

PRELIMINARY INSTRUCTIONS BEFORE TRIAL

Members of the Jury:

At the end of the trial, I will give you guidance on the law and on how you will go about reaching your decision. But now I'm going to generally explain how the trial will proceed.

The first step in the trial will be the opening statements. The government in its opening statement will tell you about the evidence which it intends to put before you. Opening statements are not evidence. Opening Statements are made to help you understand what parties will bring forth as evidence.

After the government's opening statement, [Defendant Name]'s attorney may make an opening statement, or they may make a statement later in the case, or not at all. After opening statements, evidence will be presented. You will use the evidence to decide the facts. The evidence may include testimony from witnesses, documents, and other things.

The government will offer its evidence. After the government's evidence, [Defendant Name]'s lawyer may present evidence, but they are not required to do so. [Defendant Name] is not required to present evidence because the defendant is presumed innocent, and it is the government that must prove the defendant's guilt beyond a reasonable doubt. If the defendant submits evidence, the government may then introduce additional evidence.

During trial, lawyers will make objections to testimony and evidence. This means that the lawyer is requesting that I decide on a rule of law. As a juror, you must not consider these objections. If I sustain an objection to a lawyer's question, the witness may

not answer it. Do not attempt to guess what the answer might have been. If I overrule the objection, treat the answer as any other. If I tell you not to consider a witness' statement, you may not refer to that statement in your later deliberations. Also, if I tell you to consider some evidence only for a specific purpose, you may consider the evidence only for that purpose.

During trial, I may ask a question of a witness. If I do, that does not indicate I have any opinion about the case. I may also have to interrupt the proceedings to speak with the attorneys. Sometimes we will talk here at the bench. And sometimes, I will excuse you from the courtroom. I will try to avoid interruptions, but please be patient even if the trial seems to be moving slowly.

You are to consider all the evidence in this trial. It will be up to you to decide what evidence to believe or not believe. It will be up to you to accept or reject any evidence. After you have heard all the evidence, the government and the defense will each give closing arguments. After closing arguments, I will instruct you on the rules of law to use in reaching your verdict. You will then deliberate with your fellow jurors.

If you would like to take notes during the trial, you may. On the other hand, you are not required to take notes. If you decide to take notes, your notes should be used only as memory aids. You should rely firstly on your independent recollection of the evidence. If you do take notes, leave them in the jury room at night and do not discuss the contents of your notes until you begin deliberations.

Normally, the attorneys will develop all the relevant evidence that will be necessary for you to reach your verdict. However sometimes a juror may believe a question is critical to reaching a decision. In that circumstance you may write out a question and provide it

to the courtroom deputy while the witness is on the stand. I will then consider that question with the lawyers. If it is determined to be a proper question, I will ask it. If I do not ask it, do not worry about why it was not asked or what the answer would have been.

During the course of the trial, you should not talk with any witness, or with the parties, or with any of the lawyers at all. In addition, during the course of the trial you should not talk about the trial with anyone else. Do not discuss the case with anyone or give any information about the trial to anyone outside the courtroom until the verdict is received. Do not use the internet or any other form of electronic communication to provide any information. You should not attempt to gather any information or do any research on your own. Do not attempt to visit any places mentioned in the case, either actually or on the internet, and do not in any other way try to learn about the case outside the courtroom.

Also, you should not discuss this case among yourselves until I have instructed you on the law and you have gone to the jury room to deliberate at the end of the trial. It is important that you wait until all the evidence is received and you have heard my instructions on the law before you discuss the case among yourselves.

The court reporter is making a record of everything that is said. However, a typewritten copy of the testimony will not be available for your use during deliberations. Any exhibits will be available to you during your deliberations.

Now that the trial has begun you must not hear or read about it in the media. The reason for this is that your decision in this case must be made solely on the evidence presented at the trial.

With that introduction, [Government Attorney], you may present the opening statement for the government.

MIS Criminal Stock

SOURCES:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.01 (2021)
Preliminary Instructions Before Trial (modified)

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.02(B) (2021)
Note-Taking by Jurors

Instruction No. _____

Members of the Jury:

In any jury trial, jurors are the judges of the facts. Now that we are at the end of trial, it is my job to explain to you the rules of law that you must follow to decide the facts and your verdict.

First, I will give you some general instructions which apply in every criminal case. Then I will give you some specific rules of law that apply to the charges in this case and, finally, I will explain the procedures for your deliberations. The instructions I'm reading will be given to you, so you need not take notes.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.03 (2021)
Introduction to Final Instructions (modified)

Instruction No. _____

You are the judges of the facts. But in reaching your decision on the facts, it is your sworn duty to follow all of the rules of law I am giving.

You may not disregard or give special attention to any one instruction. You must not substitute or follow your own opinion as to what the law is or ought to be. It is your duty to apply the law as I explained, regardless of the consequences. Nothing in these instructions, or anything I may have said or done, is meant to suggest what your verdict should be.

It is your duty to base your verdict solely upon the evidence, without prejudice or sympathy.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.04 (2021)
Duty to Follow Instructions (modified)

Instruction No. _____

The government has the burden of proving [Defendant Name] guilty beyond a reasonable doubt. If it fails to do so, you must find [Defendant Name] not guilty. The law does not require a defendant to prove his innocence or produce any evidence at all.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning the defendant's guilt. A reasonable doubt is a doubt based on reason and common sense. If, based on your consideration of the evidence, you are firmly convinced that [Defendant Name] is guilty, you must find him guilty. If you think there is a real possibility that he is not guilty, you must find him not guilty.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.05 (2021)
Presumption of Innocence—Burden of Proof—Reasonable Doubt (modified)

Instruction No. _____

You must make your decision based only on the evidence that you saw and heard here in court. Do not let anything you may have seen or heard outside of court influence your decision.

The lawyers' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence.

During the trial, I did not let you hear the answers to some of the questions that the lawyers asked, and I may have not allowed exhibits. Do not speculate about what a witness might have said or what an exhibit might have shown. These things are not evidence, so do not let them influence your decision.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.06 (2021)
Evidence—Defined (modified)

Instruction No. _____

You are the sole judges of the believability of each witness. An important part of your job will be making judgments about the testimony of the witnesses [including [Defendant Name]] who testified in this case. You should think about the testimony of each witness you have heard and decide whether you believe all or any part of what each witness had to say.

[[Defendant Name] did not testify. You that you cannot consider his decision not to testify as evidence of guilt. The Constitution of the United States grants to every accused defendant the right to remain silent. That means the right not to testify.]

In reaching a conclusion, do not make any decisions simply because there were more witnesses on one side than on the other.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.08 (2021)
Credibility of Witnesses (modified)

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.08.1 (2021)
Non-Testifying Defendant (modified)

Instruction No. _____

You have heard the testimony of [NAME OF WITNESS(ES)]. You have also heard that, before this trial, they made a statement that may be different from their testimony here in court.

This earlier statement was brought to your attention only to help you decide how believable their testimony in this trial was. You cannot use it as proof of anything else.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.10 (2021)
Impeachment By Prior Inconsistencies (modified)

Instruction No. _____

The Government has charged that the crime was committed on or about [DATE].
The government must prove beyond a reasonable doubt that [Defendant Name]
committed the crime reasonably near [DATE].

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.18 (2021)
On or About

Instruction No. _____

You are here to decide whether the government has proved beyond a reasonable doubt that [Defendant Name] is guilty of the crime charged. [Defendant Name] is not on trial for any act not charged in the indictment.

It is not up to you to decide whether anyone else should be prosecuted for the crime charged. The fact that another person *also* may be guilty is no defense to a criminal charge.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.19 (2021)
Caution—Consider Only Crime Charged (modified)

Instruction No. _____

If you find [Defendant Name] guilty, it will be my duty to decide what the punishment will be. You should not discuss or consider the possible punishment in any way while deciding your verdict.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.20 (2021)
Caution—Punishment

Instruction No. _____

[CLOSING ARGUMENTS BEFORE THESE.]

In a moment the bailiff will escort you to the jury room and provide each of you with a copy of the instructions that I have just read. Any exhibits admitted into evidence will also be placed in the jury room for your review.

When you go to the jury room, you should first select a foreperson, who will help to guide your deliberations and will speak for you here in the courtroom.

To reach a verdict, whether it is guilty or not guilty, all of you must agree. Your verdict must be unanimous on each count charged. Your deliberations will be secret. You will never have to explain your verdict to anyone.

You must consult with one another and deliberate in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are judges—judges of the facts. You must decide whether the government has proved [Defendant Name] guilty beyond a reasonable doubt.

A verdict form has been prepared for your convenience. The foreperson will write the unanimous answer of the jury in the space provided for each count of the indictment, either not guilty or guilty. At the conclusion of your deliberations, the foreperson should date and sign the verdict.

If you need to communicate with me during your deliberations, the foreperson should write the message and give it to the bailiff. I will either reply in writing or bring you back into the court to respond to your message. Under no circumstances should you reveal to me the numerical division of the jury.

MIS Criminal Stock

SOURCE:

10th Cir. PATTERN JURY INSTRUCTIONS (Criminal) 1.23 (2021)
Duty to Deliberate—Verdict Form (modified)