United States District Court

for the Northern District of Illinois

Eastern Division

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| [Name],*Plaintiff*,v.[Name],*Defendant*. | No. [XX] CR [XXXX]Judge Lindsay C. Jenkins |

INstructions to the Jury

Draft [Date]

The parties are to insert their proposed instructions in this template, as explained in point 12 of the Court’s Standing Order Governing Proposed Pretrial Orders. Each instruction should begin on a new page, and parties must use page breaks to advance to new pages, rather than inserting multiple carriage returns. The instructions should be ordered logically and numbered sequentially without regard to whether instructions are agreed or not. Competing versions of the same instruction should take the same number. For example: Agreed Instruction No. 1, Defendant’s Proposed Instruction No. 2, Government’s Corresponding Instruction No. 2.

Each instruction should follow the format listed on the following page, including this information: (a) instruction number, (b) instruction title, (c) whether it is agreed or contested, (d) text of proposed instruction, (e) authority for proposed instruction, (f) opponent’s objection to instruction (if any), (g) proponent’s response (if any). A corresponding instruction, if any, should begin on a new page and contain the same information in (a)–(g); if parties’ positions on the corresponding instruction are identical to their positions on the proposed instruction, they may incorporate them by reference. If an objection is to specific language within an instruction but not the inclusion of the instruction itself, the challenged language should be highlighted and struck through; any proposed additional language should be highlighted and bolded. For example: “**Your** verdict must be unanimous.” An example appears on pages three, four and five.

This template includes preliminary instructions and final instructions (Nos. 1–17) that the Court typically gives regardless of the subject matter of the case. These instructions should not be deleted while the parties are preparing their instructions. Instead, the parties are free, jointly or separately, to propose additions, deletions, or alterations to the Court’s instructions, which they should do in the same way described above. If one or both parties wish to interpose an instruction between the Court’s instructions, the instruction(s) should be numbered with a decimal, such as Defendant’s Proposed Instruction No. 2.5 added between the Court’s Instructions No. 2 and No. 3. If one or both parties wish to add or delete specific language, it should be highlighted and struck through or bolded as described above.

The parties should endeavor to adopt consistent naming conventions, e.g., referring to parties as “Government” and “Defendant” or by name. The parties are encouraged not to make edits to the formatting of this document and if they copy and paste, they are advised to paste material as plain text or to keep the destination formatting. These instructions and the examples on the pages that follow can be deleted as the parties prepare their draft instructions. The parties must submit their proposed jury instructions to the Court’s proposed order inbox in Microsoft Word format.

[Agreed or Party’s Proposed] Instruction No. X:
[Descriptive Title]

[Complete text of proposed instruction exactly as the Court would read it and exactly as it would be given to the jury. Bracketed text may be used only if the parties anticipate that the exact text of an instruction will depend on what occurs at trial. The parties should substitute placeholder brackets in pattern instructions to the extent possible, e.g., replacing “[the defendant]” with his or her name if using that naming convention.]

[Authority for proposed instruction. Citations to the Seventh Circuit’s pattern instructions should be to the current version and indicate whether any change has been made other than by inserting relevant text for bracketed material in the pattern instruction. If a party cites material besides the Seventh Circuit pattern instructions, statutes, and caselaw (such as another circuit’s pattern jury instructions), that party must make the material readily available to the Court, e.g., by including a hyperlink to the source or by attaching the source to the email submission.]

[Party’s] Objection (If applicable)

Concisely state and support the objection, citing applicable authority.

[Proponent’s] response (IF applicable)

Concisely state the response to the objection, citing applicable authority.

[A corresponding instruction, if any, would follow after a page break, in the same format. *An example appears on the two pages that follow*.]

DEFENDANT’S PROPOSED INSTRUCTION NO. 4:
ALL LITIGANTS EQUAL BEFORE THE LAW
(Contested)

In this case, the defendant, U.S. Bank, is a corporation. A corporation and all other persons are equal before the law. A corporation is entitled to the same fair consideration that you would give any individual person.

Seventh Circuit Pattern Jury Instruction (Civil) 1.03 (modified)

DEFENDANT’S Position

Defendant’s minor modifications to this pattern instruction align with the instruction’s purpose to ensure the jury understands that corporations are entitled to equal treatment. *See United States v. Edwards*, 869 F.3d 490, 500 (7th Cir. 2017) (“The trial judge is empowered to improve on the pattern language”).

Plaintiff’s Position

Defendant’s proposed instruction fails to consider Plaintiff as also an equal party before the law.

PLAINTIFF’S Corresponding INSTRUCTION No. 4:
All Litigants Equal Before the Law

In this case, the defendant, U.S. Bank, is a corporation. All parties are equal before the law. A corporation is entitled to the same fair consideration that you would give any individual person.

Seventh Circuit Pattern Jury Instruction (Civil) 1.03

Parties’ Positions

The parties adopt the same positions as to Defendant’s Proposed Instruction No. 4.

[The Court’s default instructions follow on the next 10 pages; the Court’s default final jury instructions follow on the last three pages. Do not delete these instructions—insert the proposed instructions as directed above into this template.]

INSTRUCTION 1: FUNCTIONS OF THE COURT AND THE JURY

Members of the jury, I will now instruct you on the law that you must follow in deciding this case. I will also give you a copy of these instructions to use in the jury room. You must follow all of my instructions about the law, even if you disagree with them. This includes the instructions I gave you before the trial, any instructions I gave you during the trial, and the instructions I am giving you now.

As jurors, you have two duties. Your first duty is to decide the facts from the evidence that you saw and heard here in court. This is your job, not my job or anyone else’s job.

Your second duty is to take the law as I give it to you, apply it to the facts, and decide if the government has proved the defendant guilty beyond a reasonable doubt.

You must perform these duties fairly and impartially. Do not let sympathy, prejudice, fear, or public opinion influence you. In addition, do not let any person’s race, color, religion, national ancestry, or gender influence you.

You must not take anything I said or did during the trial as indicating that I have an opinion about the evidence or about what I think your verdict should be.

INSTRUCTION 2: THE CHARGE

The charge against [[the defendant]] is in a document called an indictment. You will have a copy of the indictment during your deliberations.

The indictment in this case charges that the defendant committed the crime of knowingly possessing a prohibited object within a prison. [[The defendant]] has pled not guilty to the charge[[s]].

The indictment is simply the formal way of telling a defendant what crime he/she is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt.

INSTRUCTION 3: PRESUMPTION OF INNOCENCE/BURDEN OF PROOF

[[The defendant(s)]] is presumed innocent of the charge. This presumption continues throughout the case, including during your deliberations. It is not overcome unless, from all the evidence in the case, you are convinced beyond a reasonable doubt that [[the defendant(s)]] is guilty as charged.

The government has the burden of proving [[the defendant’s]] guilt beyond a reasonable doubt. This burden of proof stays with the government throughout the case.

The defendant is never required to prove his innocence. He is not required to produce any evidence at all.

INSTRUCTION 4: THE EVIDENCE

You must make your decision based only on the evidence that you saw and heard here in court. Do not consider anything you may have seen or heard outside of court, including anything from the newspaper, television, radio, the Internet, social media, text messages, e-mails, or any other source.

The evidence includes only what the witnesses said when they were testifying under oath, the exhibits that I allowed into evidence, and the stipulations that the parties agreed to. A stipulation is an agreement that certain facts are true.

Nothing else is evidence. Unsworn statements and argument by the parties are not evidence. If an unsworn statement or argument is different from the evidence as you remember it, the evidence is what counts. The parties’ questions and objections likewise are not evidence.

The parties have a duty to object if they think a question is improper. If I sustained objections to questions asked, you must not speculate on what the answer might have been.

If, during the trial, I struck testimony or exhibits from the record, or told you to disregard something, you must not consider it.

INSTRUCTION 5: CONSIDERING THE EVIDENCE

Give the evidence whatever weight you decide it deserves. Use your common sense in weighing the evidence, and consider the evidence in light of your own everyday experience.

People sometimes look at one fact and conclude from it that another fact exists. This is called an inference. You are allowed to make reasonable inferences, so long as they are based on the evidence.

INSTRUCTION 6: DIRECT AND CIRCUMSTANTIAL EVIDENCE

You may have heard the terms “direct evidence” and “circumstantial evidence.” Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves a fact.

An example of direct evidence that it was raining would be testimony from a witness who said she was outside and saw it raining. An example of circumstantial evidence that it was raining would be testimony that a witness observed someone carrying a wet umbrella.

You are to consider both direct and circumstantial evidence. The law does not say that one is better than the other. It is up to you to decide how much weight to give to any evidence, whether direct or circumstantial.

INSTRUCTION 7: NUMBER OF WITNESSES

Do not make any decisions simply by counting the number of witnesses who testified about a certain point.

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.

What is important is how truthful and accurate the witnesses were and how much weight you think their testimony deserves.

INSTRUCTION 8: CREDIBILITY OF WITNESSES

 Part of your job as jurors is to decide how believable each witness was, and how much weight to give each witness’s testimony, including that of the defendant. You may accept all of what a witness says, or part of it, or none of it.

Some factors you may consider include:

* the intelligence of the witness;
* the witness’ ability and opportunity to see, hear, or know the things the witness testified about;
* the witness’ memory;
* the witness’ demeanor;
* whether the witness had any bias, prejudice, or other reason to lie or slant the testimony;
* the truthfulness and accuracy of the witness’s testimony in light of the other evidence presented; and
* inconsistent statements or conduct by the witness.

INSTRUCTION 9: ATTORNEY INTERVIEWING WITNESS

It is proper for an attorney to interview any witness in preparation for trial.

INSTRUCTION 10: JUROR NOTE-TAKING

If you have taken notes during the trial, you may use them during deliberations to help you remember what happened during the trial. You should use your notes only as aids to your memory. The notes are not evidence. All of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror.

INSTRUCTION 11:

INSTRUCTION 12:

INSTRUCTION 13:

INSTRUCTION XX: SELECTION OF PRESIDING JUROR;
GENERAL VERDICT

Upon retiring to the jury room, you must select a presiding juror. The presiding juror will preside over your deliberations and will be your representative here in court.

Forms of verdict have been prepared for you.

Take these forms to the jury room, and when you have reached unanimous agreement on the verdict, your presiding juror will fill in and date the appropriate form, and all of you will sign it.

Your deliberations should continue as necessary during the same general hours that we have conducted trial, that is, between roughly 9:30 a.m. and 5:00 p.m. In providing you with this information, I intend no comment on the appropriate length of your deliberations; that is a matter for you, the jury, to determine.

INSTRUCTION XX: COMMUNICATION WITH COURT

I do not anticipate that you will need to communicate with me. If you do need to communicate with me, the only proper way is in writing. The writing must be signed by the presiding juror, or, if he or she is unwilling to do so, by some other juror. The writing should be given to the court security officer, who will give it to me. I will respond either in writing or by having you return to the courtroom so that I can respond orally.

If you do communicate with me, you should not indicate in your note what your numerical division is, if any.

INSTRUCTION XX: DISAGREEMENT AMONG JURORS

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.

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.