

## **PRELIMINARY INSTRUCTIONS**

Members of the Jury:

Now that you have been sworn, I will give you some preliminary instructions to guide you during this trial.

You are the judges of the facts. It will be your duty to find from the evidence what the facts are. You will then apply the law to the facts. I will instruct you on the applicable law later. You must follow that law whether you agree with it or not.

Nothing that I say or do is intended to indicate what your verdict should be.

The evidence from which you will find the facts will consist of the testimony of witnesses, documents, and other things received as exhibits, and any facts that the lawyers agree to, or that I instruct you to find.

Certain things are not evidence and must not be considered by you.

1. Statements, arguments, and questions by lawyers are not evidence.
2. Objections to questions are not evidence. Lawyers have an obligation to their clients to object when they believe evidence being offered is improper under the Rules of Evidence. You should not be influenced by the objection or by my ruling on it. If the objection is sustained, ignore the question. If I instruct you that some item of evidence is received for a limited purpose only, you must follow that instruction.
3. Testimony that I have excluded or tell you to disregard is not evidence and must not be considered.
4. Anything that you may have seen or heard outside the courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in court.

It will be up to you to decide which witnesses to believe, which witnesses not to believe, and how much of any witness's testimony to accept or reject. When determining the weight to be given to the testimony of a witness, you may consider his/her interest, if any, in the outcome of the case; his/her relationship to the parties; his/her manner while testifying; any bias or prejudice the witness may have; and whether the testimony of the witness was impeached by prior statements he/she made or by other evidence.

This is a civil case. The Plaintiff has the burden of proving his/her case by a preponderance of the evidence. This means that the Plaintiff has to produce evidence which, considered in light of all the facts, leads you to believe that the Plaintiff's claims are more likely true than not true.

During trial it may be necessary for me to talk with the lawyers out of the hearing of the Jury, either by having a bench conference here while the Jury is present in the courtroom, or by calling a recess. The purpose of these conferences is to decide how certain evidence is to be treated under the Rules of Evidence and to avoid confusion and error.

During this trial and until you have rendered a verdict, do not discuss this case with anyone or permit anyone to discuss it with you or in your presence. This rule about not discussing the case includes discussions even with your family or friends. This rule also includes electronic communication. You may not communicate with anyone about the case on your cell phone, through e-mail, text messaging, or through any blog or website or chat room, or by way of any other social networking websites, including Facebook, Instagram, LinkedIn, and X (formerly known as Twitter). If any person attempts to talk to you or communicate with you about this case, either in or out of the courthouse, you should immediately report that attempt to me. The attorneys and parties are not supposed to talk to jurors, even to say "hello." So, if you happen to see them outside the courtroom, they will not speak to you. Please do not be offended by this.

They will only be acting in accordance with my instructions.

Until you retire at the end of the case to begin your deliberations, do not talk about this case with each other.

You may not consider anything you may have read or heard about this case outside the courtroom. During trial, you must avoid news accounts about this case, whether it is on television, the radio, or the internet, or is in the newspaper. If you happen to see or hear any news about this trial, please let a member of my staff know.

Please do not attempt any tests, research, or experiments, and do not visit any location involved in this case. It would be difficult or impossible to duplicate conditions shown by the evidence; therefore, your results would not be reliable. Such conduct would also run contrary to the rule that your verdict must be based solely on the evidence presented to you in court. You also must not conduct any independent research about this case, the matters in the case, and the individuals or corporations involved in the case. In other words, you should not consult dictionaries or reference materials, search the internet, websites, blogs, or use any other electronic tools to obtain information about this case or to help you decide the case. Nevertheless, in your deliberations, you need not ignore your backgrounds, including professional, vocational, and educational experience.

Please keep an open mind until the entire case has been completed and submitted to you. Your special responsibility as jurors requires that throughout this trial you exercise your judgment impartially and without regard to any sympathy, bias, or prejudice.

If you wish, you may take notes. Pencils and tablets have been provided for you. If you take notes, please leave them in the jury room when you leave at night. The notes are for your own personal use—they are not to be read or given to anyone else before or during deliberations. Even though the court reporter is making a record of these proceedings, a copy of the transcript

will not be available for your use during deliberations. The exhibits will be available to you during your deliberations.

Ordinarily the lawyers will develop all relevant evidence that is necessary for you to reach your verdict. In rare situations, a juror may believe a question is critical to reaching a decision on a necessary element of the case. In that situation, you may write out a question and provide it to the courtroom deputy before the witness leaves the witness stand. I will review the question with the lawyers and will determine whether it is a proper and necessary question. If it is, I will ask it. Please understand that the Rules of Evidence may prevent the question from being asked.

The trial will now begin. First, each side may make an opening statement. An opening statement is neither evidence nor argument; it is an outline of what that party intends to prove, offered to help you follow the evidence.

Next, the Plaintiff will present his/her witnesses and exhibits. Then, the Defendant will present his/her witnesses and exhibits. Each side may cross-examine witnesses presented by the other side.

After that I will give you instructions on the law, and the lawyers will make their closing arguments to summarize and interpret the evidence for you.

It is now time for opening statements.