



Court's 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 of the instructions 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.

Court's Instruction No.2

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and stipulations.

A stipulation is an agreement between both sides that certain facts are true or that a person would have given certain testimony.

Court's Instruction No. 3

During the trial, certain testimony was presented to you by the reading of a deposition and the playing of video tape. You should give this testimony the same consideration you would give it had the witnesses appeared and testified here in court.

Court's Instruction No. 4

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

First, if I told you to disregard any testimony or exhibits or struck any testimony or exhibits from the record, such testimony or exhibits 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, 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 and 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. The purpose of these 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.

Court's Instruction No. 5

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

Court's Instruction No. 6

You may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is the testimony of someone who claims to have personal knowledge of something. Circumstantial evidence is proof of a fact, or a series of facts, which tend to show whether something is true.

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.

Court's Instruction No. 7

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.

Court's Instruction No. 8

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

In evaluating the testimony of any witness, you may consider, among other things:

- 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 witness's intelligence;
- the manner of the witness while testifying; and
- the reasonableness of the witness's testimony in light of all the evidence in the case.

Court's Instruction No. 9

You may consider statements given by a party or a witness under oath before trial as evidence of the truth of what he said in the earlier statements, as well as in deciding what weight to give his testimony.

With respect to other witnesses, the law is different. If you decide that, before the trial, one of these witnesses made a statement not under oath that is inconsistent with his testimony here in court, you may consider the earlier statement only in deciding whether his testimony here in court was true and what weight to give to his testimony here in court.

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.

Court's Instruction No. 10

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.

Court's Instruction No. 11

The law does not require any 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 any party to present as exhibits all papers and things mentioned during this trial.

Court's Instruction No. 12

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 witnesses qualifications, and all of the other evidence in the case.

Court's Instruction No. 13

The parties agree that a summary of medical bills for Charles and Gladys Peterson accurately summarize the contents of documents, records, or books. You should consider these summaries just like all of the other evidence in the case.

Court's Instruction No. 14

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

Court's Instruction No. 15

The Defendant Nasir H. Farrakhan has admitted that he was negligent in causing the collision in this case. Your job is to determine 1) whether Mr. Farrakhan's actions were the proximate cause of the injury to the Petersons; and 2) if so, what are the extent of the Peterson's damages. Charles and Gladys Peterson must prove these two propositions by a preponderance of the evidence.

The term "preponderance of the evidence" means that when you have considered all the evidence in the case, you must be persuaded that it is more probably true than not true.

Court's Instruction No. 16

An act is a proximate cause of an injury if the injury is a natural and probable consequence of the act.

Court's Instruction No.17

If you find from a preponderance of all the evidence that the defendant is liable to the plaintiffs and that plaintiffs have suffered damages, then you must decide the amount of money that will fairly compensate plaintiffs for each proven element of damage. In deciding these compensatory damages, you may consider the following:

- The nature and extent of the injuries and the effect of the injuries on the plaintiffs' ability to function as a whole person;
- Whether the injuries are temporary or permanent;
- The physical pain and mental suffering experienced to the present and to be experienced in the future due to the injuries;
- The reasonable expense of necessary medical care, treatment, and services and the reasonable expense of future medical care, treatment, and services;
- The aggravation of a previous injury or condition; and
- Fright, humiliation or mental anguish experienced by plaintiffs.

Your decision must be based on the evidence relating to damages and not on guess or speculation.

Court's Instruction No. 18

If you find that the plaintiffs, Gladys Peterson and Charles Peterson, are entitled to recover, then in addition to compensatory damages, you may also award punitive damages.

Punitive damages may be awarded if you find that the plaintiffs have proved by clear and convincing evidence that Nasir Farrakhan acted maliciously, wilfully or wantonly with conscious disregard for probable injury, or with gross negligence or oppressiveness that was not the result of a mistake of fact or law, honest error or judgment, overzealousness, mere negligence, or other human failing.

If you award punitive damages, you must state the amount of those damages on the verdict form separately from the amount of any compensatory damage you may award.

Court's Instruction No. 19

Clear and convincing evidence is an intermediate standard of proof. It is greater than a preponderance of the evidence and less than proof beyond a reasonable doubt. It requires that the existence of a fact be highly probable.

Court's Instruction No. 20

The terms used in the instruction on the issue of punitive damages have the following meanings:

“Malice” means a wrongful act intentionally done without legal justification or excuse and with intent to inflict injury.

“Oppression” means an act of domination by which one subjects another to a cruel and unjust hardship.

“Wilful or wanton misconduct” means a conscious act or course of action by the defendant that under the circumstances shows either: (1) an extreme indifference to the safety of others; or (2) an awareness of a risk of injury to others and the disregard of that risk.

“Gross negligence” means the intentional failure to perform a duty in reckless disregard of the consequences to the life or property of others.

Court's Instruction No. 21

If you decide to award punitive damages, the award should be in an amount that, in your sound judgment and discretion, you find will be adequate to punish the defendant for what he did to the plaintiffs and to deter the defendant and other people from acting in a similar way in the future.

You should consider the following factors to decide the amount of punitive damages:

- The degree of reprehensibility of the defendant's misconduct that cause the plaintiffs' harm;
- The magnitude of the harm suffered by the plaintiffs as a result of the defendant's misconduct;
- Evidence of fines or penalties applicable to conduct similar to that which you have found the defendant to have committed; and
- The defendant's financial condition.

Court's Instruction No. 22

Upon retiring to the jury room, you should first select one of your number to act as your foreperson. The foreperson will then preside over your deliberations and act as your spokesperson here in court.

You will take the verdict form with you to the jury room. When you reach unanimous agreement as to your verdict, the foreperson should fill in the verdict form, all of you should sign it, and then you should tell the court security officer to inform me that you have reached a verdict.

If, during deliberations, you should desire to communicate with the court, please reduce your message or question to writing and have the foreperson sign the note and include the date and time. Then, pass the note to the courtroom security officer, who will bring it to my attention. I will respond as promptly as possible, either in writing or by having you return to the courtroom so that I can address you in person.

With respect to any message or question that you provide to the court during your deliberations, please be advised of the following rules. First, do not state or specify your numerical division at any time; that is, do not inform the court or even hint at how many among you were or are in favor or against reaching any particular verdict. Also, please be advised that the court cannot supply you with transcripts of any of the trial testimony.

Court's Instruction No. 23

The 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 view, 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 believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of the evidence solely because of the opinions of your fellow jurors or for the purpose of returning a unanimous verdict.

All of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement that is consistent with the individual judgment of each juror. You are impartial judges of the facts. Your sole interest is to seek the truth from the evidence on the case.