

JUDGE FURSE'S  
STOCK JURY INSTRUCTIONS  
CIVIL CASES

**(Some instructions might not apply or might need to tailoring to the specific case)**

**PRELIMINARY JURY INSTRUCTION NO.**

Your duty is to find from the evidence what the facts are. You, and you alone, are the judges of the facts. You will then have to apply to those facts the law as the Court instructs you. You must follow that law whether you agree with it or not.

Nothing the Court may say or do during the course of the trial is intended to indicate nor should be taken by you as an indication of what your verdict should be.

Justice through trial by jury must always depend upon the willingness of each individual juror to seek the truth as to the facts from the same evidence presented to all the jurors, and to arrive at a verdict by applying the same rules of law, as given in the instructions of the Court.

**PRELIMINARY JURY INSTRUCTION NO.**

Generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case exist. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is proof of a chain of circumstances pointing to the existence or non-existence of certain facts. The law makes no distinction between the weight to be given to either direct or circumstantial evidence, but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

**PRELIMINARY JURY INSTRUCTION NO.**

The evidence from which you will find the facts will consist of the sworn testimony of witnesses, documents and other things received into the record as exhibits, any facts the lawyers agree or stipulate to, any applicable presumptions outlined by the Court.

Certain things are not evidence, and you must not consider them. I will list them for you now:

1. Statements, arguments and questions by lawyers are not evidence. When, however, the attorneys on both sides stipulate or agree as to the existence of a fact, the jury must, unless otherwise instructed, accept the stipulation and regard that fact as conclusively proved.

2. Objections to questions are not evidence. Lawyers have an obligation to their clients to make an objection when they think opposing counsel has offered improper evidence under the rules of evidence. Neither the objection nor the Court's ruling on it should influence you. If the Court sustains the objection, ignore the question. If the objection is overruled, treat the answer like any other. If the Court instructs you that some item of evidence is received for a limited purpose only, you must only consider that evidence for that limited purpose.

3. Testimony that the Court has excluded or told you to disregard is not evidence, and you must not consider it.

4. Anything you may have seen or heard outside the courtroom is not evidence, and you must disregard it.

5. You are to consider only the evidence in this case. However, in your consideration of the evidence, you are not limited to the bald statements of the witnesses. On the contrary, you may draw from the facts that you find have been proved, such reasonable inferences as seem justified in light of your experience. An inference is a deduction or conclusion that reason and

common sense would lead you to draw from facts that are established by the evidence in the case

**PRELIMINARY JURY INSTRUCTION NO.**

This is a civil case. The plaintiff has the burden of proving its case by what is called the preponderance of the evidence.

That means the Plaintiff has to produce evidence which, considered in the light of all the facts, leads you to believe that what Plaintiff claims is more likely true than not. To put it differently, if you were to put Plaintiff's and Defendant's evidence on opposite sides of the scales, Plaintiff would have to make the scales tip toward her side. If Plaintiff fails to meet this burden, the verdict must be for the Defendant.

A preponderance of the evidence is not alone determined by the number of witnesses, nor the amount of testimony or documentary evidence, but rather the convincing character of the testimony and other evidence, and the inferences reasonably to be drawn therefrom, weighed by the impartial minds of the jury. This rule does not require proof to an absolute certainty, nor does it require proof beyond a reasonable doubt, which is the standard applied in criminal cases. That requirement does not apply to a civil case and you should therefore put it out of your mind. A party has succeeded in carrying the burden of proof by a preponderance of the evidence on an issue of fact if, after consideration of all the evidence in the case, the evidence favoring his or her side of the issue is more convincing to you than not.

**PRELIMINARY JURY INSTRUCTION NO.**

As the jury, you are the sole judges of the credibility of the witnesses and the weight to be given their testimony.

You may believe or disbelieve all or any part of any witness' testimony. In judging the weight of the testimony and the credibility of the witnesses you have a right to take into consideration their bias, their interest in the result of the suit, their relationship to any of the parties in the case, or any possible prejudice, motive, or lack thereof to testify fairly, if any is shown.

You may consider the witnesses' demeanor on the witness stand, the reasonableness of their statements, their apparent honesty or openness, or the lack of it, their opportunity to know, their ability to understand, their capacity to remember, their apparent intelligence or lack of intelligence, their means of knowledge of the facts testified to, and the extent to which their testimony has been either supported or contradicted by other credible evidence in the case. You should consider these matters together with all of the other facts and circumstances that you may believe have a bearing on the truthfulness or accuracy of the witnesses' statements.

In so doing, you may give such weight as you think the same are entitled to, in light of your experience and knowledge of human affairs.

**PRELIMINARY JURY INSTRUCTION NO.**

A witness may be discredited or impeached by contradictory evidence or by showing that he or she testified falsely concerning a material matter, or by evidence that at some other time the witness has said or done something, or has failed to say or do something, which is inconsistent with the witness' present testimony.

If you believe any witness has been impeached thus discredited, you may give the testimony of that witness such credibility, if any, you think it deserves.

If you believe a witness knowingly, that is voluntarily and intentionally, testified falsely about any material matter, you have a right to distrust such witness' other testimony and you may reject all of the testimony of that witness or give it such credibility as you may think it deserves.



**PRELIMINARY JURY INSTRUCTION NO.**

Inconsistencies, discrepancies, and contradictions in a witness's testimony or between the testimonies of one witness and another do not necessarily mean that a witness is lying.

Two honest people can witness the same event and see or hear things differently. Additionally, an innocent misrecollection or failure to recall is not uncommon. You may assess, however, the truthfulness of a witness's testimony that he or she does not recall an event, fact, or other matter. When you weigh the effect of a discrepancy, consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

If there are apparent discrepancies in the evidence, you may be able to reconcile them, or you may have to decide which of two or more conflicting versions of the facts you will accept.

Further, you need not believe the testimony of a witness even though counsel has not presented any contrary evidence. You need not accept testimony as true simply because a number of witnesses agree with each other. You may decide that even the unanimous testimony of witnesses is erroneous. But you should act reasonably in deciding whether to reject uncontradicted testimony.

**PRELIMINARY JURY INSTRUCTION NO.**

During the trial I may need to talk with the lawyers out of your hearing, either by having a bench conference while you are present in the courtroom, or by calling a recess. Please understand that while you are waiting, we are working. The purpose of these conferences is to decide how to treat certain evidence under the rules of evidence, and to avoid confusion and error. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

## **PRELIMINARY JURY INSTRUCTION NO.**

Next, a few words about your conduct as jurors:

First, I instruct you that during the trial you are not to discuss the case with anyone including fellow jurors, or permit anyone to discuss it with you. This is a natural thing to want to do, but you may not communicate about the case via emails, text messages, tweets, blogs, chat rooms, comments or other postings, Facebook, Twitter, LinkedIn, or any other social media. When you retire to the jury room at the end of the case to deliberate on your verdict, you may talk about this case with your fellow jurors only.

Second, do not read or listen to anything touching on this case in any way. Do not watch or listen to any news reports concerning this trial on television or on the radio, and do not read any news accounts of this trial in a newspaper or on the internet. If anyone should try to talk to you about it, bring it to the Court's attention promptly.

Third, do not try to do any research or make any investigation about the case on your own. You must not try to get information from any source other than what you see and hear in this courtroom. It's natural to want to investigate a case, but you may not use any printed or electronic sources to get information about this case or the issues involved. This includes the internet, reference books or dictionaries, newspapers, magazines, television, radio, computers, Blackberries, iPhones, smartphones, PDA's, or any social media or electronic device. You may not do any personal investigation. This includes visiting any of the places involved in this case, using Internet maps or Google Earth, talking to possible witnesses, or creating your own experiments or reenactments.

Finally, do not form any opinion until all the evidence is in. Keep an open mind until you start your deliberations at the end of the case.

**PRELIMINARY JURY INSTRUCTION NO.**

At the end of trial, you must make your decision based on what you recall of the evidence. You will not have a transcript of the trial. I urge you to pay close attention to the testimony as it is given.

**PRELIMINARY JURY INSTRUCTION NO.**

The Court will permit jurors to take notes during the course of this trial. But if you do, leave them in the jury room when you leave at night, and remember that they are for your own personal use.

You, of course, are not obligated to take notes. If you do not take notes you should not be influenced by the notes of another juror, but rely upon your own recollection of the evidence.

Note-taking must not be allowed to interfere with the ongoing nature of the trial or distract you from what happens here in court. Notes taken by any juror, moreover, are not evidence in the case and must not take precedence over the independent recollection of the evidence received in the case. Notes are only an aid to recollection and are not entitled to any greater weight than actual recollection or the impression of each juror as to what the evidence actually is. Any notes taken by any juror concerning this case should not be disclosed to anyone other than a fellow juror, and then only during deliberations.

**PRELIMINARY JURY INSTRUCTION NO.**

The trial will now begin. First, each side may make an opening statement. An opening statement is neither evidence nor argument; it is an outline of what that party intends to show, offered to help you follow the evidence.

Next, Plaintiff will present its witnesses and defendant may cross-examine them. Then Defendant will present their witnesses and Plaintiff may cross-examine them.

At the close of the evidence, the Court will give you instructions on the law, after which the attorneys will make their closing arguments to summarize and interpret the evidence for you. You will then retire to deliberate on your verdict.

**JURY INSTRUCTION NO. \_\_\_\_**

Now that you have heard the evidence and are about to hear the argument, my duty is to give you the instructions of the Court concerning the law applicable to this case. Your duty as jurors is to follow the law as stated in the instructions of the Court, and to apply the rules of law to the facts as you find them from the evidence in the case. You are not to single out one instruction alone as stating the law, but must consider the instructions as a whole.

Neither are you to concern yourself with the wisdom of any rule of law stated by the Court. Regardless of any opinion you may have as to what the law is or ought to be, you would violate your sworn duty, as judges of the facts, to base a verdict upon anything but the law as I instruct you and the evidence in the case.

You should not take anything I say in these instructions as an indication that I have any opinion about the facts of the case, or what that opinion is. My function is not to determine the facts; that function is yours as jurors.

Justice through trial by jury depends upon the willingness of each individual juror to seek the truth as to the facts from the same evidence presented to all the jurors, and to arrive at a verdict by applying the same rules of law, as given in these instructions. You must perform this duty without bias or prejudice as to any party. Our system of law does not permit jurors to allow sympathy, prejudice, or public opinion to influence their verdict. Both the parties and the public expect that you will carefully and impartially consider all the evidence in the case, follow the law as stated by the Court, and reach a just verdict, regardless of the circumstances.

**JURY INSTRUCTION NO. \_\_\_\_**

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received in evidence, all facts that may have been admitted or stipulated, and the applicable presumptions that will be stated in these instructions.

Statements and arguments of counsel are not evidence in this case. When, however, the attorneys on both sides stipulate or agree as to the existence of a fact, the jury must, unless otherwise instructed, accept the stipulation and regard that fact as conclusively proved.

During the course of trial, counsel has the duty to make objections when needed. You should not consider or be influenced by the fact that counsel objected to something. You must entirely disregard any evidence to which counsel objected and the Court sustained the objection and any evidence the Court ordered stricken.

You must entirely disregard anything you may have seen or heard outside of this courtroom because it is not evidence. You may consider only the evidence in this case. However, in your consideration of the evidence, you are not limited to the bald statements of the witnesses. On the contrary, you may draw reasonable inferences from the facts that you find have been proved such as seem justified in light of your experience. An inference is a deduction or conclusion that reason and common sense would lead you to draw from facts that are established by the evidence in the case.



**JURY INSTRUCTION NO. \_\_\_\_**

Generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case exist. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is proof of a chain of circumstances pointing to the existence or non-existence of certain facts. The law makes no distinction between the weight to be given to either direct or circumstantial evidence but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

**JURY INSTRUCTION NO. \_\_\_\_**

You are the exclusive judges of the credibility of the witnesses and the weight of the evidence. You may believe or disbelieve all or any part of any witness' testimony. In judging the weight of the testimony and the credibility of the witnesses you have a right to take into consideration their bias, their interest in the result of the suit, their relationship to any of the parties in the case, or any probable motive or lack thereof to testify fairly, if any is shown. You may consider the witnesses' manner on the witness stand, the reasonableness of their statements, their apparent honesty or openness, or the lack of it, their opportunity to know, their ability to understand, their capacity to remember, and the extent to which their testimony has been either supported or contradicted by other credible evidence in the case. You should consider these matters together with all of the other facts and circumstances that you may believe have a bearing on the truthfulness or accuracy of the witnesses' statements.

**JURY INSTRUCTION NO. \_\_\_\_**

Inconsistencies or discrepancies in the testimony of a witness or between the testimonies of different witnesses may or may not cause you to discredit the testimony of a witness. Two persons may see or hear the same event differently or reach different conclusions from the same facts. In weighing the effect of an inconsistency, consider the importance of the matter to which it pertains and whether the inconsistency may have resulted from innocent error, lapse of memory, or intentional falsehood. If there are apparent discrepancies in the evidence, you may be able to reconcile them, or you may have to decide which of two or more conflicting versions of the facts you believe.

**JURY INSTRUCTION NO. \_\_\_\_**

If you believe any witness has willfully testified falsely as to any significant matter, you may disregard the entire testimony of such witness, except as it may have been corroborated by other credible evidence.

**JURY INSTRUCTION NO. \_\_\_\_**

The rules of evidence ordinarily do not permit the opinion of a witness to be received as evidence. An exception to this rule exists in the case of expert witnesses. A person who, by education, study, and experience, has become an expert in any art, science, or profession, and who is called as a witness, may give his or her opinion as to any such matter in which he or she is versed and which is material to the case.

That witness's opinion does not bind you, however. You should judge expert opinion testimony just as you judge any other testimony. Give it the weight to which you deem it entitled, whether that be a lot or a little, and you may reject it, if in your judgment the reasons given for it are unsound.

**JURY INSTRUCTION NO. \_\_\_\_**

If any reference by the Court or by counsel to matters of evidence does not coincide with your own recollection, your recollection should control during your deliberations.

**JURY INSTRUCTION NO. \_\_\_\_**

In this trial, certain testimony has been read to you by way of deposition. A deposition is testimony taken under oath before trial and preserved in one form or another. It is entitled to the same consideration as if the witness had personally appeared.

**JURY INSTRUCTION NO. \_\_\_\_**

In this case, Plaintiffs have the burden of proving their claims against Defendants by a preponderance of the evidence. By a preponderance of the evidence means that evidence, which to your minds, seems to be the most convincing and satisfactory. The preponderance of the evidence is not alone determined by the number of witnesses, nor the amount of testimony or documentary evidence, but rather the convincing character of the testimony and other evidence, and the inferences reasonably to be drawn therefrom, weighed by the impartial minds of the jury. This rule does not require proof to an absolute certainty, nor does it require proof beyond a reasonable doubt, which is the standard applied in criminal cases. A party has succeeded in carrying the burden of proof by a preponderance of the evidence on an issue of fact if, after consideration of all the evidence in the case, the evidence favoring his or her side of the issue is more convincing to you than not.



**JURY INSTRUCTION NO. \_\_\_\_**

You must base your verdict solely upon the evidence developed at this trial, or the lack of evidence. You may NOT consider any personal feelings you may have about one of the parties' race, religion, national origin, sex, or age.

Likewise, you may NOT allow any feelings you might have about the nature of the claim against the Defendants to influence you in any way.

The parties in this case are entitled to a trial free from prejudice. Our judicial system cannot work unless you reach your verdict through a fair and impartial consideration of the evidence.

**[IF APPLICABLE:]**

Defendants are corporations. A corporation is entitled to the same treatment as a private individual. You must consider and decide this case as a case between persons of equal rights, equal worth, and equal standing. All persons, including corporations, stand equal before the law and are to be dealt with as equals in a court of justice.

**JURY INSTRUCTION NO. \_\_\_\_**

Plaintiffs bear the burden of proving by a preponderance of the evidence that they not only suffered damages but the amount of damages as well.

**JURY INSTRUCTION NO. \_\_\_\_**

Damages must be reasonable. You are not permitted to award speculative damages, which means compensation for an injury which, although possible, is remote, or conjectural. The damages that you award must be fair and reasonable, neither inadequate nor excessive. You should not award compensatory damages for speculative injuries, but only for those injuries that the Plaintiffs have actually suffered or which they are reasonably likely to suffer in the near future.

In awarding compensatory damages, if you decide to award them, you must be guided by objective common sense. Computing damages may be difficult, but you must not let that difficulty lead you to engage in arbitrary guesswork. On the other hand, the law does not require Plaintiffs to prove the amount of their losses with mathematical precision, but only with as much definiteness and accuracy as the circumstances permit.

**JURY INSTRUCTION NO. \_\_\_\_**

In this case you may not include in any award to Plaintiffs, any sum for the purpose of punishing Defendants, or to make an example of them for the public good or to prevent other incidents. **[Use if punitive damages are not sought]**

**JURY INSTRUCTION NO. \_\_\_\_**

Plaintiffs have alleged that, as a result of Defendants' conduct, they have experienced pain, suffering, and humiliation. Plaintiffs have the burden of proving any compensatory damages by a preponderance of the evidence. If Plaintiffs do not establish by a preponderance of the evidence that they have experienced pain, suffering, and humiliation that was proximately caused by Defendants' alleged wrongful conduct, then they cannot recover compensatory damages.

If you determine that Plaintiffs have proven by a preponderance of the evidence that they have experienced pain, suffering, and humiliation that was proximately caused by Defendants' alleged wrongful conduct, you may award them damages for those injuries.

**JURY INSTRUCTION NO. \_\_\_\_**

The law forbids you to decide any issue in this case by resorting to chance. If you decide that a party is entitled to recover damages, you may then determine the amount of damages you will award. Agreeing in advance to take the independent estimate of each juror, then total the estimates, draw an average from the total, and make the average the amount of your award would be unlawful. Each of you may express your own independent judgment as to what the amount should be. You have a duty to thoughtfully consider the amounts suggested, test them in the light of the law and the evidence and, after due consideration, determine, which, if any, of such individual estimates is accurate.

**JURY INSTRUCTION NO. \_\_\_\_**

You should not take the fact that I have instructed you concerning damages as an indication that I either believe or do not believe that Plaintiffs are entitled to recover such damages. The instructions in reference to damages are given as a guide in case you find from a preponderance of the evidence that Plaintiffs are entitled to recover. However, if you determine that there should be no recovery, then you will entirely disregard the instructions given you upon the matter of damages.

**JURY INSTRUCTION NO. \_\_\_\_**

Your duty, as jurors, is to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. You must each decide the case for yourself but only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if 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.

Remember at all times that you are not supporters of one side or the other. You are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.



**JURY INSTRUCTION NO. \_\_\_\_**

When you retire to deliberate, you should first select one of yourselves to serve as foreperson to preside over your deliberations and serve as your spokesperson here in Court.

**JURY INSTRUCTION NO. \_\_\_\_**

If you need during your deliberations to communicate with the Court, you may send a note by a Court security officer, signed by your foreperson, or by one or more members of the jury. No member of the jury should 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, other than in writing or orally here in open Court.

You will note from the oath about to be taken by the Court security officer that he, as well as all other persons, is 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, until you have reached a unanimous verdict.

This case is being submitted to you by a Special Verdict, which asks you to answer certain questions. When you have answered all the questions required to be answered, please have your foreperson sign the Special Verdict form and advise the Court security officer that such has been done. You will then be returned to the courtroom, where the Special Verdict will be read.