

Jury Mediation

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An article published in the May 6, 2011 edition of the *North Carolina Lawyers Weekly* entitled “Jury Mediation: A New Tool to Resolve Cases” caught my attention. See: [Jury Mediation: A New Tool To Resolve Cases](#)

The article described a regular mediation with one difference – in addition to the parties, their lawyers and a mediator – a recruited JURY WAS PRESENT.

What an idea..... instead of the parties speculating what a jury might do with their case, why not present the case to twelve (or fewer) lay persons who had recently been in a jury pool from the same judicial district?

Evidence and the jury charge is presented to the jury in an abbreviated fashion pursuant to the parties' agreement. The jury then goes to the jury room to deliberate and afterwards they can be questioned about their concerns and the award.

Unless the parties agree to the contrary the summary trial is NON-BINDING, the main purpose being to bring about a settlement without the risk, delay and expense of a regular trial.

The parties and their lawyers have a much better view of reality when they see a disinterested jury discuss and render a verdict in their case.

After reading the Lawyers Weekly article I asked a number of lawyers, including several judges, about jury mediation (JM) and not a single one had ever heard of it.

I found nothing on the Internet until I

discovered that “jury mediation” has another name – “summary jury trial” (SJT).

I then found out that use of juries either at mediations or brief trials has been around for some time and, though not widely accepted or even known about, they are in use today in certain jurisdictions. Along with regular mediations and arbitrations it is considered a strategy in alternative dispute resolution (ADR) and has been promoted almost exclusively by judges to relieve pressure on the courts.

Summary jury trials were created by U. S. District Court Judge Thomas D. Lambros in 1980. As Chief Judge of the U. S. District Court, Northern District of Ohio in 1990, he led the Federal Courts in the use of SJTs. It is reported that he presided over one hundred SJTs and all but seven were settled as a result of the SJT. Of the seven, five verdicts were substantially the same as summary juries and only two had a different result.

[http://www.egertonlaw.com/library/The Summary Jury Trial Ending the Guessing Game.pdf](http://www.egertonlaw.com/library/The_Summary_Jury_Trial_Ending_the_Guessing_Game.pdf)

But what about North Carolina? It turns out that our state was one of the first states to establish a formal SJT program in June 1987, which ultimately resulted in Rule 23 of The General Rules of Practice for the Superior and District Courts. See: [www.egertonlaw.com/library/Rule 23 \[Summary Jury Trials\].pdf](http://www.egertonlaw.com/library/Rule_23_Summary_Jury_Trials.pdf) .

The SJT situation in North Carolina as of 1992 is thoroughly discussed in 41 *Duke Law Journal* 806 by Professor Thomas B. Metzloff. See: [http://www.egertonlaw.com/library/RECONFIGURING THE SUMMARY JURY TRIAL1.pdf](http://www.egertonlaw.com/library/RECONFIGURING_THE_SUMMARY_JURY_TRIAL1.pdf)

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All of the SJT seventeen cases discussed in the *Duke Law Journal* article were settled. For a summary of the cases, see: www.egertonlaw.com/library/Characteristic

[s Summary Jury.pdf](#)

Conclusion

It is my belief that use of the summary jury trial will be of great benefit to judges, both plaintiff and defense lawyers, clients, and insurance companies. I intend to work it into my law practice and view every case as a candidate for a SJT.

For further information on summary jury trials visit my webpage, see:

www.egertonlaw.com/library/sjtindex.pdf