

Eighth Judicial District

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Advantages Of The Summary Jury Trial Program

BY JUDGE JOSEPH GERACE

Since Oct. 30, 1998, the New York State Supreme Court, Chautauqua County, has been involved in an innovative program that has been extremely successful in reducing calendar congestion and quickly resolving cases that might otherwise have consumed days or weeks of court time.

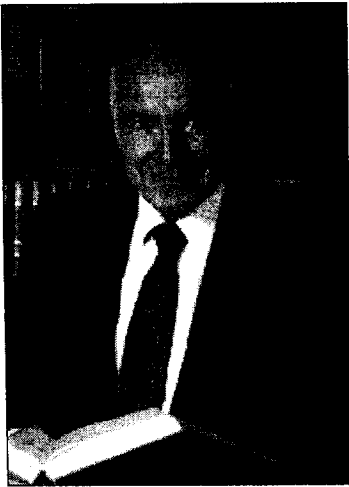
In the years 2002, 2003 and so far in 2004, one day summary jury trials resulted in resolution of 100 percent of the cases scheduled for those years, saving the court well over 180 days of trial, and saving litigants, jurors, and the court system time and money.

Although a large percentage of cases scheduled for full trial also settle, often on the eve of trial, the one-day format of the summary jury trial has accomplished better results. Because the process allows scheduling on short notice, it results in early resolution without congesting the court's trial calendar.

At the same time, this alternative to conventional alternative dispute resolution preserves the right of litigants to have their cases decided by a jury of their peers; a right that is given up when parties proceed through arbitration or mediation.

A summary jury trial achieves its great economy of time by limiting the presentation by each side to one hour and limiting the number of live witnesses. During the one hour, no more than two witnesses may be placed on the stand. These should be witnesses whose credibility is key to the case. Other testimony is presented through deposition transcripts or sworn affidavits. Key to the savings of time and, especially, expense, is the submission of medical evidence through the reports of providers, rather than through live testimony.

In presenting the case, each lawyer explains the evidence to the jury, emphasizing relevant testimony and exhibits. The one hour time limit forces the attorney to go directly to the core of the case. Time spent in cross-examination of witnesses generally is deducted from the cross-examining party's time, again encouraging attorneys to confine themselves to key points. Once each presentation is complete, additional



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time is allowed for brief closing arguments. The jury is then charged, much as it would be in a normal trial, and retires to deliberate.

Ideally, the parties will stipulate before the summary jury trial either to accept the jury's verdict as binding or to accept it within agreed high-low limits. In Chautauqua County, however, the majority of summary jury trials have been conducted on a non-binding basis.

If a case is not settled after preliminary or pre-trial conferences, the court strongly urges the parties to participate in a non-binding summary jury trial in cases in which an advisory jury verdict could help the parties reach a settlement. In many cases, the non-binding verdict acts as a "wake-up call" for one side or the other, or it convinces reticent clients that a settlement is in their best interest.

Binding and non-binding summary jury trials have been highly effective in resolving cases. Since the program began in Chautauqua County, a total of 174 cases were scheduled for summary jury trials.

As stated earlier, in the years 2002, 2003 and so far in 2004, one day summary jury trials resolved 100 percent of the cases scheduled in those years. Having the trial date scheduled, by itself, facilitates settlement, as the court and attorneys focus seriously on the cases long before they would otherwise have done if the cases awaited dates of

full trials.

The summary jury trial is a tool that has been used in Chautauqua County and, increasingly, in Erie and Niagara Counties, to help resolve a wide variety of cases. Although primarily, but not exclusively, used in lower valued actions in the Eighth Judicial District, experience of courts and attorneys in federal court and other states, has proven beyond a doubt that the summary jury trial can easily be adapted for use in larger cases where a verdict, even non-binding, can help the parties reach settlement.

The premise was also proven in serious personal injury actions in Chautauqua County involving claims of over \$1 million and as much as \$3 million.

Parties who object to arbitration or mediation as a means of resolving their cases are often more accepting of the summary jury trial. Many defense counsel and insurance carriers have expressed reservations about arbitration, because it relies upon attorneys serving as arbitrators to decide the case. Many plaintiffs, on the other hand, do not feel that they have had their "day in court" unless a jury decides the case. Both objections are met by the summary jury trial.

The success of this program has been substantial. The experience in Erie and Niagara Counties proves it is flexible enough to be adopted for use in any county and can significantly reduce over-burdened case loads across the state. Any judge or attorney interested in moving cases through the court system should feel free to contact the Supreme Court, Chautauqua County, at (716) 753-4266.

For more information about the summary jury trial program, including the program manual and bench manual containing guidelines and proposed charges to the jury, visit <http://nycourts.gov/8jd/internet/html/sjt.html>.

Former Chautauqua County Executive and state commissioner of agriculture, retired Judge Joseph Gerace served on New York State Supreme Court, Chautauqua County from 1991 through 2003 and is currently a judicial hearing