

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**OPENING JURY INSTRUCTIONS**

Members of the Jury:

We are about to begin the trial of the case about which you have heard some details during the process of jury selection. Before the trial begins, however, there are certain instructions you should have in order to better understand what will be presented before you and how you should conduct yourself during the trial.

Jury service is truly one of the highest duties a citizen of the United States can be called upon to perform. The system of justice called for by our Constitution relies on citizens of the United States to become involved in the trial to decide issues of fact in dispute between parties.

The involvement of citizens in this way takes the important fact finding function out of the hands of individual judges so that decisions about factual questions can be made by members of the community, having a variety of backgrounds and perspectives, rather than by legal professionals.

Notwithstanding the importance of jury service, coming to court and participating in trial procedures does require sacrifice by jury members who must give up other business and personal pursuits, sometimes at considerable inconvenience. The court is aware of the sacrifice involved as are the parties and their counsel who join me in thanking each of you for being here and for serving as a juror in this case. We hope that the experience will be rewarding to you, despite any inconvenience involved.

During the course of the trial, we will take a luncheon recess at about 12:00 p.m. every day, and we will take one recess during each morning and afternoon session. We will adjourn for the day at 4:30 and resume at 9:30 sharp the following day. Counsel have advised me that the case will conclude by \_\_\_\_\_.

It is important, ladies and gentlemen, that each of you be here when proceedings are scheduled to start, because if any one is late, the other jurors, the parties, the lawyers, the witnesses and the court have to wait until all the jurors are here. So, please be here by 9:15 a.m.

Nothing I say in these instructions is to be taken as an indication that I have any opinion about the facts of the case. It is not my function to determine the facts, but rather, yours.

The party who brings a lawsuit is called the Plaintiff. In this case, the Plaintiff is \_\_\_\_\_. The party against whom a lawsuit is brought is called the Defendant. The Defendants in this case are \_\_\_\_\_. In this case, the plaintiff, \_\_\_\_\_, claims that the defendants \_\_\_\_\_. The Defendants claim that \_\_\_\_\_.

[This case should be considered and decided by you as an action between persons of equal standing in the community, and holding the same or similar stations in life. The Plaintiff was incarcerated at the time of the incident in question. However, he is entitled to the same fair trial at your hands as any other individual. All persons stand before the law and are to be dealt with as equals in a court of justice.] USED IN PRISONER CIVIL RIGHTS CASES

By your verdict, you will decide issues of fact that are disputed between the Plaintiff and the Defendants. I will decide all of the issues of law that arise during the trial, and before you move to the jury room to deliberate and the end of the trial, I will instruct you on the law that you must follow in deciding your verdict.

Since you will be asked to decide the facts in this case, you should pay careful attention to the testimony and evidence presented for your consideration. During the trial please keep an open mind and do not form or express any opinion about the case until you have heard all the testimony and evidence, the closing arguments of the Plaintiff and the lawyers, and my instructions to you on the law.

While trial is in progress, you must not discuss the case in any manner, including with your fellow jury members. You should also avoid any newspaper, television, or radio news accounts dealing with the trial. You must not conduct any independent research about this case, the matters in the case, or any individuals involved in the case. In other words, you should not consult reference materials, search the Internet, websites, blogs, or use any other electronic tools to obtain information about this case or to help you decide the case.

From time to time during the trial I may be asked to make rulings of law on objections or motions made by the lawyers. It is the duty of each side to object when the other side offers testimony or evidence, which the attorney believes should not be admitted. You should not show prejudice against an attorney for making objections. You should not infer from any ruling or comment that I make, that I favor one side of the case over another. If I sustain an objection, which then goes unanswered by a witness, you

may not try to infer any conclusions from the question itself, or try to guess what the witness's answer may have been.

During the trial, it may be necessary for me to confer with the lawyers out of your hearing with regard to questions of law or procedure. These are called side bars. On some occasions, you may be excused from the court room for the same reason. I will try to limit these interruptions, but remember that you are here to determine an important matter and I ask you to please be patient even though the case may seem to move slowly at times.

In arriving at a verdict in this case, under your oath as jurors, you must not permit sympathy, prejudice, or emotion to influence you. You must put aside any personal feelings you may have about the parties in this case. You should be guided solely by the evidence presented during the trial without regard to the consequences of your decision. You are to perform your duties without bias for, or prejudice against, any party. All parties are entitled to a fair trial. You have been chosen to try the issues of fact on the basis of evidence or lack of evidence. Our system of law does not permit jurors to be governed or affected by sympathy or passion. If you let sympathy interfere with your decision-making, there are serious risks that your verdict will not be just.

The Court may take judicial notice of certain facts or events. When the Court declares it will take judicial notice of some fact or event, you must, unless otherwise instructed, accept the Court's declaration as evidence, and regard as proved the fact or event which has been judicially noticed. In addition, if all parties stipulate as to the existence of a fact, I will so inform you and you must accept that stipulation and regard

that fact as having been proved.

Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken by the Court, must be entirely disregarded.

During the course of a trial, I may occasionally ask questions of a witness. Do not assume that I hold any opinion on the matters to which my question may relate. I may ask a question simply to clarify a matter - - not to help one side of the case or hurt another side.

Remember at all times that you, as jurors, are the sole judges of the facts of this case.

The case will proceed in the following order:

First, Plaintiff's counsel will make an opening statement outlining her case. The attorney representing Defendants will also make an opening statement outlining their case. An opening statement is not evidence, but is simply designed to provide you with an introduction to the evidence that each party intends to show you during the trial.

Second, the Plaintiff will introduce evidence to support her claim. When the Plaintiff is finished presenting all of her evidence, the Plaintiff's case is concluded and the Defendants may then begin presenting evidence to you. The Defendants are not obligated to provide you with any evidence or produce any witnesses, because, as I will explain later, the Plaintiff has the burden of proving her claim to you. If the Defendants do introduce evidence, the Plaintiff may then introduce rebuttal evidence.

Third, the parties may present closing arguments to you. A closing argument is not evidence, but is designed to present you with the arguments of each party based on the

evidence that has been produced.

Fourth, and finally, I will provide you with more instructions about the law that you must apply in reaching your verdict in this case.

The law does not require any party 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 matters in issue at this trial. Nor does the law require any party to produce as exhibits, all papers and things mentioned in the evidence in the case. Furthermore, the court cannot compel any witness to come in to testify who is not within its jurisdiction, which is roughly Western Pennsylvania. Therefore, you should not draw any adverse inference from a person's failure to come in to testify unless I tell you otherwise.

If at any time you are unable to hear a witness or a lawyer, please raise your hand and I will see that the situation is corrected.

During this trial I will permit you to take notes. There is no requirement that any of you take notes. Many courts do not permit note-taking by jurors, and a word of caution is in order. Obviously, you cannot, and should not, take down everything that is said. There is a fear that a juror will focus so much on note taking that he or she will miss the overall picture of the case. Make sure that note taking does not prevent you from listening to each witness, and from observing his or her demeanor while on the stand. There may be a tendency to attach undue importance to matters which one has written down, and that is not always the case.

Your notes are only a tool to aid your individual memory. You should not

compare your notes with other jurors in determining the content of any testimony or in evaluating the importance of any evidence. Your notes are not evidence, and are by no means a complete report of the proceedings or a list of highlights of the trial. Above all, your memory should be your greatest asset when it comes time to deliberate and render a decision in this case. When you leave at night, leave your notes in the jury room. No one will look at them. At the conclusion of the trial, all of your notes will be shredded and they will not be read by or disclosed to anyone.

You, as jurors, must decide this case based solely on the evidence presented here within the 4 walls of this courtroom. During the trial, you must not communicate with or provide any information about this case to anyone outside of the jury room by any means, or obtain information about the case by any means. You may not use any electronic device or media, such as a telephone, cell phone, smartphone, iPhone, blackberry, computer, any Internet service or text messaging. You may not go on any Internet Chat room, blog, or website such as Facebook, YouTube, Twitter or instagram, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict. Relying on any information you obtain outside this courtroom is not only in violation of these rules, it is unfair because the parties will not have the opportunity to refute it, explain it, or correct it. Do not look up legal terms or any other words you do not understand. I will explain all of them to you. If you need to have a word or term explained during the trial, please write it down and give it to Mr. Banas and he will get it to me.

While these rules may seem unduly restrictive, you must carefully follow them.

The whole point of a trial is to ensure that the facts on which jurors base their decisions have been fully and carefully tested by opposing parties, so limiting the evidence you consider in reaching a verdict to what they have been allowed to test and debate in this courtroom is the only way you can protect their right to receive a fair trial. If you break any of these rules, I may need to order an entirely new trial before another jury that would cost the parties and the court system a lot of time and money, as well as cause embarrassment to you.

Until you retire at the end of the case to deliberate, you may not discuss the case with anyone, not even your fellow jurors. After you retire to deliberate, you may begin discussing the case with your fellow jurors, but you cannot discuss the case with anyone else until you have returned a verdict and the case is at an end.

If any lawyer, party, or witness does not speak to you, smile at you, or turns away when you pass in the hall, ride the elevator, or the like, remember it is because they are not supposed to talk or visit with you. That is why you are asked to wear your juror tags. It shows that you are someone who is not to be approached in any way.

That concludes my instructions at this time. I do want to again thank you for your time and the attention that I know you will give this case.