

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. \_\_\_\_-cv-\_\_\_\_-CMA-\_\_\_\_

\_\_\_\_\_,'

Plaintiff,

v.

\_\_\_\_\_,'

Defendant.

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**JURY INSTRUCTIONS**

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**INSTRUCTION NO. 1**  
**INTRODUCTION TO FINAL INSTRUCTIONS**

Members of the Jury:

In any jury trial there are, in effect, two judges. I am one of the judges, you are the other. I am the judge of the law. You, as jurors, are the judges of the facts. I presided over the trial and decided what evidence was proper for your consideration. It is also my duty at the end of the trial to explain to you the rules of law that you must follow and apply in arriving at your verdict.

In explaining the rules of law that you must follow, first, I will give you some general instructions which apply in every civil case – for example, instructions about burden of proof and insights that may help you to judge the believability of witnesses. Then I will give you some specific rules of law that apply to this particular case and, finally, I will explain the procedures you should follow in your deliberations, and the possible verdicts you may return. You will be allowed to take these instructions with you to the jury deliberation room, so you need not take notes as I read them to you.

**INSTRUCTION NO. 2  
PURPOSE OF JURY AND DUTY TO FOLLOW  
INSTRUCTIONS**

You are here to decide whether the Plaintiff has proved [his/her/its] claim(s) against the Defendant by a preponderance of the evidence. These instructions contain the law that you must use in deciding this case.

You, as jurors, are the judges of the facts. But in determining what actually happened – that is, in reaching your decision as to the facts – it is your sworn duty to follow all of the rules of law as I explain them to you.

You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences.

However, you should not read into these instructions, or anything else I may have said or done, any suggestion as to what your verdict should be. That is entirely up to you.

It is also your duty to base your verdict solely upon the evidence, without prejudice or sympathy. That was the promise you made and the oath you took.

The Court does not, by these instructions, express any opinions as to what has or has not been proved in the case, or to what are or are not the facts of the case, except for the stipulations agreed to by the parties and facts of which I have taken judicial notice.

**INSTRUCTION NO. 3  
STATEMENT OF THE CASE**

The following is a brief summary of the claims in this case:

## INSTRUCTION NO. 4 BURDEN OF PROOF

This is a civil case. Therefore, Plaintiff has the burden of proving [his/her/its] claim(s) by what is called a preponderance of the evidence. This means that no matter who produces the evidence, when you consider Plaintiff's claim(s) in light of all the facts, you must believe those claim(s) are more likely true than not true. To put it differently, if you were to put all the evidence in favor of Plaintiff and all the evidence in favor of Defendant on opposite sides of the scale, Plaintiff would have to make the scale tip to [his/her/its] side. If [he/she/it] fails to meet this burden, your verdict must be for Defendant.

[As a defense to Plaintiff's claim(s), Defendant has asserted (an) affirmative defense(s), which will be described to you more fully later. An affirmative defense is more than a denial of the claim(s). In terms of applying the burden of proof, you should treat Defendant's affirmative defense(s) in the same way you treat Plaintiff's claim(s). That is, Defendant, as the asserting party, has the burden of proving that an affirmative defense is more likely true than not true.]

In evaluating whether [Plaintiff has met his/her/its burden on his/her/its claim(s)] [Plaintiff and Defendant have met their respective burdens on their claim(s) and defense(s)], you should also know that the law does not require parties to call as witnesses all persons who may have been present at any time or place involved in the case, or who may appear to have some knowledge of the matter in issue at this trial. Nor does the law require parties to produce as exhibits all papers or other things mentioned in the evidence in the case.

## **INSTRUCTION NO. 5 EVIDENCE – GENERAL**

You must make your decision based only on the evidence that the parties have presented to you during the trial. That evidence consists of

1. the sworn testimony of witnesses on both direct and cross-examination, regardless of who called the witness;
2. documents and other things received into evidence as exhibits; and
3. any facts on which the lawyers agree or which I instruct you to accept as true.

Nothing else is evidence. The following things are not evidence and you must not consider them as evidence in deciding the facts of this case:

1. Statements and arguments by lawyers are not evidence. The lawyers are not witnesses. What they said in their opening statements, closing arguments, and at other times was intended to help you interpret the evidence, but it was not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of the facts controls.
2. Questions and objections by the lawyers are not evidence. Lawyers have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by my ruling on it.
3. Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered.
4. Anything you may see or hear when court was not in session is not evidence, even if what you saw or heard was done or said by one of the parties or by one of the witnesses. In addition, as I have previously told you, you are not allowed to look at, read, consult, or use any material of any kind, including any dictionaries or medical, scientific, technical, religious, or law books, the Internet, or any material of any type or description in connection with your jury service.

Although you must consider only the evidence in this case, you are permitted to draw reasonable inferences from the testimony and exhibits; inferences you feel are justified in the light of common experience. Inferences are conclusions that reason and common sense lead you to draw from the facts established by the evidence in the case.

**INSTRUCTION NO. 6**  
**EVIDENCE – DIRECT AND CIRCUMSTANTIAL**

There are, generally speaking, two types of evidence from which a jury may properly determine the facts of a case. One is direct evidence and the other is circumstantial evidence. Direct evidence is testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is indirect evidence; that is, it is proof of a chain of facts which point to the existence or non-existence of certain other facts.

As a general rule, the law makes no distinction between direct and circumstantial evidence. The law simply requires that, in determining the facts, you consider all the evidence in the case, both direct and circumstantial. It is for you to decide how much weight to give to any evidence, direct or circumstantial.

## **INSTRUCTION NO. 7 CREDIBILITY OF WITNESSES**

You are the sole judges of the credibility or “believability” of each witness and the weight to be given to the witness’ testimony. An important part of your job will be making judgments about which witnesses to believe and which witnesses not to believe. You may believe everything a witness says, only part of it, or none of it.

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, and how important that testimony was. In making that decision, I suggest that you ask yourself a few questions:

In considering the testimony of any witness, you may consider:

1. The witness’ opportunity and ability to see, hear, or know the things to which the witness testified;
2. The quality of the witness’ memory;
3. The witness’ manner while taking the oath and testifying;
4. Whether the witness had an interest in the outcome of the case or any motive, bias, or prejudice;
5. Whether the witness’ testimony was contradicted by anything the witness said or did another time, by the testimony of other witnesses, or by other evidence;
6. How reasonable the witness’ testimony was in light of all the evidence; and
7. Any other facts that bear on believability.

If you believe a witness has willfully lied regarding any fact, you have the right to disregard all or any part of that witness’ testimony.

**INSTRUCTION NO. 8**  
**SINGLE WITNESS**

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify to that fact. The testimony of a single witness that produces in your mind's belief the likelihood of truth is sufficient for the proof of any fact, and would justify a verdict in accordance with such testimony, even though a number of witnesses may have testified to the contrary, if, after consideration of all the evidence in the case, you hold greater belief in the accuracy and reliability of the one witness.

**INSTRUCTION NO. \_\_\_\_**  
**JURY DELIBERATIONS – GENERAL INSTRUCTIONS**

Each of you has a copy of the instructions to consult as you find it necessary.

It is your duty to find the facts from all the evidence in the case. To those facts, you must apply and follow the laws contained in these instructions whether you agree with them or not. Your decision is called a verdict and is reached by applying those laws to the facts as you find them. You must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathies. You have taken an oath promising to do just so.

You must follow all of these instructions and not single out some and ignore others; they are all equally important. You must not read into these instructions or into anything I may say or do any suggestions as to what verdict you should return. Your verdict is a matter entirely for you to decide.

**INSTRUCTION NO. \_\_\_**  
**FOREPERSON AND SPECIAL VERDICT FORM**

After the closing arguments, the Court Security Officer will escort you to the jury room and will give you the original jury instructions and the original verdict form. Any exhibits admitted into evidence will also be placed in the jury room for your review. You will be allowed to take your notes and your copy of the jury instructions that I have just read with you. The original of the jury instructions and the exhibits are a part of the court record. Do not place any marks or notes on them. Your copy of the instructions may be marked or used in any way you see fit. In order to keep your copies of the instructions and verdict form separate from the originals, I ask you to place your initials in the upper right hand corner of the front page of both the instructions and verdict form that you have before you.

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. The second thing you should do is review the instructions. Not only will your deliberations be more productive if you understand the legal principles upon which your verdict must be based, but for your verdict to be valid, you must follow the instructions throughout your deliberations. Remember, you are the judges of the facts, but you are bound by your oath to follow the law stated in the instructions.

A Special Verdict Form has been prepared to help guide you through your deliberations. This form contains questions and directions for answering them. In answering these questions, you must apply the law in the instructions that the Court gave you to the facts that were proved by the evidence. You will note that the Special Verdict Form includes a number of interrogatories or questions which call for a "yes" or "no" answer. The answer to each question must be the unanimous answer of the jury. Your foreperson will write the unanimous answer of the jury in the space provided for each response. As you will note from the wording of the questions, it may not be necessary to consider or answer every question. This is the only copy of the Special Verdict Form that you will receive, so please do not write on it or indicate your answer to any questions on it until you have all agreed on the answer.

This is an important case. If you should fail to agree upon a verdict, the case is left open and must be tried again. Obviously, another trial would require the parties to make another large investment of time and effort, and there is no reason to believe that the case can be tried again by either side better or more exhaustively than it has been tried before you.

It is your duty, as jurors, to consult with one another and deliberate with a view toward reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations do not hesitate to reexamine your own views and change your opinion if you are convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

After you reach a verdict, your foreperson should ensure that the original Special Verdict Form is complete and then he/she must sign and date it. The foreperson should then advise the court security officer that you have reached a verdict, but do not tell the court security officer what your verdict is. The Court Security Officer will then inform me that you have reached a verdict. The foreperson should remain in possession of the Special Verdict Form until you return to the courtroom and I request that it be given to me.

**INSTRUCTION NO. \_\_\_\_**  
**COMMUNICATIONS WITH THE COURT**

If it becomes necessary during your deliberations to communicate with me, you may send a folded note through the Court Security Officer, signed by one of you. Do not disclose the content of your note to the court security officer. No member of the jury should hereafter attempt to communicate with me except by signed writing and I will communicate with any member of the jury on anything concerning the case only in writing, or orally here in open court. You are not to tell anyone – including me – how the jury stands, numerically or otherwise, until you have reached a unanimous verdict and I have discharged you.

If you send a note to me containing a question or request for further direction, please bear in mind that responses take considerable time and effort. Before giving an answer or direction I must first notify the attorneys and bring them back to the court. I must confer with them, listen to arguments, research the legal authorities, if necessary, and reduce the answer or direction to writing.

There may be questions that, under the law, I am not permitted to answer. If it is improper for me to answer the question, I will tell you that. Please do not speculate about what the answer to your question might be or why I am not able to answer a particular question.