United States District Court

for the Northern District of Illinois

Eastern Division

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| [Name],*Plaintiff*,v.[Name],*Defendant*. | No. [XX] CV [XXXX]Judge April M. Perry |

INstructions to the Jury

Draft [Date]

The parties are to insert their proposed instructions in this template, as explained in 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, Plaintiff’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 “Plaintiff” 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 plaintiff]” with the plaintiff’s 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 preliminary instructions follow on the next 5 pages; the Court’s default final jury instructions follow on the succeeding 17 pages. Do not delete these instructions—insert the proposed instructions as directed above into this template.]

Preliminary Instructions

Ladies and Gentlemen:

You are now the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some instructions. At the end of the trial, I will give you more detailed instructions. Those instructions will control your deliberations.

One of my duties is to decide all questions of law and procedure. From time to time during the trial and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be. After I finish, we’ll start the trial with opening statements.

**Elevators**

If you see the lawyers or the parties in the courthouse, in the hallways, or downstairs on the second floor where there’s a cafeteria, they won’t speak to you. They’re not being rude. They’re just following my instructions not to have any contact with you.

Starting now, you must use the north elevators, which are the set closest to this courtroom.

Everyone else will use the south elevators.

**Order of Trial**

The trial will proceed in the following manner: First, the Plaintiff’s attorney will make an opening statement. Next, the Defendant’s attorney will make an opening statement. An opening statement is not evidence but is simply a summary of what the attorney expects the evidence to be.

After the opening statements, Plaintiff will call witnesses and present evidence. Then, Defendant will have an opportunity to call witnesses and present evidence. After the parties’ main cases are completed, Plaintiff may be permitted to present rebuttal evidence.

In order to save time, it’s possible that when a witness is testifying, both sides will present the evidence that they want to present through that witness so that witness doesn’t have to come back at a different stage of the case.

After the evidence has been presented, the attorneys will make closing arguments and I will instruct you on the law that applies to the case.

After that, you will go to the jury room to deliberate on your verdict.

**Simple Statement of the Case**

[The parties should include their agreed or competing case statements here.]

**Burden of Proof—Preponderance**

When I say a particular party must prove something by “a preponderance of the evidence,” or when I use the expression “if you find,” of “if you decide,” this is what I mean: When you have considered all the evidence in the case, you must be persuaded that it is more probably true than not true.

**Deposition Evidence** [If applicable.]

Certain testimony may be presented to you by the reading of deposition, consisting of sworn answers to questions asked of the witness in advance of the trial by one or more of the attorneys or the parties to the case.

Deposition testimony presented to you is entitled to the same consideration, and is to be judged as to credibility, insofar as possible, in the same way as if the witness had been present and had testified from the witness stand. That is to say, you must not decide to accept certain testimony just because it is by deposition, or reject it for that reason.

**Evidence in the Case**

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and any facts that I may instruct you to find or the parties may agree or stipulate to. A stipulation is simply an agreement between both sides that certain facts are true.

During the course of the trial, you may be shown documents that contain redactions, meaning some words in those documents are hidden from view. Documents are redacted for a number of reasons that have nothing to do with the merits of the case. You should not draw any inferences or conclusions from the fact that a document contains redactions.

**Credibility of Witnesses**

You will have to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also have to decide what weight, if any, you give to the testimony of each witness.

**Inferences**

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life. In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

**Direct and Circumstantial Evidence**

You may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true. As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. When the time comes to deliberate on your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

**What is Not Evidence**

The following things are **not** evidence, and you must **not** consider them as evidence in deciding the facts of this case: the attorneys’ opening statements, closing arguments, questions, and objections of the attorneys; any testimony that I instruct you to disregard; and anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses. The opening statements are not evidence. It is simply a summary of what the attorney expects the evidence to be.

**Rulings on Objections**

From time to time during the trial I may be called upon to make rulings of law on objections or motions made by the lawyers. You should not infer or conclude from any ruling or other comment I may make that I have any opinions about how you should decide this case. And if I should sustain an objection to a question that goes unanswered by a witness, you should not guess or speculate what the answer might have been, and you should not draw any inferences or conclusions from the question itself.

**Bench Conferences**

At times during the trial, it may be necessary for me to talk with the lawyers here at the bench out of your hearing, or by calling a recess. We meet because often during a trial something comes up that doesn’t involve the jury. We will, of course, do what we can to keep the number and length of these conferences to a minimum, but you should remember the importance of the matter you are here to determine and should be patient even though the case may seem to go slowly.

**Note-Taking—Allowed**

Any notes you take during this trial are only aids to your memory. The notes are not evidence. If you do not take notes, you should rely on your independent memory of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the memories or impressions of each juror about the testimony. When you leave the courthouse during the trial, your notes should be left in the courtroom. When you leave at night, your notes will be secured and not read by anyone. At the end of the trial, your notes will be destroyed, and no one will be allowed to read the notes before they are destroyed.

**No Transcript Available to Jury**

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

**Jury Conduct**

All jurors must follow certain rules of conduct, and you must follow them, too.

First, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. You must not let others discuss the case with you. If anyone tries to talk to you about the case, please let me know about it immediately. You may tell your family and your employer that you are serving jury duty, but you must not tell them anything else about the case;

Second, you must not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it;

Third, you must not do any research, such as consulting dictionaries, searching the Internet or using other reference materials, and do not make any investigation about the case on your own. I am referring to every way that people communicate or obtain information. This includes, for example, face-to-face conversations; looking things up; doing research; reading, watching, or listening to reports in the news media; and any communication using any electronic device such as a phone, computer, internet, text messaging, social media like Facebook, Twitter, Instagram, or any other form of communication. There are a few reasons for these rules. It would not be fair to the parties in this case for you to consider outside information or communicate information about the case to others. Outside information may be incorrect or misleading;

Fourth, if you need to communicate with me, you must give a signed note to the courtroom deputy or law clerk to give to me; and

Fifth, you must not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. You are obligated to keep an open mind until then.

**Description of a Trial Day**

We generally will begin the trial day at 9:30 a.m. – you’ll be required to be in the jury room at 9:15 a.m.

We will take a lunch break for about one hour each day beginning sometime around 12:15 or 12:30 p.m.

We will take a morning and afternoon break of 15 minutes each.

We hope to conclude the trial day by around 4:30 or 5:00 p.m. – maybe a little earlier, but not much later. The only exception will be when the case ends and your deliberations are ongoing.

The jury room will be your home base during the course of the trial. You will always assemble in the jury room at the beginning of the day as well as at the end of lunch break. Your recesses will be in the jury room. You will find restrooms for your personal use in the jury room confines. Breakfast is provided to you each morning. Hopefully, an afternoon snack will also be provided, too. We will try to make your duties as pleasant and as comfortable as possible. If you have any problems, please let my courtroom deputy know about them. She will then inform me, and we will see if we can resolve the matter.

We are now ready to hear opening statements.

INSTRUCTION 1: FUNCTIONS OF THE COURT AND THE JURY

Members of the jury, you have seen and heard all the evidence and arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

INSTRUCTION 2: ALL LITIGANTS EQUAL BEFORE THE LAw

[If applicable; modify if there is more than one corporate party (or other legal entity such as an LLC); delete if there is no corporate party.]

In this case one of the parties 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.

INSTRUCTION 3: EVIDENCE

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

A stipulation is an agreement between both sides that certain facts are true. You must treat the stipulations as having been proved for the purpose of this case.

INSTRUCTION 4: WHAT IS NOT EVIDENCE

Certain things are not to be considered as evidence. I will list them for you:

First, if I told you to disregard any testimony or exhibits or struck any testimony or exhibits from the record, such testimony or exhibits are not evidence and must not be considered.

Second, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded. This includes any press, radio, Internet or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.

Third, questions and objections or comments by the lawyers are not evidence. Lawyers have a duty to object when they believe a question is improper. You should not be influenced by any objection, and you should not infer from my rulings that I have any view as to how you should decide the case.

Fourth, the lawyers’ opening statements and closing arguments to you are not evidence. Their purpose is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

INSTRUCTION 5: NOTE-TAKING

Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If you have not taken notes, you should rely on your independent recollection of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the recollections or impressions of each juror about the testimony.

INSTRUCTION 6: CONSIDERATION OF ALL EVIDENCE

REGARDLESS OF WHO PRODUCED

In determining whether any fact has been proved, you should consider all of the evidence bearing on the question regardless of who introduced it.

The way the exhibits are named is not relevant and should not be considered in determining the weight to give the exhibits, if any.

INSTRUCTION 7: WEIGHING THE EVIDENCE

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

INSTRUCTION 8: DEFINITION OF “DIRECT”

AND “CIRCUMSTANTIAL” EVIDENCE

You may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true.

As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You should decide how much weight to give to any evidence. In reaching your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

INSTRUCTION 9: TESTIMONY OF WITNESSES

(DECIDING WHAT TO BELIEVE)

You must decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also must decide what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, including any party to the case, you may consider, among other things:

* the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
* the witness’s memory;
* any interest, bias, or prejudice the witness may have;
* the witness’s intelligence;
* the manner of the witness while testifying; and
* the reasonableness of the witness’s testimony in light of all the evidence in the case.

INSTRUCTION 10: PRIOR INCONSISTENT STATEMENTS

You may consider statements given by certain witnesses under oathbefore trial as evidence of the truth of what he or she said in the earlier statements, as well as in deciding what weight to give his or her testimony.

In considering a prior inconsistent statement, you should consider whether it was simply an innocent error or an intentional falsehood and whether it concerns an important fact or an unimportant detail.

INSTRUCTION 11: LAWYER INTERVIEWING WITNESS

It is proper for a lawyer to meet with any witness in preparation for trial.

INSTRUCTION 12: NUMBER OF WITNESSES

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.

INSTRUCTION 13: ABSENCE OF EVIDENCE

The law does not require any party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require any party to present as exhibits all papers and things mentioned during this trial.

INSTRUCTION 14: BURDEN OF PROOF

When I say a particular party must prove something by “a preponderance of the evidence,” or when I use the expression “if you find,” or “if you decide,” this is what I mean: When you have considered all the evidence in the case, you must be persuaded that it is more probably true than not true.

INSTRUCTION 15: 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.

INSTRUCTION 16: 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.

INSTRUCTION 17: 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.