

PRELIMINARY INSTRUCTION NO.1 JURY CONDUCT

[To be read to the Jury immediately after swearing in the Panel]

To ensure fairness, you must obey the following rules:

1. Do not talk to each other about this case, or about anyone involved with this case, until the end of the trial when you go to the jury room to decide your verdict. This rule applies even when the Court is not in session and when there is a recess of the trial.
2. Do not talk with anyone else about this case, or about anyone involved with this case, until the trial has ended and you have been discharged as jurors. "Anyone else" includes members of your family and your friends. You can tell anyone who needs to know, such as family members, employers, employees, teachers, etc., that you are a juror in a case and the judge has ordered you not to discuss the case until you have been discharged from the case.
3. Outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with the case until the trial has ended. If someone should try to talk to you about the case during the trial, please report it to me immediately.
4. During the trial you should not talk with or speak to any of the parties, lawyers or witnesses involved in this case – you should not even pass the time of the day with any of them. It is important not only that you do justice in this case, but that you also give the appearance of doing justice. If any lawyer, party, or witness does not speak to you when you pass in the hall, ride the elevator, or the like, remember it is because they are not supposed to talk or visit with you either.

During the course of the trial you will receive all the evidence you legally may consider to decide the case. Researching or gathering any information on your own that you think might be helpful is against the law and would be a violation of your oath. Do not engage in any Internet or other outside reading or research in this case. Do not consult dictionaries, maps, or make any investigation about the case, the lawyers, the parties, or the witnesses. ~~I wish I did not have to dwell on this topic, but recent events in another trial in this District, and recent technologies, require me to point out that some common practices and habits many of you enjoy are strictly forbidden in your role as jurors.~~ You may not, under any circumstances, have your cell phones, ~~Blackberries, I-phones,~~ or other electronic devices the like on when court is in session. Whether you are in court or away from court during recess you may not "Google, Twitter, Tweet, text message, blog, post" or take any other action that has anything to do with this case. To do so could cause a mistrial, meaning all of our efforts over the course of the trial would have been wasted and we would have to start all over again with a new trial before a new jury. If you were to cause a mistrial by violating this order, you could be subject to paying all the costs of these

proceedings and you could also be punished for contempt of court. ~~is not a trivial matter—earlier this year, after the evidence in a criminal case was completed, one juror, despite this order, “Googled” maps that she thought were relevant to the case. A mistrial was declared in that case and the juror faced contempt of court charges that could result in her being jailed and/or ordered to reimburse both the prosecution and the defense for costs and fees incurred in the trial. Her actions compromised a years-long investigation and prosecution, violated the defendant’s right to know and confront all the evidence against him, and wasted all of the time expended by the Court, counsel, and her fellow jurors to hear the case.~~

Fairness to all concerned requires that all of us connected with this case deal with the information and with nothing other than the same information produced in this courtroom.

5. Do not decide during the trial what the verdict should be. Keep an open mind throughout the trial, reaching your conclusion only after you have gone to the jury room to decide the case and you and your fellow jurors have discussed all the evidence.

6. If you need to tell me something, simply give a signed note to the Court Room Deputy and she will give it to me.

PRELIMINARY INSTRUCTION NO. 2 TRIAL PROCEEDINGS

We are about to begin the trial of the case you heard about during the jury selection. Before the trial begins, I am going to give you instructions that will help you to understand what will be presented to you and how you should conduct yourself during the trial.

During the trial, you will hear me use a few terms that you may not have heard before. Let me briefly explain some of the most common to you. The party who sues is referred to as “Plaintiff.” In this action, Plaintiff(s) is/are _____. The party being sued is called “Defendant.” In this action, Defendant(s) is/are _____, referenced at times in this case as _____.

[Insert Short Statement of Claims and Defenses here]

You will sometimes hear me refer to “counsel.” “Counsel” is another way of saying “lawyer” or “attorney.” I will sometimes refer to myself as the “Court.”

Judge’s Objections, Rulings, Questions, and Comments

During the trial, it may be necessary for me to talk with the lawyers out of your hearing about questions of law or procedure. Sometimes you may be excused from the courtroom during these discussions. I will try to limit these interruptions as much as

possible, but you should remember the importance of the matter you are here to determine and should be patient, even though the case may seem to go slowly.

From time to time during the trial, I may make rulings on objections or motions made by the lawyers. It is the duty of the lawyer on each side of a case to object when the other side offers testimony or an exhibit that the lawyer believes is not properly admissible under the rules of law. Only by making an objection can a lawyer request and obtain a ruling from me on the admissibility of the evidence being offered by the other side. You should not be influenced against any lawyer or the lawyer's client because the lawyer has made objections.

When I “overrule” an objection, that means I am permitting that evidence to be admitted. When I “sustain” an objection, that means I am excluding that evidence from this trial for a good reason. If I sustain an objection to a question, then the witness cannot answer the question and you should not draw any inferences or conclusions from the question. If the witness has already answered a question to which I sustain an objection and I order that testimony stricken, you must entirely ignore that testimony.

Some evidence is admitted for a limited purpose only. When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other purpose.

When I say “admitted into evidence” or “received into evidence,” I mean this particular statement or the particular exhibit may be considered by you in making the decisions you must make at the end of this case.

Do not attempt to interpret my rulings on objections as somehow indicating how I think you should decide this case. I am simply making a ruling on a legal question. You should not infer or conclude from any ruling or other comment I may make that I have opinions on the merits of the case favoring one side or the other. I do not favor one side or the other.

As I have already told you, and I will continue to remind you every time we take a break, while the trial is in progress, you must not discuss the case in any manner among yourselves or with anyone else. In addition, you should not permit anyone to discuss the case in your presence. You should avoid reading any news articles that might be published about the case and avoid watching or listening to any television or radio comments about the trial.

The trial lawyers and the parties are not allowed to speak with you during this case. When you see them at a recess or pass them in the hall and they do not speak to you, they are not being rude or unfriendly; they are simply following the law.

Remember at all times that you, as jurors, are the sole judges of the facts in this case. It is your recollection and evaluation of the evidence that is important to

the verdict in this case.

By your verdict, you will decide disputed issues of fact. I will decide all questions of law that arise during the trial. Before you begin your deliberation at the close of the case, I will instruct you in more detail on the law that you must follow and apply.

Because you will be asked to decide the facts of this case, you should give careful attention to the testimony and evidence presented. Keep in mind that I will instruct you about determining the credibility or “believability” of the witnesses. During the trial, you should keep an open mind and should not form or express any opinion about the case until you have heard all the testimony and evidence, the lawyers’ closing arguments, and my instructions to you on the law.

All Persons Equal Before the Law – Organizations – Implicit Bias

You should consider and decide this case as a dispute between persons of equal standing in the community, of equal worth, and holding the same or similar stations in life. Corporations and governmental agencies are entitled to the same fair trial as a private individual. All persons, including corporations, governmental agencies, and other organizations stand equal before the law, and are to be treated as equals. You should not be influenced by who the parties are, or who the witnesses are, i.e., whether they are rich or poor, young or old, well-educated or not.

You also should be aware of the natural human tendency to look at others, and to filter what they have to say, through the lens of our own personal experience and background. Because we all do this, we often see life – and evaluate evidence – in a way that tends to favor people who are like ourselves or who have had life experiences like our own. In deciding this case, I urge you to be aware of this natural human tendency to stereotype other people and to make assumptions about them based on the stereotypes, and I urge you to avoid such stereotyping.

Evidence In the Case

The evidence in this case will consist of the following:

1. The sworn testimony of the witnesses on both direct and cross-examination, no matter who calls the witnesses.
2. All exhibits received in evidence, regardless of who may have produced the exhibits.
3. All facts that may have been judicially noticed and that you must take as true for purposes of this case.

Depositions may also be received in evidence. Depositions contain sworn

testimony with the lawyers for each party being entitled to ask questions. In some cases, a deposition may be played for you on videotape. Deposition testimony should be judged by you subject to the same instructions that apply to witnesses testifying in open court.

Credibility of Witnesses

In deciding the facts, you may have to decide which testimony to believe, and which testimony not to believe. You may believe everything a witness says, part of it, or none of it. In considering the testimony of any witness, you may take into account many factors, including the witness's opportunity and ability to see, hear, or know the things the witness testified about; the quality of the witness's memory; the witness's appearance and manner while testifying; the witness's interest in the outcome of the case; any bias or prejudice the witness may have; other evidence that may have contradicted the witness's testimony; and the reasonableness of the witness's testimony in light of all the evidence.

Statements and arguments of the lawyers are not evidence in the case unless made as an admission or stipulation of fact. A "stipulation" is an agreement between both sides that certain facts are true, or that a person would have given certain testimony. When the lawyers on both sides stipulate or agree to the existence of a fact, you must, unless otherwise instructed, accept the stipulation as evidence, and regard that fact as proved.

You are to consider only the evidence in the case. But in your consideration of the evidence, you are not limited to the statements of the witnesses. In other words, you are not limited solely to what you see and hear as the witnesses testified. You may draw from the facts that you find have been proved, such reasonable inferences or conclusions as you feel are justified in light of your experience and common sense.

At the end of the trial, you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and it is difficult and time-consuming for the reporter to read back lengthy testimony. I urge you to pay close attention to the testimony as it is given.

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence. Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes. If you take notes, do not discuss them with anyone

before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes,

either during or after the trial.

Order of Trial

The case will proceed as follows:

First, the lawyers for each side may make opening statements. What is said in the opening statements is not evidence, but is simply an outline to help you understand what each party expects the evidence to show.

After the opening statement, Plaintiff will present evidence in support of Plaintiff's claims, and Defendant's lawyer may cross-examine witnesses. At the conclusion of Plaintiff's case, Defendant(s) may introduce evidence, and Plaintiff's lawyer may cross-examine witnesses. If Defendant(s) introduces evidence, Plaintiff may then present rebuttal evidence.

After the evidence is presented, the parties' lawyers make closing arguments explaining what they believe the evidence has shown. What is said in the closing arguments is not evidence.

After all the evidence has been heard, and arguments and instructions are finished, you will need to make your decision. You will determine the facts from all the testimony and other evidence that is presented.

Although you must follow my instructions about the law applicable to this case, you as jurors are the sole and exclusive judges of the facts. Neither in these instructions, nor in any ruling, action or remark that I may make during the course of this trial, has it been or will it be my intention to give any opinion or suggestion as to what your verdict should be.

PRELIMINARY INSTRUCTION NO. 3 STIPULATED FACTS

The parties have stipulated to certain facts and agree that these facts can be taken as true without further proof. The stipulated facts are as follows:

- 1.
- 2.
- 3.
- 4.

Because the parties have stipulated to these facts and do not dispute them, you are to take these facts as true for purposes of this case.