

Court's Preliminary Jury Instruction

You have been selected as Jurors and have taken an oath to well and truly try this cause. It may take _____ days for you to hear all of the evidence and the arguments of counsel.

During the progress of the trial, there will be periods of time during which you will be allowed to separate, such as recesses for rest periods and for lunch periods and overnight. During the periods of time that you are outside the courtroom, you must not talk about this case among yourselves or with anyone else.

During the trial, do not talk to any of the parties, their lawyers, or any of the witnesses. If any attempt is made by anyone to talk to you concerning the matters here under consideration you should report the fact to the Court immediately.

There may be publicity in newspapers on radio or on television concerning this trial. You must not read or listen to these accounts but should confine your attention to the court proceedings, listen attentively to the evidence as it comes from the witnesses, and reach your verdict solely upon what you hear and see in this court.

During recesses you are not permitted to personally visit the scene of the alleged incident unless by court order and

then only in the company of authorized court personnel.

You should keep an open mind. You should not form or express an opinion during the trial and should reach no conclusion in this cause until you have heard all of the evidence, the arguments of counsel, and the final instruction as to the law which will be given to you by the Court.

Court's Preliminary Jury Instruction

You are to consider all of these instructions as a whole and are to regard each with the others given to you. Do not single out any certain sentence or any individual point or instruction and ignore the others.

Court's Preliminary Jury Instruction _____

During the trial you may hear me use a few terms that you are not familiar with. I will now explain some of the most common ones for you.

The party [parties] who sues [sue] is [are] called the plaintiff[s]. In this action, the plaintiff[s] are _____. The party [parties] being sued is [are] called the defendant[s]. In this action, the defendant[s] is [are] _____.

[The defendant _____ has filed what is known as a counterclaim in which the defendant seeks to recover damages from the plaintiff _____ for injuries that the defendant claims to have experienced as a result of the plaintiff's conduct.]

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."

When I "sustain" an objection, I am excluding that evidence from this trial for a good reason. When you hear that I have "overruled" an objection, I am permitting that evidence to be admitted.

When I say "admitted into evidence" or "received into evidence," I mean that this particular statement or the

particular exhibit may be considered by you in making the decisions you must make at the end of the 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.

From time-to-time during the trial, I may make rulings on objections or motions made by the lawyers. It is a lawyer's duty to object when the other side offers testimony or other evidence that the lawyer believes is not admissible.

You should not be unfair or partial against a lawyer or the lawyer's client because the lawyer has made objections. If I sustain or uphold an objection to a question that goes unanswered by the witness, you should not draw any inferences or conclusions from the question. You should not infer or conclude from any ruling or other comment I may make that I have any opinions on the merits of the case favoring one side or the other. I do not favor one side or the other.

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

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 sometimes seem to go slowly.

Court's Preliminary Jury Instruction

This case arises out of a vehicle collision which occurred on January 6, 2001, in the Fowler, Indiana, area.

On that date, Ryan Scott operated a vehicle traveling northbound on U.S. Highway 41. Jacklin Collins operated a semi tractor-trailer vehicle for his employer J.B. Hunt Transport, Inc. traveling westbound on State Route 18. At the intersection of those two highways, these vehicles collided.

The parties agree and stipulate that Jacklin Collins failed to yield the right of way to Ryan Scott and that Jacklin Collins and J.B. Hunt Transport, Inc. are at fault for the collision of the vehicles.

Ryan Scott alleges that as a result of the collision he suffered temporary and permanent physical injuries, pain and suffering, past and future medical expenses, loss of a partial college scholarship, loss of ability to attend a college class, and a diminished ability to pursue his preferred employment career in the future.

His parents, Roger Scott and Judy Scott, allege that as a result of the accident they suffered property damage to their vehicle, temporary rental vehicle costs, lost wages, and an increase in their share of Ryan Scott's college expenses.

The Defendants, Jacklin Collins and J.B. Hunt Transport,

Inc., deny or dispute the existence, nature, or extent of Ryan Scott's injuries. They contend that Ryan Scott had a pre-existing medical condition in his right shoulder at the time of the collision.

Court's Preliminary Jury Instruction

After all the evidence has been heard and arguments and instructions are finished, you will meet to make your decision. You will determine the facts from all the testimony and other evidence that is presented. You are the sole and exclusive judge of the facts. You are required to accept the rules of law that I give you, whether or not you agree with them.

The law permits me to comment on the evidence in the case during the trial or while instructing the jury. If I make any such comments at all, they are only expressions of my opinion as to the facts. You may disregard these comments entirely, because you are to determine for yourself the weight of the evidence and the credibility of each of the witnesses.

Court's Preliminary Jury Instruction

To insure 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 on your verdict.
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 may tell people that you are a juror, but do not tell them anything else about the case.
3. Outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it 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 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.
5. Do not read any news stories or articles about the case,

or about anyone involved with it, or listen to any radio or television reports about the case or about anyone involved with it.

6. Do not do any research, such as checking books, the internet, or any other resources, nor make any investigation about the case on your own.
7. Do not make up your mind during the trial about what the verdict should be. Keep an open mind until after you have gone to the jury room to decide the case and you and the other jurors have discussed all the evidence.
8. If you need to tell me something, simply give a signed note to the Deputy Marshal or the Courtroom Deputy Clerk, Sue Brown, to give to me.

Court's Preliminary Jury Instruction

During this trial, I will permit you to take notes. You are not obliged to take notes. Do not be influenced by the notes of another juror; you should rely upon your own recollection of the evidence.

Do not allow your notetaking to distract you from the proceedings. Do not become so involved in notetaking that you fail to listen to the evidence carefully or to observe the witnesses as they testify.

Frequently, there is a tendency to attach too much importance to what a person writes down. Some testimony that is considered unimportant at the time presented, and thus not written down, may take on greater importance later in the trial in light of all the evidence presented, the final arguments, and my instructions on the law.

Accordingly, you are instructed that your notes are only a tool to aid your own individual memory. The purpose of notetaking should be to assist you in organizing and recalling the evidence for yourself. Do not compare or share your notes with other jurors in determining the content of any testimony or in evaluating the importance of any evidence. Your notes are not evidence, and are by no means a complete outline of the proceedings or a list of the highlights of the trial.

Your memory should be your greatest asset when it comes time to deciding this case.

During the trial, when you leave the courtroom for any reason, lay your notes on your chair face down. You will not be permitted to take your notes into the jury room until you begin deliberations. At that point you may then take your notes with you to the jury room.

The Court will furnish you with paper and pen or pencil upon request.

Court's Preliminary Jury Instruction

Jurors normally do not ask a witness questions. However, I allow jurors to ask important questions during the trial under certain conditions.

If you feel that the answer to your question would be helpful in understanding the issues in the case, please raise your hand after the lawyers have completed their questioning but before I have excused the witness. You will then be given pen and paper with which to write your question for the witness.

I will then talk privately with the lawyers and decide whether the question is proper under the law. If the question is proper, I will ask the witness the question. Some questions may be rewritten or rejected. Do not be concerned or draw any implications if the question is not asked.

You cannot attempt to help either side.

Counsel are trained attorneys and have spent much time preparing for this case. They know more about the case and the witnesses than we do. Very often they do not ask what may appear to us to be an obvious question because they are aware that a particular witness has no knowledge on that subject or the question may be objectionable and they already know that.

Rules of evidence control what can and cannot be received

into evidence. As I indicated, questions of witnesses are subject to objection, so an objection may be made to your question and the court may sustain that objection. Therefore, your question, while submitted, may not be answered. During the trial, when I sustain an objection, disregard the question and answer. If I overrule an objection, you may consider both the question and the answer.

Do not discuss your question with anyone, including the Deputy Marshal or the Deputy Courtroom Clerk. Remember, you are not to discuss the case with the other jurors until it is submitted for your decision.

If you have difficulty hearing a witness or a lawyer, please raise your hand immediately.

Court's Preliminary Jury Instruction

Since this case involves an incident that occurred at a certain place, you may be interested in visiting the scene yourself. Do not do so. By making an unguided visit without the benefit of explanation, you may get the wrong impression about the location. Changes may have taken place at the scene in the time period after the occurrence referred to in this trial.

Even if you happen to live near the location, avoid going to it or near it until the case is over. An unauthorized viewing of the scene by a juror may result in a mistrial and a second trial.

Court's Preliminary Jury Instruction

During the trial I may, or may not, ask a question to a witness. If I do ask a question of a witness, do not assume that I have any opinion about the subject matter of my questions.

Court's Preliminary Jury Instruction

The evidence in the case will consist of the following:

1. The sworn testimony of every witness.
2. All documents and other exhibits received into evidence.
3. All facts that may be 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 may be accepted by you, subject to the same instructions that apply to witnesses testifying in open court.

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. 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.

I may take judicial notice of certain facts or events. When I declare that I will take judicial notice of some fact or event, you must accept that fact as true.

If I sustain an objection to any evidence or if I order

evidence stricken, that evidence must be entirely ignored.

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.

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.

I instruct you to disregard anything you may see or hear when the court is not in session, even if what you see or hear is done or said by one of the parties or by one of the witnesses.

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.

Court's Preliminary Jury Instruction

When a party has the burden to prove any matter by a preponderance of the evidence, it means that you must be persuaded by the testimony and exhibits that the matter sought to be proved is more probably true than not true. You should base your decision on all of the evidence, regardless of which party presented it.

Court's Preliminary Jury Instruction

Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact.

Circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts.

It is not necessary that facts be proved by direct evidence. Both direct evidence and circumstantial evidence are acceptable as a means of proof. Neither is entitled to any greater weight than the other.

Court's Preliminary Jury Instruction

In deciding the facts, you may have to decide which testimony to believe and which testimony to disbelieve. 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' opportunity and ability to see or hear or know the things the witness testified about; the quality of the witness' memory; the witness' appearance and manner while testifying; the witness' interest in the outcome of the case; any bias or prejudice the witness may have; other evidence that may have contradicted the witness' testimony; and the reasonableness of the witness' testimony in light of all of the evidence. The weight of the evidence does not necessarily depend upon the number of witnesses who testify.

In weighing the testimony to determine what or whom you will believe, you should use your own knowledge, experience and common sense gained from day to day living. The number of witnesses who testify to a particular fact, or the quantity of evidence on a particular point, need not control your determination of the truth. You should give the greatest weight to that evidence which convinces you most strongly of its truthfulness.

Court's Preliminary Jury Instruction

Before the trial of this case, the court held a conference with the lawyers for all the parties. At this conference, the parties entered into certain stipulations or agreements in which they agreed that facts could be taken as true without further proof.

The stipulated facts are as follows:

[Read stipulations.]

Since 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.

Court's Preliminary Jury Instruction

If, at any time, any juror realizes that you have personal knowledge of any fact that is material to this case, you shall inform the Deputy Marshal or the Courtroom Deputy Clerk, Sue Brown, at the next recess.

Court's Preliminary Jury Instruction

The trial of this case will proceed as follows:

First, the parties will have an opportunity to make opening statements. These statements are not evidence and should be considered only as a preview of what the parties expect the evidence will be.

Following the opening statements, witnesses will be called to testify. They will be placed under oath and questioned by the attorneys. Documents and other tangible exhibits may also be received as evidence.

When the evidence is completed, the parties will make final statements. These final statements are not evidence but are given to assist you in evaluating the evidence. The parties are also permitted to argue, to characterize the evidence and to attempt to persuade you to a particular verdict. You may accept or reject those arguments as you see fit.

Finally, just before you retire to consider your verdict, I will give you further instructions on the law which applies to this case.

Court's Preliminary Jury Instruction _____

The _____ language may be used by one or more witnesses in the trial. If an interpreter or translator is used, you are to consider only that evidence provided through the official court interpreter or translator. Although some of you may know the language used, it is important that all jurors consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation or translation and disregard any different meaning of the non-English words.