**PRELIMINARY INSTRUCTIONS**

**PRELIMINARY INSTRUCTION NO. 1**

MEMBERS OF THE JURY:

You have been selected and sworn as the jury to try the case of Plaintiff vs. Defendant. I will give you some instructions now and some later. You are required to consider and follow all my instructions. Keep an open mind throughout the trial. At the end of the trial, you will discuss the evidence and reach a verdict. You have each taken an oath to “well and truly try the issues in the case now on trial” and render “a true verdict according to the evidence and instructions” that I will give you. The oath is your promise to do your duty as a member of the jury. Be alert. Pay attention. Follow my instructions.

I will give you some preliminary instructions to guide you in your participation in the trial. First, I will explain the nature of the case. Then, I will explain what your duties are as jurors and how the trial will proceed. At the conclusion of the evidence, I will give you more detailed instructions on the required proof and how you should proceed to reach a verdict.

**PRELIMINARY INSTRUCTION NO. 2**

This is a civil case. The parties who are bringing a lawsuit are called “plaintiffs,” while the parties being sued are called “defendants.” The plaintiffs in this case are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. I will refer to them collectively as the Plaintiffs. The defendants in this case are \_\_\_\_\_\_\_\_\_\_\_\_\_. I will refer to them collectively as the Defendants. Although Plaintiffs first filed this lawsuit against Defendants, Defendants are also asserting a claim, called a counterclaim, against one of the Plaintiffs, \_\_\_\_\_\_\_\_\_\_. You will decide whether Defendants are liable to Plaintiffs, and whether Plaintiffs are liable to Defendants.

**PRELIMINARY INSTRUCTION NO. 3**

To help you understand what you will see and hear, I will now explain the background of the case.

[INSERT STATEMENT OF THE CASE]

**PRELIMINARY INSTRUCTION NO. 4**

**Role of Judge, Jury, and Lawyers**

All of us—judge, jury, and lawyers—are officers of the court and have different roles during the trial:

As the judge, I will supervise the trial, decide legal issues, and instruct you on the law.

As the jury, you must follow the law as you weigh the evidence and decide the factual issues. Factual issues relate to what did, or did not, happen in this case.

The lawyers will present evidence and try to persuade you to decide the case in one way or the other.

Neither the lawyers nor I decide the case. That is your role. Do not be influenced by what you think our opinions might be. Make your decision based on the law given in my instructions and on the evidence presented in court.

Things that you see on television and in the movies may not accurately reflect the way real trials should be conducted. Real trials should be conducted with professionalism, courtesy, and civility.

**PRELIMINARY INSTRUCTION NO. 5**

**Sequence of Instructions Not Significant**

The order in which I give the instructions has no significance. You must consider the instructions in their entirety, giving them all equal weight. I do not intend to emphasize any particular instruction, and neither should you.

**PRELIMINARY INSTRUCTION NO. 6**

You must come to the case without bias. You must not decide this case for or against anyone because you feel sorry for anyone or angry at anyone. You must decide this case based on the facts and the law, without regard to sympathy, passion, or prejudice.

"Person" means an individual, corporation, organization, or other legal entity. The fact that the plaintiffs are natural persons and some of the defendants are limited liability companies should not play any part in your deliberations. You must decide this case as if it were between individuals.

**PRELIMINARY INSTRUCTION NO. 7**

#### **Multiple Parties**

There are multiple parties in this case, and each party is entitled to have its claims or defenses considered on their own merits. You must evaluate the evidence fairly and separately as to each plaintiff and each defendant. Unless otherwise instructed, all instructions apply to all parties.

Although there are four plaintiffs, that does not mean that they are equally entitled to recover or that any of them is entitled to recover. Each defendant is entitled to a fair consideration of its defenses against each plaintiff, just as each plaintiff is entitled to a fair consideration of its claims against each defendant.

Although there are six defendants, that does not mean that they are equally liable or that any of them is liable. Each defendant is entitled to a fair consideration of its defenses against each of the plaintiffs’ claims. If you conclude that one defendant is liable, that does not necessarily mean that one or more of the other defendants is liable.

**PRELIMINARY INSTRUCTION NO. 8**

**Evidence**

As jurors you will decide whether the defendants are liable to the plaintiffs. You must base your decision only on the evidence. Evidence usually consists of the testimony and exhibits presented at trial. Testimony is what witnesses say under oath. Exhibits are things like documents, photographs, or other physical objects. What the lawyers say is not evidence. For example, their opening statements and closing arguments are not evidence.

**PRELIMINARY INSTRUCTION NO. 9**

**Types of Evidence**

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

Statements and arguments of the lawyers are not evidence in the case. But when the parties on both sides agree as to the existence of a fact, you must accept that fact as true.

Unless you are otherwise instructed, anything you may have seen or heard outside of the courtroom is not evidence, and must be entirely disregarded.

**PRELIMINARY INSTRUCTION NO. 10**

**Limited Purpose Evidence**

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.

**PRELIMINARY INSTRUCTION NO. 11**

**Judge’s Questions**

During the course of the trial, I might ask a witness a question. Do not assume that I hold any opinion on the matters to which my question may have related. You as jurors may consider what evidence you deem relevant.

**PRELIMINARY INSTRUCTION NO. 12**

**Credibility of Witnesses**

You are to determine which witnesses to believe, what parts of their testimony you believe, and what weight or value to give that testimony. In making these determinations, you may consider some or all of the following:

1. the demeanor and deportment of the witness;
2. the witness’ interest in the result of the trial;
3. any tendency to favor or disfavor one side or the other;
4. the probability or improbability of events having occurred the way the witness describes the events;
5. whether the witness was actually able to see or hear or otherwise perceive the things described;
6. whether the witness can now accurately recall the things the witness observed;
7. whether the witness is able to describe what he or she observed accurately and in a form that you can understand;
8. whether the witness made earlier statements or expressions that are consistent or inconsistent with what is now being said; or
9. whether or not the witness speaks the truth.

Whatever tests you use, the value of a witness’ testimony is for you to determine.

**PRELIMINARY INSTRUCTION NO. 13**

**Bench Conferences**

From time to time during the trial, it may become necessary for me to talk with the lawyers out of the hearing of the jury, either by having a conference at the bench when the jury is 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 not to keep relevant information from you, but to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error. We will do what we can to keep the number and length of these conferences to a minimum. I may not always grant a request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion on the case or of what your verdict should be.

**PRELIMINARY INSTRUCTION NO. 14**

**Juror’s Memory Controls**

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. I urge you to pay close attention to the testimony as it is given.

**PRELIMINARY INSTRUCTION NO. 15**

**Jury Notes**

If you wish, you may take notes to help you remember what a witness said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note-taking prevent you from hearing other answers by the witnesses. When you leave at night you must leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. If you take notes, remember that they are not evidence and may be incomplete. Do not be overly influenced by your notes. Rely on your own memory and the collective memory of the members of the jury.

**PRELIMINARY INSTRUCTION NO. 16**

**Objections**

Rules govern what evidence may be presented to you. On the basis of these rules, the lawyers may object to proposed evidence. If they do, I will rule in one of two ways. If I sustain the objection, the proposed evidence will not be allowed. If I overrule the objection, the evidence will be allowed.

When I sustain an objection to a question, ignore the question and do not guess what the answer would have been. Sometimes I might order that evidence be stricken from the record and that you disregard or ignore the evidence. When I do so, you must not consider that evidence.

Do not evaluate the evidence on the basis of whether objections are made. Do not allow yourselves to be to be influenced by my rulings. If I receive evidence after it is objected to by one of the lawyers, that only means that you may have that evidence for your consideration. What weight or value you place upon it is still for you to determine.

You must not disfavor lawyers who make a legal objection to evidence because that is their job.

**PRELIMINARY INSTRUCTION NO. 17**

**Order of Trial**

I will now explain how the trial will unfold. The lawyers will make opening statements. An opening statement gives an overview of the case from one point of view, and summarizes what the lawyer thinks the evidence will show. You will then hear the Plaintiffs’ evidence. Evidence is usually presented by calling and questioning witnesses. What they say is called testimony. A witness is questioned first by the lawyer who called that witness. This is called direct examination. After direct examination, the opposing lawyer may then question the witness. This is called cross-examination.

Consider all testimony, whether from direct or cross-examination, regardless of who calls the witness. After the Plaintiffs have presented all their evidence, the Defendants will present their respective evidence. The parties may later offer more evidence, called rebuttal evidence, after hearing the witnesses and seeing the exhibits.

After both sides have presented all of their evidence, I will give you final instructions on the law you must follow in reaching a verdict. You will then hear closing arguments from the lawyers. The Plaintiffs will speak first, followed by the Defendants. The Plaintiffs will then have the final opportunity to address you because they have the burden of proof. Finally, you will deliberate in the jury room where you will discuss the case and reach a verdict. Keep an open mind until then.

**PRELIMINARY INSTRUCTION NO. 18**

**Rules Applicable to Recesses**

From time to time I will call a recess. It may be for a few minutes or longer. During recesses, do not talk about this case with anyone—not family, not friends, not even each other. Until the trial is over, do not mingle or talk with the lawyers, parties, witnesses, or anyone else connected with the case. Court clerks or bailiffs can answer general questions, such as the length of breaks or the location of restrooms. But they cannot comment about the case or anyone involved. The goal is to avoid the impression that anyone is trying to influence you improperly. If people involved in the case seem to ignore you outside of court, they are just following this instruction.

Until the trial is over, do not read or listen to any news reports about this case. Do not do any research or visit any locations related to this case. If you inadvertently hear or see news stories about the case, or if you observe anything that seems to violate this instruction, report it immediately to a clerk or bailiff.

**PRELIMINARY INSTRUCTION NO. 19**

**Further Admonition About Electronic Devices**

Jurors have caused serious problems during trials by using computer and electronic communication technology. You may be tempted to use these devices to investigate the case or to share your thoughts about the trial with others. However, you must not use any of these electronic devices while you are serving as a juror.

You violate your oath as a juror if you conduct your own investigations or communicate about this trial with others, and you may face serious consequences if you do. Let me be clear: do not “Google” the parties, witnesses, issues, or counsel; do not “Tweet” or text about the trial; do not use your phone to gather or send information on the case; do not post updates about the trial on Facebook pages; do not use Wikipedia or other internet information sources, etc. Even using something as seemingly innocent as “Google Maps” can result in a mistrial.

Please understand that the rules of evidence and procedure have developed over hundreds of years in order to ensure the fair resolution of disputes. The fairness of the entire system depends on you reaching your decisions based on evidence presented to you in court, and not on other sources of information.

Post-trial investigations are common and can disclose these improper activities. If they are discovered, they will be brought to my attention and the entire case might have to be retried, at substantial cost.