WEST VIRGINIA CODE: §55-7B-6C

§55-7B-6c. Summary jury trial.

(a) The court must determine the date of the summary jury trial, the length of presentations by counsel, and the length of deliberations by the jury, so that the proceeding can be completed in no more than one day.

(b) Unless the court orders otherwise, the parties or representatives of the parties must be present at the summary jury trial.

(c) The trial shall be conducted before a six-member jury selected from the regular jury panel. The court shall conduct a brief voir dire of the panel, and each party may exercise two challenges. No alternate jurors will be impaneled.

(d) All evidence shall be presented by the attorneys for the parties. The attorneys may summarize, quote from, and comment on pleadings, depositions, or other discovery requests and responses, exhibits and statements of potential witnesses. No potential testimony of a witness may be referred to unless the reference is based on: (i) The product of discovery procedures; (ii) a written sworn statement of the witness; or (iii) an affidavit of counsel stating that although an affidavit of the witness is not available and cannot be obtained by the exercise of reasonable diligence, the witness would be called at trial and counsel has been told the substance of the testimony of the witness. The substance of the witness' testimony must also be included in the affidavit of counsel.

(e) Unless the court orders otherwise, presentations shall be limited to one hour for each party. In the case of multiple parties represented by separate counsel, the court shall make a reasonable adjustment of the time allowed.

(f) Opposing counsel may object during the course of a presentation if the presentation violates the provisions of subsection (d) of this section or goes beyond the limits of propriety in statements as to evidence or other comments.

(g) Following the presentations by counsel, the court shall give an abbreviated set of instructions to the jury on the applicable law. The jury will be encouraged to return a verdict that represents a unanimous verdict of the jurors. If after a reasonable time a unanimous verdict is not possible, the jury shall be directed to return a special verdict consisting of an anonymous statement of each juror's finding on liability and damages. Following the verdict, the court may invite, but may not require, the jurors to informally discuss the case with the attorneys and the parties.

(h) Unless the court orders otherwise, the proceedings will not be recorded. However, a party may arrange for recording at its own expense. Statements in briefs or summaries submitted in connection with the summary jury trial and statements by counsel at trial are

WV Legislature

not admissible in any evidentiary proceeding. The summary jury trial verdict is not admissible in any evidentiary proceeding.

(i) Within thirty days following the jury verdict, each party must file a notice setting forth whether the party intends to accept the summary jury trial verdict or whether the party rejects the summary jury trial verdict and desires to proceed to trial. If all parties accept the summary jury trial verdict, the verdict will be deemed a final determination on the merits and judgment may be entered on the verdict by the court. If a verdict is rendered upon the subsequent trial of the case which is not more than twenty percent more favorable to a party who rejected the summary jury trial verdict and indicated a desire to proceed to trial, the rejecting party is liable for the costs incurred by the other party or parties subsequent to the summary jury trial, in a similar manner as is provided in rule 68(c) of the rules of civil procedure when a claimant rejects an offer of judgment, and is liable for attorneys' fees incurred after the summary jury trial.

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