The experience in Gloucester County suggests that the technique can also be effective in resolving matters not typically regarded as complex, but which nonetheless are resistant to other settlement efforts and would, in fact, result in lengthy trials.

An article prepared by Judge DeSimone entitled Summary Jury Trials: An Untapped Tool for State Courts outlines the Gloucester experience with the technique; a copy appears in the Civil CDR Program Resource Book appendix.

Summary jury trials are appropriate in cases in which:

- significant issues or substantial sums are in contention;
- the parties differ substantially in their opinion of how a jury will apply concepts such as reasonableness and ordinary care to the facts;
- one or more parties (or their counsel) appear to have an unrealistic view of the merits of the case even after hearing a reasonable presentation of their opponent's arguments;
- one or more parties are reluctant to settle because they want their "day in court."

Summary jury trials are inappropriate for cases in which:

- traditional trial proceedings could be completed in one or two days;
- more convenient and less expensive settlement techniques have not yet been explored.