

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
District Judge S. Kato Crews

Civil Action No.: ____-cv-____-SKC-____

Plaintiff,

v.

Defendant.

FINAL JURY INSTRUCTIONS

NOTE: The following are standard instructions for use as applicable to a given case. Not all of these instructions may apply to your case.

Last updated: 2-5-2025

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 judge the believability of witnesses. Then I will give you specific rules of law that apply to this 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 don't need to take notes as I read them to you.

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

These instructions contain the law that you must use in deciding the case. No single instruction states all the applicable law. All the instructions must be read and considered together.

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 must not be concerned with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law should be, it would be a violation of your sworn duty to base a verdict upon any other view of the law than that given in the instructions of the Court.

By these instructions, the Court does not express any opinions as to what has or has not been proven 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 nothing in these instructions or in any verdict form prepared for your use is meant to suggest or convey in any way any suggestion as to what verdict the Court thinks you should find. What verdict you reach shall be your sole prerogative and duty.

INSTRUCTION NO. __
BURDEN OF PROOF AND
PREPONDERANCE OF THE EVIDENCE – DEFINED

The Plaintiff has the burden of proving his claim by a preponderance of the evidence.

The Defendant has the burden of proving his affirmative defense by a preponderance of the evidence.

To prove something by a “preponderance of the evidence” means to prove that it is more probably true than not.

“Burden of proof” means the obligation a party has to prove their claim or defense by a preponderance of the evidence. The party with the burden of proof can use evidence produced by any party to persuade you.

If a party fails to meet their burden of proof as to any claim or defense or if the evidence weighs so evenly that you are unable to say there is a preponderance on either side, you must reject that claim or defense.

This means that no matter who produces the evidence, when you consider Plaintiff’s claim in light of all the facts, you must believe that claim is more probably true than not true in order to find in his favor. 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 a scale, Plaintiff would have to make the scale tip to Plaintiff’s side. If Plaintiff fails to meet this burden, your verdict must be for Defendant.

In evaluating whether the parties have met their respective burdens on their claim and affirmative defense, you should also know the law does not require the 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 matters at issue. Nor does the law require parties to produce as exhibits all papers or other things mentioned in the evidence in the case.

INSTRUCTION NO. __
EVIDENCE – GENERAL

You must make your decision based only on the evidence the parties 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, during jury selection, in 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 any objections or by my rulings on them.
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 have seen or heard 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. None of these materials are evidence.

5. Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If you have not taken notes, you should rely on your independent recollection of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the recollections or impressions of each juror about the testimony.

INSTRUCTION NO. __
EVIDENCE – DIRECT AND CIRCUMSTANTIAL

You may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true.

As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You should decide how much weight to give to any evidence. In reaching your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

INSTRUCTION NO. __
EVIDENCE – INFERENCES

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life. In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

INSTRUCTION NO. __
HIGHLIGHTED OR REDACTED EXHIBITS

The lawyers may have highlighted certain parts of some exhibits. However, it is for you to determine the significance of the highlighted parts.

Also, the lawyers may have redacted (blacked out) portions of some exhibits. Those redactions are appropriate and are allowed by applicable law or rules. You should make no inferences based on any redactions you see in the exhibits.

INSTRUCTION NO. __
EVIDENCE - DEMONSTRATIVE EXHIBITS

Certain timelines, diagrams, photographs and calculations may have been shown to you. Those are used for convenience and to help explain the facts of the case. They are not themselves evidence or proof of any facts.

INSTRUCTION NO. __
EVIDENCE - CHARTS AND SUMMARIES IN EVIDENCE

Certain charts and summaries may have been received into evidence to illustrate information brought out in the trial. The Court has admitted these charts and summaries, if any, in place of the underlying documents they represent to save time and avoid unnecessary inconvenience.

INSTRUCTION NO. __
EVIDENCE - USE OF DEPOSITIONS AS EVIDENCE

During the trial, certain testimony was presented by a deposition. The deposition consisted of sworn, recorded answers to questions asked of the witness in advance of the trial by attorneys for the parties to the case. The deposition testimony of a witness who, for some reason, is not present to testify from the witness stand may be presented at trial. This testimony is entitled to the same considerations, and should be judged as to credibility and weight, in the same way as if the witness had been present and had testified from the witness stand. You should make no inferences regarding any testimony from the deposition that was not presented.

INSTRUCTION NO. __
EXPERT WITNESSES

The rules of evidence ordinarily do not permit witnesses to testify as to their own opinions or their own conclusions about important questions in a trial. An exception to this rule exists for those witnesses who are described as “expert witnesses.” An “expert witness” is someone who, by education, background, training, or experience, may have become knowledgeable in some technical, scientific, or very specialized area.

If such knowledge or experience may be of assistance to you in understanding some of the evidence or in determining a fact, an “expert witness” in that area may state an opinion as to a matter in which they claim to be an expert.

You should consider each expert opinion received in evidence in this case and give it such weight as you may think it deserves. You should judge expert testimony just as you would judge any other testimony. If you decide that the opinion of an expert witness is not based upon sufficient education or experience, or if you conclude that the reasons given in support of the opinion are not sound, or if you conclude that the opinion is outweighed by other evidence, including that of other “expert witnesses,” you may disregard the opinion in part or in its entirety.

INSTRUCTION NO. __
DETERMINING CREDIBILITY OF WITNESSES

You are the sole judges of the credibility of the witnesses and the weight to be given their testimony. You should take into consideration their means of knowledge, strength of memory and opportunities for observation; the reasonableness or unreasonableness of their testimony; the consistency or lack of consistency in their testimony; their motives; whether their testimony has been contradicted or supported by other evidence; their bias, prejudice or interest, if any; their manner or demeanor upon the witness stand; and all other facts and circumstances shown by the evidence which affect the credibility of the witnesses.

Based on these considerations, you may believe all, part, or none of the testimony of a witness.

INSTRUCTION NO. __
PREPONDERANCE NOT DETERMINED BY
NUMBER OF WITNESSES

The weight of evidence is not necessarily determined by the number of witnesses testifying to a particular fact. You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of witnesses.

INSTRUCTION NO. __
SYMPATHY - PREJUDICE

You must not be influenced by sympathy, bias or prejudice for or against any party in this case.

INSTRUCTION NO. __
NO SPECULATION

Any finding of fact you make must be based on probabilities, not possibilities. You should not guess or speculate about a fact.

INSTRUCTION NO. __
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.

INSTRUCTION NO. __
STATEMENT OF THE CASE

The Court will now explain the claims and defenses of each party to the case and the law governing the case. Please pay close attention to these instructions. These instructions include both general instructions and instructions specific to the claims and defenses in this case. You must consider all the general and specific instructions together. You must all agree on your verdict, applying the law, as you are now instructed, to the facts as you find them to be.

[Insert Statement]

These are the issues you are to decide.

INSTRUCTION NO. __
STIPULATED FACTS

The parties have stipulated or agreed to the facts listed below. You must treat each of these facts as having been proved for the purpose of this case:

1. [Insert Stipulated Fact]
2. [Insert Stipulated Fact]
3. [Insert Stipulated Fact]

INSTRUCTION NO. __
[ELEMENTAL INSTRUCTION FOR SPECIFIC CLAIM]

[Insert elemental instruction followed by additional elemental and definitional instructions for claims and affirmative defenses as necessary.]

INSTRUCTION NO. __
DAMAGES NOT TO BE INFERRED

I will now instruct you on the law relating to damages.

The fact that an instruction on measure of damages is given to you does not mean the Court is instructing the jury to award or not award damages. The question of whether or not damages are to be awarded is a question for the jury's consideration.

INSTRUCTION NO. ____
PERSONAL INJURIES—ADULTS

Plaintiff _____ has the burden of proving, by a preponderance of the evidence, the nature and extent of his claimed damages.

If you find in favor of the plaintiff, you must determine the total dollar amount of his damages, if any, that were caused by the defendant _____.

In determining such damages, you shall consider the following:

1. Any noneconomic losses or injuries which the plaintiff has had to the present time or which the plaintiff will probably have in the future, including: physical and mental pain and suffering, inconvenience, emotional stress, and impairment of the quality of life. In considering damages in this category, you shall not include actual damages for physical impairment or disfigurement, because these damages, if any, are to be included in a separate category.

2. Any economic losses or injuries which the plaintiff has had to the present time or which the plaintiff will probably have in the future, including: loss of earnings or damage to his ability to earn money in the future, and reasonable and necessary medical, hospital, and other expenses. In considering damages in this category, you shall not include actual damages for physical impairment or disfigurement, since these damages, if any, are to be included in a separate category.

3. Any physical impairment or disfigurement. In considering damages in this category, you shall not include damages again for losses or injuries already determined under either numbered paragraph 1 or 2 above.

INSTRUCTION NO. ____
UNCERTAINTY AS TO THE AMOUNT OF DAMAGES

Difficulty or uncertainty in determining the precise amount of any damages does not prevent you from deciding an amount. In that circumstance, you should use your best judgment based on the evidence.

On the other hand, damages may not be awarded where the fact of damages, as opposed to the amount, is uncertain.

INSTRUCTION NO. ____
APPLYING LAW TO EVIDENCE

In your deliberations, your duty is to apply the Court's instructions of law to the evidence that you have seen and heard in the courtroom. You are not allowed to look at, read, consult, or use any material of any kind, including newspapers, magazines, television and radio broadcasts, dictionaries, medical, scientific, technical, religious, or law books or materials, or the Internet in connection with your jury service. I want to emphasize that you must not seek or receive any information about this case from the Internet, which includes all social networking sites, Google, Wikipedia, Twitter, Facebook, blogs, and any other website. You are not allowed to do research of any kind about this case.

Do not use information from any other source concerning the facts or the law applicable to this case other than the evidence presented and the instructions that I give you. Do not do your own investigation or research about this case. You are not allowed to visit any places mentioned in the evidence. If this is an area that you normally go through, you should try to take an alternate route. If you are not able to take an alternate route, you should not gather any information from that location.

INSTRUCTION NO. ____
DUTIES UPON RETIRING

When I finish reading these instructions, I will swear my Courtroom Deputy and she 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 with you and your copy of the jury instructions that I have just read. 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.

When you go to the jury room, you should first select a foreperson, who will help guide your deliberations and will speak for you here in the courtroom. The second thing you should do is review the instructions in their entirety before beginning your deliberations. 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.

You may deliberate only while all jurors are present together in the jury room. You must suspend your deliberations until and unless you are all present together in the jury room.

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 must follow all of these instructions and not single out some and ignore others; they are all equally important.

Your deliberations will be secret. You will never have to explain your verdict to anyone.

Any verdict you reach must represent the collective judgment of the jury. To return a verdict, it is necessary that each juror agree to it. In other words, your verdict must be unanimous.

Your verdict must be based solely on the evidence received in the case. Nothing you have seen or read outside of court may be considered. Nothing that I have said or done during the trial is intended, in any way, to suggest to you somehow what I think your verdict should be. Nothing said in these instructions and nothing in the verdict form is intended to suggest or convey to you in any way or manner what verdict I think you should return. What the verdict shall be is the exclusive duty and responsibility of the jury. As I have told you many times, you are the sole judges of the evidence and the facts.

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 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. During 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.

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 these instructions to the facts that were proved by the evidence in this case. You will note that the Special Verdict Form includes a number of questions that 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. You will be provided with only one copy of the Special Verdict Form, so please

do not write on the form or indicate your answer to any questions on it until you have all agreed on the answer.

After you reach a verdict, your foreperson should ensure that the Special Verdict Form is complete and then each of you must sign the Special Verdict Form and the form must be dated. Please double-check that the Form has been filled out in its entirety and that it is signed and dated. The foreperson should then advise the Courtroom Deputy that you have reached a verdict, but do not tell her what your verdict is. The Courtroom Deputy 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. __
COMMUNICATING WITH THE COURT

If it becomes necessary during your deliberations to communicate with me, you may send a folded note through the Courtroom Deputy, signed by one of you. Do not disclose the content of your note to the Courtroom Deputy. 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 keep in mind that responding may take some time and effort. Before giving you an answer or direction, I must first notify the attorneys and bring them back to the courtroom. I must confer with them, listen to their arguments, research the legal authorities, if necessary, and reduce the answer or direction to writing.

Please understand also that 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 any particular question.