

JUDGE CHARLES P. KOCORAS
COURT’S JURY INSTRUCTIONS
CIVIL CASES

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The Functions of the Court and Jury

Members of the jury, the evidence and arguments in this case have been completed, and I will now instruct you as to the law applicable to this case. It is your duty to follow all of the instructions.

You must not question any rule of law stated by me in these instructions. Regardless of any opinion you may have as to what the law ought to be, you must base your verdict upon the law given by me.

It is your duty to determine the facts from the evidence in this case. You are to apply the law given to you in these instructions to the facts and in this way decide the case.

This case should be considered and decided by you as an action between parties of equal standing in the community. All parties stand equal before the law and are to be dealt with as equals in a court of justice.

Court Instruction 1

Jury as Factfinder

Neither by these instructions, nor by any ruling or remark which I have made, do I mean to indicate any opinion as to the facts or as to what your verdict should be. You are the sole and exclusive judges of the facts.

Court Instruction 2

Evidence in the Case

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

A stipulation is an agreed statement of facts between the parties, and you should regard agreed statements as true.

You are to consider only the evidence received in this case. You should consider this evidence in the light of your own observations and experiences in life. You may draw such reasonable inferences as you believe to be justified from proved facts.

You are to disregard any evidence to which I sustained an objection or which I ordered stricken. Anything you may have seen or heard about this case outside the courtroom is not evidence and must be entirely disregarded. You should not be influenced by sympathy, prejudice, fear or public opinion.

Court Instruction 3

Arguments and Statements of Counsel

Opening statements of counsel are for the purpose of acquainting you in advance with the facts counsel expect the evidence to show. Closing arguments of counsel are for the purpose of discussing the evidence.

Opening statements, closing arguments, and other statements of counsel should be disregarded to the extent they are not supported by the evidence.

During the course of trial, it sometimes becomes the duty of counsel to make objections and for the court to rule on them in accordance with the law. The fact that counsel made objections should not influence you in any way.

Court Instruction 4

Direct and Circumstantial Evidence

There are two types of evidence: direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the disputed facts, such as an eyewitness. Circumstantial evidence consists of proof of facts and circumstances which give rise to a reasonable inference of the truth of the facts sought to be proved. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Court Instruction 5

Credibility of Witnesses

You are the sole judges of the credibility of the witnesses, and of the weight to be given to each of them. In considering the testimony of any witness, you may take into account the witness' intelligence, ability and opportunity to observe, age, memory, manner while testifying, any interest, bias, or prejudice the witness may have, and the reasonableness of the testimony considered in the light of all the evidence in the case.

Court Instruction 6

Impeachment by Prior Inconsistent Statement

The credibility of a witness may be attacked by introducing evidence that on some former occasion the witness made a statement inconsistent with the testimony of the witness in this case on a matter material to the issues. Evidence of this kind may be considered by you in connection with all the other facts and circumstances in evidence in deciding the weight to be given to the testimony of that witness.

Court Instruction 7

Weighing Expert Testimony

You have heard a witness [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 a 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' qualifications, and all of the other evidence in the case.

Court Instruction 8

Deposition Testimony

During the trial, certain testimony was presented to you by [the reading of a deposition and] [video tape]. This testimony is entitled to the same consideration you would give it had the witness[es] personally appeared in court.

Court Instruction 9

Corporate Responsibility

A corporation can only act through natural persons as its agents or employees. A corporation is legally responsible for acts or omissions of its agents or employees within the scope of their employment.

Court Instruction 10

Agent and Principal

An agent is a person who, by agreement with another called a principal, represents the principal in dealings with third persons or transacts business, manages some affair, or does some service for the principal, with or without compensation. The agreement to act as an agent may be oral or written, express or implied. Regardless of the form it takes, an agency relationship must be intended by both the principal and the agent.

If you find that one person has the right to control the actions of another at a given time, you may find that the relationship of principal and agent exists, even though the right to control may not have been exercised.

Court Instruction 11

Meaning of Burden of Proof

When I say that a party has the burden of proof on any proposition, or use the expression "if you find," or "if you decide," I mean you must be persuaded, considering all the evidence in the case, that the proposition on which the party has the burden of proof is more probably true than not true.

Court Instruction 12

Separate Consideration of Each Claim and Party

You must give separate consideration to each claim and each party. In doing so, you must analyze what the evidence in the case shows with respect to each claim and party, leaving out of consideration any evidence admitted solely in regard to some other party. Each party is entitled to have the case decided on the evidence and the law applicable to that party.

Court Instruction 13

Burden of Proof on the Issues

On plaintiff[s] _____ claim against defendant[s], plaintiff[s] must prove each of the following propositions:

If you find from your consideration of all the evidence that plaintiff[s] has[have] proven each of these propositions, then you should find in favor of plaintiff[s] on plaintiff's _____ claim.

If, however, you find from your consideration of all the evidence that any of these propositions has not been proved, then you should find against plaintiff[s] on plaintiff's _____ claim.

Court Instruction 14

Measure of Damages—Personal and Property

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate him for any of the following elements of damage proved by the evidence to have resulted from the negligence [wrongful conduct] of the defendant:

[Here insert the elements of damage which have a basis in the evidence.]

Whether any of these elements of damages has been proved by the evidence is for you to determine.

Court Instruction 15

Punitive Damages

If you find that defendant was guilty of wilful and wanton conduct which proximately caused injury to the plaintiff and if you believe that justice and the public good require it, you may, in addition to any damages to which you find plaintiff entitled, award plaintiff an amount which will serve to punish the defendant and to deter others from the commission of like conduct.

Court Instruction 16

In Absence of Liability—No Occasion to Consider Damages

If you decide for the defendant on the question of liability, you will have no occasion to consider the question of damages.

Court Instruction 17

Selection of Foreperson and Form of Verdict

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court.

[A] form[s] of verdict has [have] been prepared for you.

(Form[s] of verdict read).

Take this form to the jury room and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the form, and each of you will sign it. [Take these forms to the jury room and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form[s], and each of you will sign the form[s].]

Court Instruction 18

Unanimous Verdict

The verdict must represent the considered judgment of each juror. Your verdict, whether for or against the parties, 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. Do not 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 opinions of other jurors or for the purpose of returning a unanimous verdict.

The [six] of you should give fair and equal consideration to all the evidence 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.

Court Instruction 19

Jury Communications

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is to give the Court Security Officer a written request, signed by the foreperson, or by some other juror if the foreperson is unwilling to do so.

I will then respond as promptly as possible, either in writing or by having you return to the courtroom so that I can respond orally. I caution you, however, with regard to any message or question you might send, that you should never state or specify your numerical division at the time.

DAMAGES

(a) Plaintiff is awarded \$_____ in compensatory damages. (If you found against plaintiff on all its claims, fill in the number "0".)

(b) Do you award Plaintiff punitive damages, and if so, in what amount? (As to each defendant, either (1) place an "x" on the YES line and fill in the amount or (2) place an "x" on the NO line.)

As to:

Defendant A	_____	\$_____	_____ NO
Defendant B	_____	\$_____	_____ NO

Court Instruction 21