

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

[Plaintiff(s) Name],)
)
 Plaintiff(s),)
)
 v.) CAUSE NO. _____ CAN
)
 [Defendant(s) Name],)
)
 Defendant(s).)

PROPOSED FINAL INSTRUCTIONS

1.

Members of the jury, the evidence and arguments in this case have now been completed, and I will now instruct you as to the law applicable to this case. It is your duty to follow all of the instructions.

You must not question any rule of law I state in these instructions. Regardless of any opinion you may have as to what the law ought to be, you must base your verdict upon the law as I give it to you. In following these instructions, you must follow all of them and not single out some and ignore others: they are equally important. And you must not read into these instructions or into anything I may have said or done any suggestion as to what verdict you should return—that is a matter entirely for you to decide.

It is your duty to determine the facts from the evidence in this case. You are to apply the law given to you in these instructions to the facts as you find them, and in this way decide the case.

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2.

At the beginning of the case, I told you that the plaintiff has the burden of proving its case by a preponderance of the evidence. That means that the plaintiff must produce evidence which, considered in the light of all the facts, leads you to believe that what the plaintiff claims is more likely true than not. To put it differently, if you were to put the plaintiff's evidence and the defendant's evidence on opposite sides of the scales, the plaintiff would have to make the scales tip slightly on its side. If the plaintiff fails to meet this burden the verdict must be for the defendant.

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3.

The evidence from which you are to decide the facts consists of (1) the sworn testimony of witnesses, both on direct and cross-examination, regardless of who called the witness or whether the witness testified in person or by deposition; (2) the exhibits which have been received into evidence; and (3) any facts to which all the attorneys have agree or stipulated.

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4.

You are to consider only the evidence received in this case. You should consider this evidence in the light of your own observations and experiences in life. You may draw such reasonable inferences as you believe to be justified from proven facts.

You are to disregard any evidence to which I sustained an objection or which I ordered stricken. Anything you may have seen or heard about this case outside the courtroom is not evidence and must be entirely disregarded. You should not be influenced by sympathy, prejudice, fear or public opinion.

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Opening statements of counsel are for the purpose of acquainting you in advance with the facts counsel expect the evidence to show. Closing arguments of counsel are for the purpose of discussing the evidence.

Opening statements, closing arguments, and other statements of counsel are not evidence and should be disregarded to the extent they are not supported by evidence.

During the course of the trial it often becomes the duty of counsel to make objections and for me to rule on them in accordance with the law. The fact that counsel made objections should not influence you in any way.

6.

You are the sole judges of the credibility of the witnesses, and the weight to be given to the testimony of each of them. In considering the testimony of any witnesses, you may take into account his intelligence, his ability and opportunity to observe, his memory, his manner while testifying, and the interest, bias or prejudice he may have, and the reasonableness of his testimony considered in the light of all the evidence in the case.

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7.

In deciding whether to believe a witness, keep in mind that people sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or with only a small detail.

These are some of the factors you may consider in deciding whether to believe testimony.

The weight of the evidence presented by each side does not necessarily depend on the number of witnesses testifying on one side or the other. You must consider all of the evidence in the case, and you may decide that the testimony of a small number of witnesses on one side has greater weight than that of a larger number on the other.

All of these are matters for you to consider in finding the facts.

8.

The fact that the court gives you an instruction on the subject of plaintiffs' damages, or that counsel has discussed or introduced evidence on such subject, is not to be taken by you as any intimation by the court or as any admission that plaintiffs were injured or sustained damages, or that the defendant is liable for damages complained of.

In awarding damages, if any, you are to be governed solely by the evidence, and you have no right to indulge in conjecture or speculation not supported by the evidence with reference to damages, nor are you permitted to allow sympathy or prejudice into your deliberations. The burden of proof on the issue of damages, if any are awarded, is upon the plaintiffs.

Your verdict must represent the considered judgment of each juror. Your verdict must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinions of your fellow jurors, or for the purpose of returning a unanimous verdict.

Each of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

10.

Upon retiring to the jury room select one of your number as the presiding juror, who will preside over your deliberations and be your representative here in court.

Forms of verdict have been prepared for you.

[Forms of verdict read]

Take these forms into the jury room, and when you have reached unanimous agreement on the verdict, your presiding juror will fill in answers to the questions asked, fill in the date, and sign the form.

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is in writing, signed by the presiding juror, or, if he or she is unwilling to do so, by some other person, and given to the marshal.