

Court's Civil Instruction #1 – “Duty of Jury”

It is your duty to find what the facts are. You alone are the judges of the facts. You must apply to those facts the law as I explain it to you. You must follow that law whether you agree with it or not.

Nothing I may say or do during the course of the trial is intended to indicate what your verdict should be.

Court's Civil Instruction #2 – “Evidence”

The evidence from which you will find the facts will consist of the testimony of witnesses, documents and other things received into the record as exhibits, and any facts that the lawyers agree to or stipulate to or that I may instruct you to take as true.

The following things are not evidence and must not be considered by you in finding the facts.

1. Statements, arguments and questions by lawyers are not evidence. The lawyers are not witnesses.
2. Objections to questions are not evidence. Lawyers have an obligation to their clients to make objections when they believe evidence being offered is improper under the rules of evidence. Do not be influenced by the objection or by my ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other. If you are instructed that some item of evidence is received for a limited purpose only, follow that instruction.
3. Testimony that I have excluded or told you to disregard is not evidence and must not be considered.
4. Anything you may see or hear outside the courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in the courtroom.

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist. You may consider both kinds of evidence.

It is up to you to decide which witnesses to believe, which witnesses not to believe, and how much of any witness's testimony to accept or reject. I will give you some suggestions for assessing the credibility of witnesses as the end of the case.

Court's Civil Instruction #3 – “Burden of Proof”

This is a civil case. The plaintiff has the burden of proving his/her case by what is called a preponderance of the evidence. That means the plaintiff has to produce evidence that, considered in light of all the facts, leads you to believe that what the plaintiff claims is more likely true than not.

To put it differently, if you were to put the plaintiff's and the defendant's evidence on the opposite sides of the scales, the plaintiff would have to make the scales tip somewhat on his/her side. If the plaintiff fails to meet this burden, the verdict must be for the defendant.

Those of you who have sat on criminal cases will have heard of proof beyond a reasonable doubt. That requirement does not apply to a civil case; therefore, put it out of your mind.

Court's Civil Instruction #4 – "Conduct of the Jury"

Do not discuss the case with anyone or permit anyone to discuss it with you until you retire to the jury room at the end of the case to deliberate on your verdict.

Do not read or listen to anything touching on this case in any way. If anyone should try to talk to you about it, bring it to my attention promptly.

Do not try to do any research or make any investigation about the case on your own.

Keep your minds open until all the evidence is in and I have given you final instructions on the law and until you start your deliberations at the end of the case.

I will permit you to take notes in this case, and the courtroom deputy clerk will distribute pencils and pads for your use. A couple of warnings about taking notes, however: first of all, do not allow your note-taking to distract you from listening carefully to the testimony that is being presented. If you would prefer not to take notes at all but simply to listen, please feel free to do so. Please remember also from some of your grade-school experiences that not everything you write down is necessarily what was said. Thus, when you return to the jury room to discuss the case, do not assume simply because something appears in somebody's notes that it necessarily took place in court. Instead, it is your collective memory that must control as you deliberate upon the verdict. The courtroom deputy clerk will collect your notes at the end of each day and place them in the vault. They will then be returned to you the next morning. When the case is over, your notes will be destroyed.

Court's Civil Instruction #5 – "Course of the Trial"

The trial begins with each side making an opening statement. An opening statement is neither evidence nor argument; it is an outline of what that party intends to prove, offered to help you follow the evidence.

Next, the plaintiff presents his/her witnesses, and the defendant may cross-examine them. Then the defendant presents his/her witnesses, and the plaintiff may cross-examine them.

After that, the attorneys make their closing arguments to summarize and interpret the evidence for you, and then I give you final instructions on the law.

You then retire to deliberate on your verdict.