

1 **NRCP 51 – Proposed**
2 **(Revise.)**

3 **Rule 51. Instructions to the Jury; Objections; Preserving a Claim of Error**

4 **(a) Requests.**

5 (1) **Before or at the Close of the Evidence.** At the close of the
6 evidence or at any earlier reasonable time that the court orders, a party may file and
7 furnish to every other party written requests for the jury instructions it wants the
8 court to give.

9 (2) **After the Close of the Evidence.** After the close of the evidence, a
10 party may:

11 (A) file requests for instructions on issues that could not
12 reasonably have been anticipated by an earlier time that the court set for requests;
13 and

14 (B) with the court's permission, file untimely requests for
15 instructions on any issue.

16 (3) **Format; Citation.** The written requests must be in the format
17 directed by the court. If a party relies on any statute, rule, case law, or other legal
18 authority to support a requested instruction, the party must cite each legal authority
19 or provide a copy of it.

20 **(b) Settling Instructions.**

21 (1) The court must inform the parties of its proposed instructions and
22 proposed action on the requests before instructing the jury.

23 (2) The court must give the parties an opportunity to object on the record
24 and out of the jury's hearing before the instructions and arguments are delivered.

1 (3) The court and the parties must make a record of the instructions that
2 were proposed, that the court rejected or modified, and that the court gave to the
3 jury. If the court modifies an instruction, the court must clearly indicate how the
4 instruction was modified.

5 (c) **Objections.**

6 (1) **How to Make.** A party who objects to an instruction or the failure
7 to give an instruction must do so on the record, stating distinctly the matter objected
8 to and the grounds for the objection. If a party relies on any statute, rule, case law,
9 or other legal authority to object to a requested instruction, the party must cite each
10 legal authority or provide a copy of it.

11 (2) **When to Make.** An objection is timely if:

12 (A) a party objects at the opportunity provided under Rule 51(b)(2);
13 or

14 (B) a party was not informed of an instruction or action on a
15 request before that opportunity to object, and the party objects promptly after
16 learning that the instruction or request will be, or has been, given or refused.

17 (d) **Giving Instructions.**

18 (1) The court must instruct the jury before the parties' closing arguments
19 to the jury.

20 (2) The court may also give the jury further instructions that may
21 become necessary by reason of the argument.

22 (3) The final instructions given to the jury must be bound together in the
23 order given and the court must sign the last instruction. The court must provide the
24 original instructions or a copy of them to the jury.

1 (4) After the jury has reached a verdict and been discharged, the
2 originals and copies of all given instructions must be made part of the trial court
3 record.

4 (e) **Assigning Error; Plain Error.**

5 (1) **Assigning Error.** A party may assign as error:

6 (A) an error in an instruction actually given, if that party properly
7 objected; or

8 (B) a failure to give an instruction, if that party properly requested
9 it and—unless the court rejected the request in a definitive ruling on the record—
10 also properly objected.

11 (2) **Plain Error.** A court may consider a plain error in the instructions
12 that has not been preserved as required by Rule 51(e)(1) if the error affects
13 substantial rights.

14 (f) **Scope.**

15 (1) **Preliminary Instructions.** Nothing in this rule prevents a party
16 from requesting, or a court from giving, preliminary instructions to the jury. A
17 request for preliminary jury instructions must be made at any reasonable time that
18 the court orders. If preliminary instructions are requested or given, the court and
19 the parties must comply with Rules 51(a)(3), 51(b), and 51(d)(4), as applicable.

20 (2) **Other Instructions.** This rule governs instructions to the trial jury
21 on the law that governs the verdict. Other instructions, including instructions to a
22 venire and cautionary or limiting instructions delivered in immediate response to
23 events at trial, are not within the scope of this rule.

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1 The provision mirrors language in the advisory committee notes to the 2003
2 amendments to the federal rule.

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