

**United States District Court
Northern District of Indiana
Hammond Division**

Yolanda Young-Smith,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 3:07-CV-629
)	
United Steelworkers Local Union No. 12273,)	
)	
Defendant.)	

COURT’S PROPOSED JURY INSTRUCTIONS

At the conclusion of all the evidence, in accordance with Federal Rule of Civil Procedure 51, the Court will read to the Jury the following jury instructions, numbered 1 through __.

Date: _____

Joseph S. Van Bokkelen
United States District Court

JURY INSTRUCTION NO 1.

Members of the jury, you have seen and heard all the evidence and arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each instruction is important, and you must follow all of them.

Perform these duties fairly and impartially. [Do not allow [sympathy, prejudice, fear, or public opinion] to influence you.] [You should not be influenced by any person's race, color, religion, national ancestry, or sex.]

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

7th Cir. 1.01

JURY INSTRUCTION NO 2.

These Instructions are in writing and I will send them to the jury room for your use as you deliberate upon your verdict. In these Instructions, you may not single out any certain sentence or any individual point or directive and ignore the others. Instead, you must consider all Instructions as a whole, and you must construe the Instructions in harmony with each other.

You will also be permitted to take the exhibits with you to use in your deliberations upon your verdict.

Also, it is unlikely that a written transcript will be available to you to read, as it can be difficult and time-consuming for the reporter to read back testimony.

Court's Instruction

JURY INSTRUCTION NO 3.

During this trial, I have asked a witness a question myself. Do not assume that because I asked questions I hold any opinion on the matters I asked about, or on what the outcome of the case should be.

7th Cir. 1.02

JURY INSTRUCTION NO 4.

In this case one of the parties is a union. All parties are equal before the law. A union is entitled to the same fair consideration that you would give any individual person.

7th Cir. 1.03

JURY INSTRUCTION NO 5.

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence [, and stipulation[s].]

[A stipulation is an agreement between both sides that certain facts are true.]

[I have taken judicial notice of certain facts. You must accept those facts as proved.]

7th Cir. 1.04

JURY INSTRUCTION NO 6.

During the trial, certain testimony was presented to you by [the reading of deposition/depositions] [and video]. You should give this testimony the same consideration you would give it had the witness[es] appeared and testified here in court.

7th Cir. 1.05

JURY INSTRUCTION NO 7.

Certain things are not to be considered as evidence. I will list them for you:

First, testimony and exhibits that I struck from the record, or that I told you to disregard, are not evidence and must not be considered.

Second, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded. [This includes any press, radio, internet or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.]

Third, questions, objections, or comments by the lawyers are not evidence. Lawyers have a duty to object when they believe a question is improper. You should not be influenced by any objection and you should not infer from my rulings that I have any view as to how you should decide the case.

Fourth, the lawyers' opening statements and closing arguments to you are not evidence. Their purpose is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

7th Cir. 1.06

JURY INSTRUCTION NO 8.

Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If your memory differs from your notes, you should rely on your memory and not your notes. 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.

7th Cir. 1.07

JURY INSTRUCTION NO 9.

In determining whether any fact has been proved, you should consider all of the evidence bearing on the question regardless of who introduced it.

7th Cir. 1.08

JURY INSTRUCTION NO 10.

You will recall that during the course of this trial I instructed you that I admitted certain evidence for a limited purpose. You must consider this evidence only for the limited purpose for which it was admitted.

7th Cir. 1.09

JURY INSTRUCTION NO 11.

Each party is entitled to have the case decided solely on the evidence that applies to that party. You must consider the evidence concerning [*describe evidence if practicable*] only in the case against [*Party*]. You must not consider it against any other party.

7th Cir. 1.10

JURY INSTRUCTION NO 12.

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 inferences you make must be reasonable and must be based on the evidence in the case.

7th Cir. 1.11

JURY INSTRUCTION NO 13.

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.

7th Cir. 1.12

JURY INSTRUCTION NO 14.

You are to decide whether each witness’s testimony is truthful and accurate, in part, in whole, or not at all. You must also decide what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, [including any party to the case,] you may consider, among other things:

- the witness’s intelligence;
- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness’s memory;
- any interest, bias, or prejudice the witness may have;
- the manner of the witness while testifying; and
- the reasonableness of the witness’s testimony in light of all the evidence in the case.

7th Cir. 1.13

JURY INSTRUCTION NO 15.

You may consider statements of witnesses who are not parties that they gave under oath before trial, such as in a deposition, as evidence of the truth of what these witnesses said in those earlier statements, as well as in deciding what weight to give their trial testimony.

On the other hand, if you decide that before trial, a witness who is not a party made an unsworn statement not under oath that is inconsistent with his or her trial testimony, you may consider the earlier statement only in deciding whether his or her trial testimony was true and what weight to give to his or her trial testimony.

As to [the parties], you may consider their statements before trial as evidence of the truth of what they said in the earlier statements, as well as in deciding what weight to give their testimony, regardless of whether the statements were made under oath.

In considering a prior inconsistent statement, you should consider whether it was simply an innocent error or an intentional falsehood and whether it concerns an important fact or an unimportant detail.

7th Cir. 1.14 (modified to make easier to understand)

JURY INSTRUCTION NO 16.

You have heard evidence that [Name] has been convicted of a crime. You may consider this evidence only in deciding whether [Name's] testimony is truthful in whole, in part, or not at all. You may not consider this evidence for any other purpose.

7th Cir. 1.15

JURY INSTRUCTION NO 17.

It is proper for a lawyer to meet with any witness in preparation for trial.

7th Cir. 1.16

JURY INSTRUCTION NO 18.

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.

7th Cir. 1.17

JURY INSTRUCTION NO 19.

The law does not require a party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require a party to present as exhibits all papers and things mentioned during this trial.

7th Cir. 1.18

JURY INSTRUCTION NO 20.

[Witness] was mentioned at trial but did not testify. You may, but are not required to, assume that [Witness's] testimony would have been unfavorable to [Plaintiff] [Defendant].

7th Cir. 1.19

JURY INSTRUCTION NO 21.

[Party] contends that [Other Party] at one time possessed [*describe evidence allegedly destroyed*]. However, [Other Party] contends that [*evidence never existed, evidence was not in its possession, evidence was not destroyed, loss of evidence was accidental, etc.*].

You may assume that such evidence would have been unfavorable to [Other Party] only if you find by a preponderance of the evidence that:

- (1) [Other Party] intentionally [destroyed the evidence] [caused the evidence to be destroyed]; and
- (2) [Other Party] [destroyed the evidence] [caused the evidence to be destroyed] in bad faith.

7th Cir. 1.20

JURY INSTRUCTION NO 22.

You have heard witnesses give opinions about matters requiring special knowledge or skill. You should judge this testimony in the same way that you judge the testimony of any other witness. The fact that such person has given an opinion does not mean that you are required to accept it. Give the testimony whatever weight you think it deserves, considering the reasons given for the opinion, the witness's qualifications, and all of the other evidence in this case.

7th Cir. 1.21

JURY INSTRUCTION NO 23.

You should consider only the evidence provided through the official interpreter. Although some of you may know [*language(s) used*], it is important that all jurors consider the same evidence. Therefore, you must base your decision on the evidence presented in the English translation.

7th Cir. 1.22

JURY INSTRUCTION NO 24.

Stipulated

The parties agree that [evidence] accurately summarizes the contents of documents, records, or books. You should consider these summaries just like all of the other evidence in the case.

Not Stipulated

Certain [evidence] is/are in evidence. [The original materials used to prepare those summaries also are in evidence.] It is up to you to decide if the summaries are accurate.

7th Cir. 1.23

JURY INSTRUCTION NO 25.

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

7th Cir. 1.24

JURY INSTRUCTION NO 26.

You must give separate consideration to each claim and each party in this case. [Although there are [#] defendants, it does not follow that if one is liable, any of the others is also liable.] [Although there are [#] plaintiffs, it does not follow that if one is successful, the others are, too.]

In considering a claim against a defendant, you must not consider evidence admitted only against other defendants [or only as to other claims.]

7th Cir. 1.25

JURY INSTRUCTION NO 27.

[Former Party] is no longer a defendant in this case. You should not consider any claims against [Former Party]. Do not speculate on the reasons. You should decide this case as to the remaining parties.

7th Cir. 1.26

JURY INSTRUCTION NO 28.

When a party has the burden to prove an issue by a preponderance of the evidence, that means by a greater weight of the evidence. A greater number of witnesses testifying to a fact on one side or a greater quantity of evidence introduced on one side is not necessarily of the greater weight. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more probably true than not true.

7th Cir. 1.27

[INSTRUCTIONS SPECIFIC TO CLAIM]

JURY INSTRUCTION NO 29.

When I say that a particular party must prove something by “clear and convincing evidence,” this is what I mean: When you have considered all of the evidence, you [are convinced that it is highly probable that it is true] [have no reasonable doubt that it is true].

[This is a higher burden of proof than “more probably true than not true.” Clear and convincing evidence must persuade you that it is “highly probably true.”]

7th Cir. 1.28

JURY INSTRUCTION NO 30.

If you decide for the defendant[s] on the question of liability, then you should not consider the question of damages.

7th Cir. 1.31

JURY INSTRUCTION NO 31.

Upon retiring to the jury room, you will select one of your members to act as your foreperson. The foreperson will preside over your deliberations, and will speak for you here, in Court.

Forms of verdict have been prepared for you. You will take these form to the jury room and, when you have reached unanimous agreement as to your verdict, your foreperson will fill in, date, and sign the appropriate form or forms. Then, the foreperson should notify the Court Security Officer that you are ready to return to the courtroom with your verdict.

7th Cir. 1.32

JURY INSTRUCTION NO 32.

It is necessary from this time until you are discharged to remain together in a body and in the charge of the officer who will be sworn to attend you.

If it becomes necessary during your deliberations to communicate with the Court, you may send a note by the court security officer, signed by your foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with the Court by any means other than a signed writing, and the Court will never communicate with any member of the jury on any subject touching the merits of the case otherwise than in writing, or orally here, in open Court.

You will note from the oath about to be taken by the court security officers that they too, as well as all other persons, are forbidden to communicate in any way or manner with any member of the jury on any subject touching the merits of the case.

Bear in mind also that you are never to reveal to any person—not even to the Court—how the jury stands, numerically or otherwise, on the questions before you, until after you have reached a unanimous verdict.

7th Cir. 1.33

JURY INSTRUCTION NO 33.

The verdict[s] must represent the considered judgment of each juror. Your verdict[s] 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. Don't hesitate to reexamine 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 opinion of your fellow jurors or for the purpose of returning a unanimous verdict.

You should consider all the evidence fairly and equally 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.

7th Cir. 1.34

JURY INSTRUCTION NO 34.

I understand that reports about this trial [or about this incident] are appearing in the newspapers and [or] on radio and television [and the internet]. The reporters may not have heard all the testimony as you have, may be getting information from people whom you will not see here under oath and subject to cross examination, may emphasize an unimportant point, or may simply be wrong.

You must not read anything or listen to anything or watch anything with regard to this trial. It would be a violation of your oath as jurors to decide this case on anything other than the evidence presented at trial and your common sense. You must decide the case solely and exclusively on the evidence that will be received here in court.

7th Cir. 2.02

JURY INSTRUCTION NO 35.

Some of the evidence in this case is limited to one of the parties, and cannot be considered against the others. Each party is entitled to have the case decided solely on the evidence which applies to that party.

The evidence you [are about to hear] [just heard] can be considered only in the case against [*name party*].

7th Cir. 2.03

JURY INSTRUCTION NO 36.

The parties have stipulated or agreed what [*name's*] testimony would be if [*name*] were called as a witness. You should consider that testimony in the same way as if [*name*] had given the testimony here in court.

7th Cir. 2.04

JURY INSTRUCTION NO 37.

The parties have stipulated, or agreed, that [*stipulated fact*]. You must now treat this fact as having been proved for the purpose of this case.

7th Cir. 2.05

JURY INSTRUCTION NO 38.

I have decided to accept as proved the fact that [*e.g., the city of Milwaukee is north of the city of Chicago*]. You must now treat this fact as having been proved for the purpose of this case.

7th Cir. 2.06

JURY INSTRUCTION NO 39.

Stipulated

The parties agree that [*Describe summary in evidence*] accurately summarize the contents of documents, records, or books. You should consider these summaries just like all of the other evidence in the case.

Not Stipulated

Certain [*describe summary in evidence*] is/are in evidence. [The original materials used to prepare those summaries also are in evidence.] It is up to you to decide if the summaries are accurate.

7th Cir. 2.12

JURY INSTRUCTION NO 40.

[*Former Party*] is no longer a defendant in this case. You should not consider any claims against [*Former Party*]. Do not speculate on the reasons. Your focus must be on the remaining parties.

7th Cir. 2.13

JURY INSTRUCTION NO 41.

I have a duty to caution or warn an attorney who does something that I believe is not in keeping with the rules of evidence or procedure. You are not to draw any inference against the side whom I may caution or warn during the trial.

7th Cir. 2.14