Honorable Kathryn H. Vratil's Stock Jury Instructions

DISCLAIMER

These stock instructions may change without further notice.

Counsel should be aware of any intervening changes in local rules or case law.

INSTRUCTION NO. __

MEMBERS OF THE JURY:

Now that you have heard the evidence, I will instruct you on the law which applies to this case. Although you as jurors are the sole judges of the facts, you must follow the law stated in these instructions and apply this law to the facts which you find from the evidence before you.

Pay careful attention to all of the instructions that I give you. All of the instructions are important because together they state the law that you will apply in the case. You must consider each instruction in light of the other instructions, and you should apply them as a whole to the evidence. The order in which the instructions are given does not suggest that any one instruction is more important than any other.

Do not concern yourself with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law ought to be, you have sworn to base your verdict on the law given in these instructions.

INSTRUCTION NO. __

You have been sworn as jurors to try the issues of fact in this case. Both the parties and the public expect that you will carefully and impartially consider all of the evidence, follow the law in these instructions and reach a just verdict, regardless of the consequences. Keep constantly in mind that you cannot base your verdict on anything but the evidence in the case. Therefore, do not let bias, sympathy, prejudice or public opinion influence your verdict.

In considering the evidence, you are expected to use your good sense. Consider the evidence only for those purposes for which it has been admitted, and give it a reasonable and fair construction in light of your common knowledge and experience.

INSTRUCTION NO. __

At times during the trial I have ruled on objections to testimony or exhibits. These questions are questions of law for the court, and you must not concern yourselves with the reasons for its rulings. You should not be influenced by these rulings, and you must consider only the evidence which the court has admitted.

In my rulings, actions, remarks and instructions, I have not intended to suggest how I would resolve any of the factual issues in this case.

INSTRUCTION NO. __

In determining the facts of a case, you may properly consider two types of evidence. One is direct evidence such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, proof of a chain of circumstances pointing to the existence or nonexistence of certain facts.

The law makes no distinction between direct and circumstantial evidence, but simply requires you to find the facts in accordance with the evidence in the case, both direct and circumstantial.

INSTRUCTION NO. __

During the trial, you have heard deposition testimony, which consists of sworn, recorded answers to questions to a witness before trial by one or more of the attorneys to the case. The testimony of a witness who for some reason cannot be present to testify from the witness stand may be presented by a deposition taken under oath. You should give such testimony the same consideration and, insofar as possible, consider it in the same way as if the witness had been present and had testified from the witness stand.

INSTRUCTION NO. __

The credibility of a witness may be attacked by evidence that in the past, the witness made a statement or acted in a way which is inconsistent with the testimony here in court. You can consider the earlier statement in deciding the credibility of the testimony here at trial, but not proof of anything else.

INSTRUCTION NO. __

Ordinarily, the rules of evidence do not permit witnesses to testify to opinions or conclusions as to which the witness does not have firsthand knowledge. "Expert witnesses" are an exception to this rule. Witnesses who, by education and experience, have become expert in some art, science, profession or calling, may state opinions on matters in which they profess to be experts and may also state their reasons for the opinion.

You should give expert opinion such weight as you think it deserves. If you decide that an expert opinion is not based upon sufficient education or experience, or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may entirely disregard the expert opinion.

INSTRUCTION NO. __

Statements, arguments and questions of attorneys are intended to help you understand the evidence and apply the law, but generally they are not evidence. Only the witnesses' answer, and the items received as exhibits, are evidence. When the attorneys agree on a certain fact, however, the agreement is called a stipulation. When the attorneys have stipulated to a fact, no other proof is needed and you must accept the stipulation as true.

The evidence consists of the sworn testimony of the witnesses, no matter who called them; the exhibits received in evidence, no matter who produced them; and any facts which are admitted or stipulated. You must disregard any evidence to which the court sustained an objection and any evidence which the court ordered stricken. Likewise, you must disregard anything you may have heard or seen outside the courtroom.

You can only consider the evidence. But in considering the evidence, you are permitted to draw such reasonable inferences as seem justified in the light of your experience.

INSTRUCTION NO. __

The parties are not required to call as witnesses all persons who may have been present at any time or place involved in the case, or who may appear to have some knowledge of the facts. Also, the parties are not required to produce as exhibits all papers and things which may relate to the case.

INSTRUCTION NO. __

Burden of proof means burden of persuasion, and is sometimes referred to as establishing something by a preponderance of the evidence. A party who has the burden of proof on any issue must persuade you that her claim or its claim is more probably true than not true. In determining whether a party has met this burden, you will consider all the evidence, whether produced by plaintiff or by defendant.

The weight of the evidence on any issue is not determined by the number of witnesses, but by how reasonable, persuasive and satisfying the evidence is to you.

INSTRUCTION NO. __

Generally speaking, it is hard to prove intent through direct evidence because there is no way of fathoming or scrutinizing the operations of the human mind. You may draw certain conclusions about a person's intent, however, by looking at surrounding circumstances. You may consider what a person said or did not say, what a person did or did not do, and all other evidence which indicates his or her state of mind. You may consider it reasonable to conclude that when a person knowingly does or does not do something, the person intends the natural and probable consequences of those acts or omissions.

INSTRUCTION NO. __

To find any defendant liable, you must find that defendant directly injured plaintiff or played a substantial part in injuring plaintiff, or that plaintiff's injury was a reasonably probable consequence of defendant's conduct. In other words, you must find that defendant's conduct was the proximate cause of plaintiff's injury.

This does not mean that the law recognizes only one proximate cause of an injury or damage, consisting of only one factor or thing or the conduct of only one person. On the contrary, many factors or things, or the conduct of two or more persons, may operate at the same time, either independently or together, to cause injury or damage. In such a case, each may be a proximate cause.

INSTRUCTION NO. __

The fact that I have instructed you on the measure of damage does not suggest that I think plaintiff is entitled to your verdict in this case. I have included damage instructions in case you find for plaintiff from a preponderance of the evidence under the other instructions.

INSTRUCTION NO. __

You are the exclusive judges of the factual issues, the weight of the evidence and the credibility of the witnesses. You may, and should, however, take into consideration the general information which you possess as to matters of common knowledge, observation and experience of life.

In weighing the testimony of the witnesses you may consider their demeanor while testifying, their interest or lack of interest in the outcome of the case and all other facts and circumstances which will help you decide the facts of the case. You will decide whether to believe a witness and in evaluating a witness' testimony, you may want to ask yourself the following questions:

(1) How well could the witness see or hear the things that the witness testified about?

(2) How well was the witness able to remember and describe what happened?

(3) Did the witness understand the questions and answer them correctly?

(4) Did the witness seem believable to you?

If you believe that any witness has intentionally given false testimony on any material fact, you may disregard all or part of his or her testimony, but you are not required to believe or disbelieve all the testimony of any witness. If there has been conflicting testimony, you should reconcile it with truthfulness, if reasonably possible, but if you cannot do so then you must use your best judgment in determining what testimony you will believe.

People often forget things, or they may honestly believe that something happened even though it turns later out that they were wrong. Inconsistencies or discrepancies in the testimony of

a witness, or between the testimony of different witnesses, may or may not cause you to reject such testimony. Two or more persons witnessing an incident may see or hear it differently, and innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to an important issue or an unimportant detail, and whether the discrepancy is innocent or intentional.

INSTRUCTION NO. __

Your verdict will consist of answers to questions set forth in the verdict form. Your verdict must be unanimous. In other words, to return a verdict, each of you must agree to it.

If you do not reach a verdict, the parties may be put to the expense of another trial and once again have to endure the mental and emotional strain of a trial. If the case is retried, a future jury must be selected in the same way and from the same source as you have been chosen, and we have no reason to think that a future jury would be more competent or that evidence produced at a future trial would be more clear or substantial.

You must consult with one another and deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors. In the course of your deliberations, do not hesitate to re-examine your 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.

You are judges -- judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

INSTRUCTION NO. __

When you have retired to your jury room, you will first select someone to act as foreperson and preside over your deliberations and be your spokesperson to the court. When you have arrived at unanimous answers to the questions on the verdict form, you will complete the verdict form, have the foreperson sign and date it, and inform the bailiff that you are ready to return a verdict.

If it becomes necessary to communicate with the court during your deliberations, you may send a written note to the bailiff. Bear in mind, however, that you are not to reveal to the court or to any person how the jury stands, numerically or otherwise, on the issues presented for your determination, until after you have reached a unanimous verdict.

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UNITED STATES DISTRICT JUDGE