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

CHRISTOPHER SANSOM and MARIA SANSOM, husband and wife,	)	
Plaintiffs,	)	Civil Action No. 2:10-cv-00958
v.	)	Judge Mark R. Hornak
CROWN EQUIPMENT CORPORATION and CROWN LIFT TRUCKS,	)	
Defendants.	)	

COURT'S FINAL JURY INSTRUCTIONS

NOW THAT YOU HAVE HEARD ALL OF THE EVIDENCE AND THE ARGUMENTS OF COUNSEL, IT BECOMES MY DUTY, AS JUDGE, TO GIVE YOU THE INSTRUCTIONS OF THE COURT CONCERNING THE LAW APPLICABLE TO THIS CASE. I WILL READ THESE INSTRUCTIONS TO YOU IN OPEN COURT AND YOU WILL HAVE A COPY WITH YOU IN THE JURY ROOM DURING YOUR DELIBERATIONS. SO, TO THE EXTENT THAT YOU TAKE NOTES, KNOW THAT YOU'LL HAVE THESE INSTRUCTIONS SO YOU DON'T HAVE TO NOTE THESE REMARKS.

IT IS YOUR DUTY, AS JURORS, TO FOLLOW THE LAW AS STATED IN THESE INSTRUCTIONS, AND TO APPLY THE LAW TO THE FACTS AS YOU FIND THEM TO BE FROM THE EVIDENCE IN THIS CASE. YOU ARE NOT TO SINGLE OUT ANY ONE OF THESE INSTRUCTIONS ALONE AS STATING THE LAW, BUT RATHER YOU MUST CONSIDER THE INSTRUCTIONS AS A WHOLE. YOU ARE NOT TO BE CONCERNED ABOUT THE WISDOM OF ANY RULE OF LAW STATED BY ME. YOU MUST FOLLOW AND APPLY THE LAW.

IF THERE IS ANY CONTRADICTION BETWEEN THE PRELIMINARY INSTRUCTIONS I GAVE YOU AT THE BEGINNING OF THE CASE AND THESE FINAL INSTRUCTIONS, PLEASE KEEP IN MIND THAT THESE FINAL INSTRUCTIONS CONTROL AND SHOULD BE FOLLOWED BY YOU IN REACHING YOUR DECISION IN THIS CASE.

AT THE OUTSET, YOU SHOULD UNDERSTAND THAT I AM ABSOLUTELY NEUTRAL IN PRESENTING THESE INSTRUCTIONS TO YOU. IT IS NOT MY FUNCTION TO DETERMINE THE FACTS, BUT RATHER, YOURS.

YOU MUST PERFORM YOUR DUTIES AS JURORS WITHOUT BIAS OR PREJUDICE AS TO EITHER PARTY. THE LAW DOES NOT PERMIT YOU

TO BE GOVERNED BY SYMPATHY, PREJUDICE, OR PUBLIC OPINION. EACH PARTY EXPECTS THAT YOU WILL CAREFULLY AND IMPARTIALLY CONSIDER ALL OF THE EVIDENCE, FOLLOW THE LAW AS IT IS NOW BEING GIVEN TO YOU, AND REACH A JUST VERDICT, REGARDLESS OF THE CONSEQUENCES.

ALL OF THE INSTRUCTIONS OF LAW GIVEN TO YOU BY THE COURT - THOSE GIVEN TO YOU AT THE BEGINNING OF THE TRIAL, THOSE GIVEN TO YOU DURING THE TRIAL, AND THESE FINAL INSTRUCTIONS - - MUST GUIDE AND GOVERN YOUR DELIBERATIONS. REGARDLESS OF ANY OPINION YOU MAY HAVE AS TO WHAT THE LAW IS OR OUGHT TO BE. IT WOULD BE A VIOLATION OF YOUR SWORN DUTY TO BASE A VERDICT UPON ANY VIEW OF THE LAW OTHER THAN THAT GIVEN IN THE INSTRUCTIONS OF THE COURT, JUST AS IT WOULD ALSO BE A VIOLATION OF YOUR SWORN DUTY, AS JUDGES OF THE FACTS, TO BASE A VERDICT UPON ANYTHING OTHER THAN THE EVIDENCE IN THE CASE.

IN YOUR DELIBERATIONS, YOU MUST NOT BE INFLUENCED BY THE FACT THAT PLAINTIFFS CHRISTOPHER SANSOM AND MARIA SANSOM ARE INDIVIDUALS WHILE THE DEFENDANT CROWN

EQUIPMENT CORPORATION, IS A CORPORATION. A CORPORATION IS ENTITLED TO THE SAME FAIR TRIAL AS A PRIVATE INDIVIDUAL. ALL PERSONS, INCLUDING CORPORATIONS, ARE EQUAL BEFORE THE LAW, AND YOU MUST TREAT ALL PARTIES AS EQUALS HERE. THEREFORE, YOU MUST CONSIDER AND DECIDE THIS CASE AS AN ACTION BETWEEN PERSONS OF EQUAL STANDING IN THE COMMUNITY, OF EQUAL WORTH, AND HOLDING THE SAME OR SIMILAR STATIONS OF LIFE.

SIMPLY BECAUSE A DEFENDANT HAS BEEN SUED DOES NOT MEAN THAT THE DEFENDANT IS LIABLE. ANYONE CAN FILE A LAWSUIT AGAINST ANOTHER. THE FACT THAT CHRISTOPHER AND MARIA SANSOM FILED A CLAIM AGAINST CROWN EQUIPMENT CORPORATION AND PURSUED IT THROUGH THIS TRIAL DOES NOT MEAN THAT CROWN EQUIPMENT DID ANYTHING TO THEM THAT IS WRONG UNDER THE LAW. I THEREFORE INSTRUCT YOU THAT YOU MUST NOT INFER THAT CROWN EQUIPMENT DID ANYTHING UNLAWFUL FROM THE MERE FACT THAT THIS LAWSUIT WAS FILED AND BROUGHT TO TRIAL.

THE WORD "EVIDENCE" HAS BEEN USED EXTENSIVELY THROUGHOUT THIS TRIAL. YOUR DELIBERATIONS ARE TO BE LIMITED TO THE EVIDENCE ADMITTED FOR YOUR CONSIDERATION IN THIS CASE WHICH CONSISTS OF THE SWORN TESTIMONY OF THE WITNESSES AND ALL DOCUMENTS, PHOTOS, OR OTHER ITEMS THAT MAY HAVE BEEN ADMITTED INTO EVIDENCE OR STIPULATED TO BY THE PARTIES. BECAUSE THE LAWYERS ARE REQUIRED TO PREPARE EXHIBITS LONG BEFORE A TRIAL, THE EXHIBITS ADMITTED AT TRIAL MAY SKIP OVER MANY NUMBERS OR LETTERS. THAT IS NOT A MATTER OF ANY CONCERN TO THE COURT OR YOU.

CERTAIN THINGS, HOWEVER, ARE NOT EVIDENCE, SUCH AS:

1. OPENING STATEMENTS, ARGUMENTS, QUESTIONS AND COMMENTS BY THE ATTORNEYS REPRESENTING THE PARTIES IN THE CASE AND CLOSING ARGUMENTS ARE NOT EVIDENCE.

2. OBJECTIONS ARE NOT EVIDENCE. LAWYERS HAVE A RIGHT TO OBJECT WHEN THEY BELIEVE SOMETHING IS IMPROPER. ONLY BY RAISING AN OBJECTION CAN A LAWYER REQUEST AND OBTAIN A RULING FROM THE COURT ON THE ADMISSIBILITY OF THE EVIDENCE BEING OFFERED BY THE OTHER SIDE. YOU SHOULD NOT BE

INFLUENCED AGAINST AN ATTORNEY OR HIS CLIENT BECAUSE THE ATTORNEY HAS MADE OBJECTIONS. DO NOT ATTEMPT, MOREOVER, TO INTERPRET MY RULINGS ON OBJECTIONS AS SOMEHOW INDICATING TO YOU WHO I BELIEVE SHOULD WIN OR LOSE THE CASE. IF I SUSTAINED AN OBJECTION TO A QUESTION, YOU MUST IGNORE THE QUESTION AND MUST NOT TRY TO GUESS WHAT THE ANSWER MIGHT HAVE BEEN.

3. TESTIMONY THAT WAS STRICKEN FROM THE RECORD, OR THAT I TOLD YOU TO DISREGARD, IS NOT EVIDENCE AND MUST NOT BE CONSIDERED AS SUCH.

4. ANYTHING YOU MAY HAVE SEEN OR HEARD ABOUT THIS CASE OUTSIDE THE COURTROOM IS NOT EVIDENCE.

GENERALLY SPEAKING, THERE ARE TWO TYPES OF EVIDENCE THAT ARE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. "DIRECT EVIDENCE" IS DIRECT PROOF OF A FACT, SUCH AS TESTIMONY BY A WITNESS ABOUT WHAT THE WITNESS SAID OR SAW OR HEARD OR DID, ESSENTIALLY WHAT THE WITNESS PERSONALLY KNOWS. THE EVIDENCE IN THIS CASE CONSISTS NOT ONLY OF THE TESTIMONY FROM THE WITNESSES

AND THE DOCUMENTS WHICH HAVE BEEN OFFERED INTO EVIDENCE AND SHOWN TO YOU, BUT ALSO INCLUDES SUCH FAIR AND REASONABLE INFERENCES AS PROPERLY FLOW FROM THE FACTS WHICH ARE NOT DISPUTED OR WHICH YOU BELIEVE TO BE TRUE. THIS IS SOMETIMES REFERRED TO AS "CIRCUMSTANTIAL EVIDENCE" AND IS SIMPLY INDIRECT PROOF OF ONE OR MORE FACTS FROM WHICH YOU COULD FIND ANOTHER FACT. REMEMBER MY RAIN EXAMPLE FROM THE PRELIMINARY INSTRUCTIONS. ALTHOUGH YOU CAN HARDLY SEE OUTSIDE FROM THIS ROOM, IF ONE OR MORE PERSONS WALKED IN WITH A WET TRENCH COAT OR DRIPPING UMBRELLA, IT WOULD BE REASONABLE AND LOGICAL TO CONCLUDE FROM THAT CIRCUMSTANTIAL OR INDIRECT EVIDENCE THAT IT HAD BEEN RAINING OUTSIDE.

YOU SHOULD CONSIDER BOTH KINDS OF EVIDENCE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. WHILE YOU MAY CONSIDER ONLY THE EVIDENCE IN THE CASE IN ARRIVING AT YOUR VERDICT, YOU ARE PERMITTED TO DRAW SUCH REASONABLE INFERENCES FROM THE TESTIMONY AND EXHIBITS AS YOU FEEL ARE

JUSTIFIED IN THE LIGHT OF COMMON SENSE. YOU ARE TO DECIDE HOW MUCH WEIGHT TO GIVE ANY EVIDENCE. YOU, LADIES AND GENTLEMEN OF THE JURY, SHOULD DRAW UPON YOUR OWN EXPERIENCES IN LIFE AND YOUR OWN COMMON SENSE IN INTERPRETING THE FACTS WHICH HAVE BEEN PRESENTED BY THE PARTIES IN THE CASE. IN OTHER WORDS, YOU MAY REACH CONCLUSIONS WHICH REASON AND COMMON SENSE LEAD YOU TO REACH FROM THE FACTS WHICH HAVE BEEN ESTABLISHED BY THE EVIDENCE IN THE CASE.

YOU HAVE ALSO HEARD FROM WITNESSES WHO GAVE 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 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'S QUALIFICATIONS, AND ALL OF THE OTHER EVIDENCE IN THE CASE.

I HAVE SAID THAT YOU MUST CONSIDER ALL OF THE EVIDENCE.

THIS DOES NOT MEAN, HOWEVER, THAT YOU MUST ACCEPT ALL OF THE EVIDENCE AS TRUE OR ACCURATE.

IN ORDER TO ARRIVE AT THE TRUE FACTS, AND DRAW THE REASONABLE AND PROPER INFERENCES THEREFROM, YOU MUST PASS UPON THE CREDIBILITY, THAT IS, THE BELIEVABILITY, OF EACH WITNESS. YOU, AS JURORS, ARE THE SOLE JUDGES OF THE CREDIBILITY OF THE WITNESSES AND THE WEIGHT THEIR TESTIMONY DESERVES. YOU MAY BE GUIDED BY THE APPEARANCE AND CONDUCT OF THE WITNESS, OR THE MANNER IN WHICH THE WITNESS TESTIFIES, OR BY THE CHARACTER OF THE TESTIMONY GIVEN, OR BY EVIDENCE TO THE CONTRARY OF TESTIMONY GIVEN.

YOU SHOULD CAREFULLY SCRUTINIZE ALL THE TESTIMONY GIVEN, THE CIRCUMSTANCES UNDER WHICH EACH WITNESS HAS TESTIFIED, AND EVERY MATTER IN EVIDENCE WHICH TENDS TO SHOW WHETHER A WITNESS IS WORTHY OF BELIEF. CONSIDER EACH WITNESS' INTELLIGENCE, MOTIVE AND STATE OF MIND, AND DEMEANOR OR MANNER WHILE ON THE STAND. CONSIDER THE WITNESS' ABILITY TO OBSERVE THE MATTERS AS TO WHICH HE OR SHE HAS TESTIFIED AND WHETHER HE OR SHE IMPRESSES YOU AS

HAVING AN ACCURATE RECOLLECTION OF THESE MATTERS. CONSIDER ALSO ANY RELATION EACH WITNESS MAY BEAR TO EITHER SIDE OF THE CASE; THE MANNER IN WHICH EACH WITNESS MIGHT BE AFFECTED BY THE VERDICT; AND THE EXTENT TO WHICH, IF AT ALL, EACH WITNESS IS EITHER SUPPORTED OR CONTRADICTED BY OTHER EVIDENCE IN THE CASE.

YOU SHOULD CONSIDER WHETHER THE WITNESS GAVE FRANK AND STRAIGHTFORWARD ANSWERS TO THE QUESTIONS OR WHETHER THE ANSWERS WERE EVASIVE OR MISLEADING. YOU SHOULD CONSIDER THE CREDIBILITY OF A WITNESS IN THE LIGHT OF CONTRADICTORY TESTIMONY, IF ANY.

IN CONSIDERING THE EVIDENCE YOU MAY FIND INCONSISTENCIES OR DISCREPANCIES IN THE TESTIMONY OF A WITNESS, OR BETWEEN THE TESTIMONY OF DIFFERENT WITNESSES, WHICH MAY OR MAY NOT CAUSE YOU, THE JURY, TO DISCREDIT SUCH TESTIMONY. TWO OR MORE PERSONS WITNESSING AN EVENT OR A TRANSACTION MAY SEE OR HEAR IT DIFFERENTLY; AN INNOCENT MISRECOLLECTION, LIKE FAILURE OF RECOLLECTION, IS NOT AN UNCOMMON EXPERIENCE. IN WEIGHING THE EFFECT OF A

DISCREPANCY, ALWAYS CONSIDER WHETHER IT PERTAINS TO A MATTER OF IMPORTANCE OR AN UNIMPORTANT DETAIL, AND WHETHER THE DISCREPANCY RESULTS FROM INNOCENT ERROR OR INTENTIONAL FALSEHOOD.

EVEN ACTUAL CONTRADICTIONS IN THE TESTIMONY OF WITNESSES DO NOT NECESSARILY MEAN THAT A WITNESS HAS BEEN WILLFULLY FALSE. POOR MEMORY IS NOT UNCOMMON. SOMETIMES A WITNESS FORGETS; SOMETIMES ONE REMEMBERS INCORRECTLY. IT IS ALSO TRUE THAT TWO PERSONS WITNESSING AN INCIDENT MAY SEE OR HEAR IT DIFFERENTLY.

IF DIFFERENT PARTS OF THE TESTIMONY OF ANY WITNESS OR WITNESSES APPEAR TO BE INCONSISTENT, YOU THE JURY SHOULD TRY TO RECONCILE THE CONFLICTING STATEMENTS, WHETHER OF THE SAME OR DIFFERENT WITNESSES, AND YOU SHOULD DO SO IF IT CAN BE DONE FAIRLY AND SATISFACTORILY.

IF, HOWEVER, YOU DECIDE THAT THERE IS A GENUINE AND IRRECONCILABLE CONFLICT OF TESTIMONY, IT IS YOUR FUNCTION AND DUTY TO DETERMINE WHICH, IF ANY, OF THE CONTRADICTORY STATEMENTS YOU WILL BELIEVE.

A WITNESS MAY BE DISCREDITED OR IMPEACHED BY CONTRADICTORY EVIDENCE OR BY EVIDENCE THAT AT SOME OTHER TIME THE WITNESS HAS SAID OR DONE SOMETHING, OR HAS FAILED TO SAY OR DO SOMETHING THAT IS INCONSISTENT WITH THE WITNESS' PRESENT TESTIMONY. IF YOU BELIEVE ANY WITNESS HAS BEEN IMPEACHED AND THUS DISCREDITED, YOU MAY GIVE THE TESTIMONY OF THAT WITNESS SUCH CREDIBILITY, IF ANY, YOU THINK IT MAY DESERVE.

IF YOU DECIDE THAT A WITNESS HAS DELIBERATELY FALSIFIED TESTIMONY ON A SIGNIFICANT POINT, YOU SHOULD TAKE THIS INTO CONSIDERATION IN DECIDING WHETHER OR NOT TO BELIEVE THE REST OF THE TESTIMONY; AND YOU MAY REFUSE TO BELIEVE THE REST OF THE TESTIMONY, BUT YOU ARE NOT REQUIRED TO DO SO.

YOU ARE NOT REQUIRED TO ACCEPT TESTIMONY, EVEN THOUGH THE TESTIMONY IS UNCONTRADICTED AND THE WITNESS IS NOT DISCREDITED. FOR EXAMPLE, YOU MAY DECIDE, BECAUSE OF THE WITNESS' BEARING AND DEMEANOR, BECAUSE OF THE INHERENT IMPROBABILITY OF HIS OR HER TESTIMONY, OR BECAUSE OF THE WITNESS' TESTIMONY ON OTHER SUBJECTS, THAT SUCH TESTIMONY

IS NOT WORTHY OF BELIEF.

DURING THIS TRIAL, YOU HAVE HEARD THE TERM "DEPOSITION" USED BY THE LAWYERS. A DEPOSITION IS SIMPLY THE SWORN TESTIMONY OF A PERSON TAKEN BY THE ATTORNEYS DURING THE PENDENCY OF A LAWSUIT. THE TRANSCRIPT OR VIDEOTAPE OF THAT TESTIMONY MAY BE PRESENTED IN THIS TRIAL IF THE PERSON/ WITNESS IS NOT AVAILABLE TO APPEAR OR IF THE WITNESS APPEARS AND TESTIFIES TO SOMETHING DIFFERENTLY THAN PREVIOUSLY TESTIFIED UNDER OATH. IN THAT EVENT THE DEPOSITION TRANSCRIPT MAY BE USED TO TRY TO ESTABLISH A PRIOR INCONSISTENT STATEMENT OR OTHERWISE AFFECT THE CREDIBILITY OR BELIEVABILITY OF THE WITNESS.

ALSO, THE WEIGHT OF EVIDENCE IS NOT NECESSARILY DETERMINED BY THE NUMBER OF WITNESSES TESTIFYING TO THE EXISTENCE OR NON-EXISTENCE OF ANY FACT OR THE NUMBER OF EXHIBITS OFFERED BY A PARTY. YOU MAY FIND THAT THE TESTIMONY OF A SMALLER NUMBER OF WITNESSES AS TO ANY FACT IS MORE CREDIBLE THAN THE TESTIMONY OF A LARGER NUMBER OF WITNESSES TO THE CONTRARY.

AFTER MAKING YOUR OWN JUDGMENT, YOU WILL GIVE THE TESTIMONY OF EACH WITNESS SUCH WEIGHT, IF ANY, AS YOU THINK IT MAY DESERVE. IN SHORT, YOU MAY ACCEPT OR REJECT THE TESTIMONY OF ANY WITNESS IN WHOLE OR IN PART.

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 AT ISSUE AT THIS TRIAL. GENERALLY, ALL WITNESSES ARE AVAILABLE TO ALL PARTIES AND NO NEGATIVE INFERENCE IS TO BE DRAWN BY YOU FROM THE FACT THAT CERTAIN POTENTIAL WITNESSES WERE NOT CALLED BY EITHER SIDE TO TESTIFY. ALSO, THE LAW DOES NOT REQUIRE ANY PARTY TO PRODUCE AS EXHIBITS ALL PAPERS AND THINGS MENTIONED IN THE CASE. THE PARTIES AND THEIR LAWYERS DECIDE WHICH WITNESS TESTIMONY AND EVIDENCE TO PRESENT AT TRIAL AND SUCH TESTIMONY AND EVIDENCE MAY BE LIMITED AT TIMES BY THE RULES OF EVIDENCE ENFORCED BY THE COURT. HOWEVER, YOU MUST DECIDE THE ISSUES IN THE CASE BASED ONLY UPON THE TESTIMONY AND EVIDENCE WHICH HAS BEEN PRESENTED TO YOU HERE IN THE

COURTROOM.

I WILL NOW INSTRUCT YOU MORE FULLY ON THE ISSUES YOU MUST ADDRESS IN THIS CASE.

A. PREPONDERANCE OF THE EVIDENCE

THIS IS A CIVIL CASE. PLAINTIFFS CHRISTOPHER SANSOM AND MARIA SANSOM ARE THE PARTIES WHO BROUGHT THIS LAWSUIT. DEFENDANT CROWN EQUIPMENT CORPORATION IS THE PARTY AGAINST WHOM THE LAWSUIT WAS FILED AND MUST DEFEND. PLAINTIFFS HAVE THE BURDEN OF PROVING THEIR PART OF THE CASE BY WHAT IS CALLED THE PREPONDERANCE OF THE EVIDENCE. THAT MEANS PLAINTIFFS HAVE TO PROVE TO YOU, IN LIGHT OF ALL THE EVIDENCE, THAT WHAT THEY CLAIM IS MORE LIKELY SO THAN NOT SO. TO SAY IT DIFFERENTLY: IF YOU WERE TO PUT THE EVIDENCE FAVORABLE TO PLAINTIFFS AND THE EVIDENCE FAVORABLE TO DEFENDANT ON OPPOSITE SIDES OF THE SCALES OF JUSTICE, PLAINTIFFS WOULD HAVE TO MAKE THE SCALES TIP SOMEWHAT ON THEIR SIDE. IF CHRISTOPHER AND MARIA SANSOM FAIL TO MEET THIS BURDEN, THE VERDICT MUST BE FOR CROWN EQUIPMENT

CORPORATION. IF YOU FIND AFTER CONSIDERING ALL THE EVIDENCE THAT A CLAIM OR FACT IS MORE LIKELY SO THAN NOT SO, THEN THE CLAIM OR FACT HAS BEEN PROVEN BY A PREPONDERANCE OF THE EVIDENCE.

IN DETERMINING WHETHER ANY FACT HAS BEEN PROVEN BY A PREPONDERANCE OF EVIDENCE IN THE CASE, YOU MAY, UNLESS OTHERWISE INSTRUCTED, CONSIDER THE TESTIMONY OF ALL WITNESSES, REGARDLESS OF WHO MAY HAVE CALLED THEM, AND ALL EXHIBITS RECEIVED IN EVIDENCE, REGARDLESS OF WHO MAY HAVE PRODUCED THEM.

I WILL NOW INSTRUCT YOU ON THE SUBSTANTIVE LAW YOU ARE TO APPLY IN THIS CASE.

B. INTRODUCTION TO SUBSTANTIVE INSTRUCTIONS

AT THIS POINT, I WANT TO INSTRUCT YOU ON THE CLAIM THAT THE SANSOMS HAVE FILED AGAINST CROWN. SPECIFICALLY, THE SANSOMS ARE PURSUING A PRODUCT LIABILITY CLAIM AGAINST CROWN RELATING TO AN ALLEGED DEFECT IN THE STOCKPICKER. THE SANSOMS ASSERT THAT AS A RESULT OF A DEFECTIVE CONDITION,

CHRISTOPHER SANSOM SUSTAINED SERIOUS PERSONAL INJURIES AND INCURRED OTHER LOSSES, AND THAT MRS. SANSOM WAS ALSO DAMAGED AS A RESULT.

C. GENERAL LIABILITY INSTRUCTION

IN ORDER TO RECOVER ON THEIR CLAIM AGAINST CROWN, THE SANSOMS MUST PROVE EACH OF THE FOLLOWING FACTS BY A PREPONDERANCE OF THE EVIDENCE:

FIRST: THAT CROWN MANUFACTURED THE STOCKPICKER THAT WAS BEING USED BY MR. SANSOM AT THE TIME OF HIS INJURIES;

SECOND: THAT THE STOCKPICKER WAS DEFECTIVE; AND

THIRD: THAT THE DEFECT WAS A FACTUAL CAUSE OF MR. SANSOM'S INJURIES.

D. DEFINITION OF DESIGN DEFECT

A PRODUCT IS DEFECTIVE IN DESIGN WHEN THE FORESEEABLE RISKS OF HARM POSED BY THE PRODUCT COULD HAVE BEEN REDUCED OR AVOIDED BY THE ADOPTION OF A REASONABLE ALTERNATIVE DESIGN BY THE SELLER OR OTHER DISTRIBUTOR, AND THE OMISSION OF THE ALTERNATIVE DESIGN RENDERS THE PRODUCT

NOT REASONABLY SAFE.

E. PROOF OF REASONABLE ALTERNATIVE DESIGN REQUIRED

A PRODUCT IS DEFECTIVELY DESIGNED IF, AT THE TIME THE PRODUCT WAS DESIGNED, A REASONABLE ALTERNATIVE DESIGN WAS FEASIBLE AND PRACTICABLE, AND THE ABSENCE OF THAT ALTERNATIVE DESIGN INCREASED OR CAUSED A FORESEEABLE RISK OF HARM.

IN CONSIDERING WHETHER THE ALTERNATIVE DESIGN PROPOSED BY MR. SANSOM IS REASONABLE, AND WHETHER ITS ABSENCE RENDERED THE STOCKPICKER NOT REASONABLY SAFE, YOU MAY CONSIDER THE FOLLOWING FACTORS:

(1) THE SERIOUSNESS AND LIKELIHOOD OF THE FORSEEABLE RISKS OF HARM CAUSED BY THE STOCKPICKER AS DESIGNED; (2) THE INSTRUCTIONS AND WARNINGS ACCOMPANYING THE STOCKPICKER AS DESIGNED; AND (3) THE NATURE AND STRENGTH OF CONSUMER EXPECTATIONS REGARDING THE STOCKPICKER, INCLUDING EXPECTATIONS ARISING FROM PRODUCT PORTRAYAL AND

MARKETING, AS DESIGNED.

YOU MAY ALSO CONSIDER (4) WHETHER THOSE ALTERNATIVE DESIGNS WOULD HAVE INCREASED OR DECREASED THE USEFULNESS OF THE STOCKPICKER, (5) INCREASED OR DECREASED THE OVERALL SAFETY OF THE STOCKPICKER, AND (6) INCREASED OR DECREASED ANY OTHER BENEFIT PROVIDED BY THE STOCKPICKER, INCLUDING SUCH BENEFITS AS PRODUCTION PRICE AND COSTS, PRODUCT LONGEVITY AND DURABILITY, EASE AND COST OF MAINTENANCE AND REPAIR, AESTHETICS, CONVENIENCE, AND RANGE OF CONSUMER CHOICE AMONG PRODUCTS.

F. INDUSTRY STANDARDS & CUSTOM

YOU HAVE HEARD EVIDENCE CONCERNING CERTAIN INDUSTRY STANDARDS AND CUSTOMS IN THE INDUSTRY. SPECIFICALLY, YOU HAVE HEARD EVIDENCE CONCERNING CERTAIN INDUSTRY STANDARDS AS IT RELATES TO OPERATOR FALL PROTECTION WITH RESPECT TO A STOCKPICKER. YOU HAVE ALSO HEARD EVIDENCE ABOUT THE INDUSTRY PRACTICES AND CUSTOMS AS IT RELATES TO OPERATOR FALL PROTECTION ON A STOCKPICKER. SUCH EVIDENCE IS

RELEVANT, BUT NOT CONCLUSIVE, IN YOUR DETERMINATION OF WHETHER OR NOT THE DESIGN OF THE CROWN STOCKPICKER WAS REASONABLY SAFE.

G(1). FACTUAL CAUSE

IF YOU FIND THAT THE STOCKPICKER WAS DEFECTIVE, CROWN IS LIABLE FOR ALL HARM FACTUALLY CAUSED TO MR. SANSOM BY SUCH DEFECTIVE CONDITION. A DEFECT IS A FACTUAL CAUSE IF IT PLAYED ANY MEANINGFUL ROLE IN CAUSING THE HARM ALLEGED. TO BE A FACTUAL CAUSE, THE DEFECT MUST HAVE BEEN AN ACTUAL, REAL FACTOR IN CAUSING THE HARM, EVEN IF THE RESULT IS UNUSUAL OR UNEXPECTED. A FACTUAL CAUSE CANNOT BE AN IMAGINARY OR FANCIFUL FACTOR HAVING NO CONNECTION OR ONLY AN INSIGNIFICANT CONNECTION WITH THE INJURIES.

TO BE A FACTUAL CAUSE, THE DEFECT NEED NOT BE THE ONLY FACTUAL CAUSE. THE FACT THAT SOME OTHER CAUSES JOIN WITH WITH THE DEFECT IN PRODUCING AN INJURY DOES NOT RELIEVE CROWN FROM LIABILITY AS LONG AS THE DEFECT IS A FACTUAL

CAUSE OF THE INJURY.

BUT IF THE INJURIES WOULD HAVE OCCURRED EVEN IF THE DEFECT HAD NOT EXISTED, THEN THE DEFECT CANNOT BE A FACTUAL CAUSE OF THE INJURY.

G(2). <u>SUPERSEDING CAUSE</u>

YOU HAVE HEARD TESTIMONY AND OTHER EVIDENCE REGARDING THE ACTIONS OR INACTIONS OF PEOPLE OR ORGANIZATIONS OTHER THAN CROWN, INCLUDING MR. SANSOM, RELATING TO THE ACCIDENT IN QUESTION. IF YOU FIND THAT THE STOCKPICKER WAS DEFECTIVELY DESIGNED, AND THAT SUCH DEFECTIVE DESIGN WAS A FACTUAL CAUSE OF MR. SANSOM'S INJURIES, YOU ARE NOT TO CONSIDER THE ACTIONS OR INACTION OF OTHERS UNLESS YOU FIND THAT THEY WERE A SUPERSEDING CAUSE.

A SUPERSEDING CAUSE MEANS THAT A CURING OF ANY DEFECT WOULD NOT HAVE PREVENTED THE INJURY BECAUSE ONLY THE CONDUCT OF OTHERS, RATHER THAN THE DEFECT, CAUSED THE INJURY, AND WAS THEREFORE THE SOLE CAUSE OF THE HARM; OR

THAT SUCH OTHER CONDUCT WAS SO OUTRAGEOUS AND UNFORESEEABLE THAT SUCH OTHER CONDUCT, RATHER THAN ANY DEFECT, HAD BECOME THE CAUSE OF THE HARM.

G(3). AFFIRMATIVE DEFENSES

CROWN ASSERTS SEVERAL AFFIRMATIVE DEFENSES, EACH OF WHICH RELATES TO MR. SANSOM'S CONDUCT. YOU MAY CONSIDER THEM ONLY IF YOU FIRST FIND THAT THOSE ACTIONS EITHER WERE NOT REASONABLY FORESEEABLE, OR WERE OTHERWISE EXTRAORDINARY, AS EXPLAINED IN THESE INSTRUCTIONS.

G(3)(A) ASSUMPTION OF THE RISK

AS TO THE FIRST AFFIRMATIVE DEFENSE, CROWN CONTENDS THAT MR. SANSOM VOLUNTARILY ASSUMED THE RISK OF THE INJURY HE SUFFERED BY NOT USING A SAFETY BELT AND LANYARD. AS TO THIS DEFENSE, CROWN CARRIES THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT MR. SANSOM, IN DOING SO, VOLUNTARILY AND UNREASONABLY ACTED IN A CONSCIOUS DISREGARD OF A KNOWN RISK, AND THAT HIS ACTIONS WERE WHOLLY VOLUNTARY ON HIS PART, AND THAT HE HAD A CHOICE IN

ENCOUNTERING SUCH RISK.

FURTHERMORE, IF YOU FIND THAT MR. SANSOM WAS REQUIRED TO USE THE STOCKPICKER IN THE COURSE OF HIS EMPLOYMENT, THAT MR. SANSOM USED THE STOCKPICKER IN A MANNER AS FURNISHED OR DIRECTED BY HIS EMPLOYER, AND THEREFORE, THAT MR. SANSOM HAD NO CHOICE IN ENCOUNTERING THE RISK INHERENT IN SO USING THE STOCKPICKER, THEN YOU MAY NOT FIND THAT THERE WAS AN ASSUMPTION OF RISK BY MR. SANSOM THAT COULD BAR HIM FROM RECOVERY. WHERE AN EMPLOYEE, IN DOING A JOB, IS REQUIRED TO USE EQUIPMENT AS FURNISHED OR DIRECTED BY THE EMPLOYER, THE DEFENSE OF ASSUMPTION OF THE RISK DOES NOT APPLY TO THE CASE.

G(3)(B). HIGHLY RECKLESS BEHAVIOR

AS TO THE SECOND AFFIRMATIVE DEFENSE, CROWN SEPARATELY CONTENDS THAT MR. SANSOM ENGAGED IN HIGHLY RECKLESS BEHAVIOR. TO MAKE OUT THIS DEFENSE, CROWN MUST PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT MR. SANSOM KNEW OR HAD REASON TO KNOW OF FACTS WHICH CREATED A HIGH

DEGREE OF RISK OF PHYSICAL HARM TO HIMSELF AND THAT HE DELIBERATELY ACTED, OR FAILED TO ACT, IN CONSCIOUS DISREGARD OF THAT RISK. CROWN MUST ALSO PROVE THAT HIS SO ACTING, OR FAILING TO ACT, WAS SO EXTRAORDINARY AND UNFORESEEABLE THAT SUCH ACTIONS CONSTITUTED THE SUPERSEDING CAUSE OF THE INJURY MR. SANSOM SUSTAINED.

G(3)(C). PRODUCT MISUSE

AS TO THE THIRD AFFIRMATIVE DEFENSE, CROWN ALSO SEPARATELY CONTENDS THAT MR. SANSOM'S ACTIONS OR INACTIONS CONSTITUTED A MISUSE OF THE STOCKPICKER. IN THIS REGARD, CROWN CARRIES THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT MR. SANSOM'S ACTIONS WERE A USE OF THE STOCKPICKER THAT WAS SO UNFORESEEABLE AND OUTRAGEOUS THAT THEY CONSTITUTED THE SUPERSEDING CAUSE OF HIS INJURIES.

H. <u>DAMAGES INTRODUCTION</u>

THE FACT THAT I AM INSTRUCTING YOU ABOUT DAMAGES DOES NOT IMPLY ANY OPINION ON MY PART AS TO WHETHER DAMAGES SHOULD BE AWARDED IN THIS CASE.

IF YOU FIND THAT CROWN IS LIABLE TO THE SANSOMS, YOU MUST THEN AWARD THE AMOUNT OF MONEY DAMAGES YOU BELIEVE WILL FAIRLY AND ADEQUATELY COMPENSATE THE SANSOMS FOR ALL THE PHYSICAL AND FINANCIAL INJURY THEY HAVE SUSTAINED AS A RESULT OF THE OCCURRENCE. THE AMOUNT YOU AWARD TODAY MUST COMPENSATE THE SANSOMS COMPLETELY FOR DAMAGES SUSTAINED IN THE PAST, AS WELL AS DAMAGES THE SANSOMS WILL SUSTAIN IN THE FUTURE. IN CONSIDERING THESE INSTRUCTIONS REGARDING DAMAGES, PLEASE KEEP IN MIND THAT IN ANY EVENT, NO DAMAGES OF ANY TYPE ARE TO BE AWARDED UNLESS YOU FIND THAT CROWN IS LIABLE TO THE SANSOMS.

I. LUMP SUM DAMAGES

THE DAMAGES RECOVERABLE BY THE SANSOMS IN THIS CASE AND THE ITEMS THAT GO TO MAKE THEM UP, EACH OF WHICH I WILL DISCUSS SEPARATELY, ARE AS FOLLOWS:

1) PAST MEDICAL EXPENSES;

2) FUTURE MEDICAL EXPENSES;

3) PAST LOST EARNINGS AND LOST EARNINGS CAPACITY;

4) FUTURE LOST EARNINGS AND LOST EARNINGS CAPACITY;

5) PAIN AND SUFFERING;

6) EMBARRASSMENT AND HUMILIATION;

7) LOSS OF ABILITY TO ENJOY THE PLEASURES OF LIFE;

8) DISFIGUREMENT; AND

9) LOSS OF CONSORTIUM.

IN THE EVENT THAT YOU FIND IN FAVOR OF THE SANSOMS, YOU WILL ADD THESE SUMS OF DAMAGE TOGETHER AND RETURN YOUR VERDICT IN A SINGLE, LUMP SUM.

J. PAST MEDICAL EXPENSES

THE PLAINTIFFS ARE ENTITLED TO BE COMPENSATED IN THE AMOUNT OF ALL MEDICAL EXPENSES REASONABLY INCURRED FOR THE DIAGNOSIS, TREATMENT, AND CURE OF MR. SANSOM'S INJURIES PRIOR TO TRIAL. THESE EXPENSES, AS ALLEGED BY PLAINTIFFS AND AGREED TO BY THE PARTIES, AMOUNT TO $179,073.84.

K. FUTURE MEDICAL EXPENSES

THE PLAINTIFFS ARE ENTITLED TO BE COMPENSATED FOR ALL MEDICAL EXPENSES THAT YOU FIND THEY WILL REASONABLY INCUR

IN THE FUTURE FOR THE TREATMENT AND CARE OF MR. SANSOM'S CONTINUING INJURIES.

L. PAST LOST EARNINGS AND LOST EARNINGS CAPACITY

THE PLAINTIFFS ARE ENTITLED TO BE COMPENSATED FOR THE AMOUNT OF EARNINGS THAT MR. SANSOM HAS LOST UP TO THE TIME OF THE TRIAL AS A RESULT OF HIS INJURIES. THIS AMOUNT IS THE DIFFERENCE BETWEEN WHAT HE COULD HAVE EARNED BUT FOR THE HARM AND LESS ANY SUM HE ACTUALLY EARNED IN ANY EMPLOYMENT.

M. INCIDENTAL COSTS

IN ADDITION TO THE COSTS OF MEDICAL CARE, THE PLAINTIFF, MR. SANSOM, IS ENTITLED TO BE COMPENSATED FOR ALL OTHER INCIDENTAL COSTS INCURRED AS A RESULT OF THE ACCIDENT, OR THAT YOU FIND WILL BE INCURRED IN THE FUTURE. THESE EXPENSES MAY INCLUDE COSTS INCURRED BECAUSE OF THE PLAINTIFF'S INABILITY TO PERFORM HOUSEHOLD SERVICES.

N. PRE-EXISTING CONDITION OR INJURY

DAMAGES SHOULD BE AWARDED FOR ALL INJURIES CAUSED BY THE ACCIDENT EVEN IF: (1) THE INJURIES CAUSED BY THE ACCIDENT WERE MORE SEVERE THAN COULD HAVE BEEN FORESEEN BECAUSE OF THE PLAINTIFF'S PRIOR PHYSICAL CONDITIONS; OR (2) A PRE-EXISTING MEDICAL CONDITION WAS AGGRAVATED BY THE ACCIDENT.

I REMIND YOU THAT THE DEFENDANT CAN BE HELD RESPONSIBLE ONLY FOR THOSE INJURIES OR THE AGGRAVATION OF A PRIOR INJURY OR CONDITION THAT YOU FIND WAS FACTUALLY CAUSED BY THE ACCIDENT.

O. DAMAGES IN CASES OF DISPUTED LIABILITY AND DISPUTED EXTENT OF INJURY

THE PARTIES AGREE THAT CHRISTOPHER SANSOM SUSTAINED SOME INJURY IN THE ACCIDENT. THEREFORE, IF YOU FIND THAT THE STOCKPICKER MANUFACTURED BY CROWN WAS DEFECTIVE AND THAT THE DEFECT WAS A FACTUAL CAUSE OF MR. SANSOM'S INJURIES, YOU MUST AWARD THE PLAINTIFFS SOME DAMAGES FOR THOSE INJURIES.

P. LOSS OF CONSORTIUM

IF YOU FIND THAT THE STOCKPICKER WAS DEFECTIVELY DESIGNED, AND THAT SUCH DEFECTIVE DESIGN WAS A FACTUAL CAUSE OF HARM TO MR. SANSOM, THEN MR. SANSOM'S SPOUSE, MARIA SANSOM, IS ENTITLED TO BE COMPENSATED FOR THE PAST, PRESENT, AND FUTURE LOSS OF THE INJURED PARTY'S SERVICES TO HER AND THE PAST, PRESENT, AND FUTURE LOSS OF COMPANIONSHIP OF HER SPOUSE, MR. SANSOM. CONSORTIUM CLAIMS ARE LOSSES ARISING OUT OF THE MARITAL RELATIONSHIP. CONSORTIUM IS THE MARITAL FELLOWSHIP OF A HUSBAND AND A WIFE AND INCLUDES THE COMPANY, SOCIETY, COOPERATION, AFFECTION, AND AID OF THE OTHER IN THE MARITAL RELATIONSHIP. SUCH CLAIMS INCLUDE A LOSS OF SUPPORT, COMFORT, AND ASSISTANCE, THE LOSS OF ASSOCIATION, AND COMPANIONSHIP, AND THE LOSS OR TEMPORARY LOSS OF THE ABILITY TO ENGAGE IN SEXUAL RELATIONS.

Q. LIFE EXPECTANCY

IF YOU FIND THAT MR. SANSOM'S INJURIES WILL CONTINUE

BEYOND TODAY, YOU MUST DETERMINE THE LIFE EXPECTANCY OF MR. SANSOM. ACCORDING TO STATISTICS COMPILED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE AVERAGE FUTURE LIFE EXPECTANCY OF ALL PERSONS OF MR. SANSOM'S AGE AT THE TIME OF ACCIDENT, SEX, AND RACE WAS 34 YEARS. THIS FIGURE IS OFFERED TO YOU ONLY AS A GUIDE, AND YOU ARE NOT BOUND TO ACCEPT IT IF YOU BELIEVE THAT MR. SANSOM WOULD HAVE LIVED LONGER OR LESS THAN THE AVERAGE INDIVIDUAL IN HIS CATEGORY. IN REACHING THIS DECISION, YOU ARE TO CONSIDER MR. SANSOM'S HEALTH PRIOR TO THE ACCIDENT, HIS MANNER OF LIVING, HIS PERSONAL HABITS, AND OTHER FACTORS THAT MAY HAVE AFFECTED THE DURATION OF HIS LIFE.

R. FUTURE LOSS EARNINGS AND LOST EARNING CAPACITY

THE PLAINTIFFS ARE ENTITLED TO BE COMPENSATED FOR ANY LOSS OR REDUCTION OF FUTURE EARNING CAPACITY THAT MR. SANSOM WILL SUFFER AS A RESULT OF A DECREASE IN OR LOSS OF FUTURE PRODUCTIVITY.

FUTURE PRODUCTIVITY IS THE INCREASE IN WAGES OR COMPENSATION THAT MR. SANSOM WOULD HAVE RECEIVED, HAD HE NOT SUSTAINED THE INJURY. THE SANSOMS HAVE SUBMITTED EVIDENCE THROUGH AN ACTUARY WHO HAS COMPUTED MR. SANSOM'S LOSS OF EARNINGS, ADDING A PRODUCTIVITY FACTOR. IF YOU BELIEVE THAT MR. SANSOM HAS SUSTAINED A LOSS OF PRODUCTIVITY, YOU MAY USE THIS EVIDENCE AS A GUIDE IN REACHING YOUR DECISION AS TO THE AMOUNT OF THE LOSS OR REDUCTION OF MR. SANSOM'S FUTURE EARNING CAPACITY.

THE PLAINTIFF IS ENTITLED TO BE COMPENSATED FOR ANY LOSS OR REDUCTION OF FUTURE EARNING CAPACITY THAT WILL RESULT FROM THE HARM SUSTAINED.

IN ORDER TO DETERMINE THIS AMOUNT, YOU MUST FIRST DETERMINE:

1) THE TOTAL AMOUNTS THAT THE PLAINTIFF WOULD HAVE EARNED DURING HIS LIFE EXPECTANCY IF THE INJURY HAD NOT OCCURRED; AND YOU MUST DETERMINE
2) THE TOTAL AMOUNTS THAT THE PLAINTIFF PROBABLY WILL BE ABLE TO EARN DURING HIS LIFE EXPECTANCY.

THE DIFFERENCE BETWEEN THESE TWO AMOUNTS IS THE PLAINTIFF'S LOSS OF FUTURE EARNING CAPACITY DUE TO THE INJURY.

THE FACTORS YOU SHOULD CONSIDER IN DETERMINING THESE AMOUNTS ARE:

1) THE TYPE OF WORK THAT THE PLAINTIFF HAS DONE IN THE PAST OR WAS CAPABLE OF DOING;
2) THE TYPE OF WORK, IN VIEW OF THE PLAINTIFF'S PHYSICAL CONDITION, EDUCATION, EXPERIENCE, AND AGE, THAT THE PLAINTIFF WOULD HAVE BEEN DOING IN THE FUTURE HAD THE HARM NOT BEEN SUSTAINED;
3) THE TYPE OF WORK, BASED UPON THE PLAINTIFF'S PHYSICAL CONDITION, EDUCATION, EXPERIENCE, AND AGE, THAT THE PLAINTIFF WILL PROBABLY BE ABLE TO DO IN THE FUTURE, HAVING SUSTAINED THE INJURY;
4) THE EXTENT AND DURATION OF THE PLAINTIFF'S HARM; AND
5) ANY OTHER MATTERS IN EVIDENCE THAT YOU FIND REASONABLY RELEVANT TO THIS QUESTION.

THE AMOUNT OF LOST FUTURE EARNING CAPACITY SHOULD BE

EXPRESSED BY YOU IN A DOLLAR AMOUNT.

S. PAST AND FUTURE – NONECONOMIC LOSS

THE PLAINTIFF, MR. SANSOM, HAS MADE A CLAIM FOR A DAMAGE AWARD FOR PAST AND FOR FUTURE NONECONOMIC LOSS. THERE ARE FOUR ITEMS THAT MAY MAKE UP A DAMAGE AWARD FOR NONECONOMIC LOSS, BOTH PAST AND FUTURE IN THE EVENT THAT YOU FIND THAT THE STOCKPICKER WAS DEFECTIVELY DESIGNED AND THAT SUCH DEFECTIVE DESIGN WAS A FACTUAL CAUSE OF MR. SANSOM'S INJURIES: (1) PAIN AND SUFFERING; (2) EMBARRASSMENT AND HUMILIATION; (3) LOSS OF ABILITY TO ENJOY THE PLEASURES OF LIFE; AND (4) DISFIGUREMENT.

FIRST, MR. SANSOM MUST HAVE EXPERIENCED PAIN AND SUFFERING IN ORDER TO BE ABLE TO CLAIM A DAMAGE AWARD FOR THIS TYPE OF PAST OR FUTURE NONECONOMIC LOSS. YOU ARE INSTRUCTED THAT MR. SANSOM IS ENTITLED TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR ALL PHYSICAL PAIN, MENTAL ANGUISH, DISCOMFORT, INCONVENIENCE, AND DISTRESS THAT YOU FIND MR. SANSOM HAS ENDURED FROM THE TIME OF MR. SANSOM'S

INJURY UNTIL TODAY AND THAT HE IS ALSO ENTITLED TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR ALL PHYSICAL PAIN, MENTAL ANGUISH, DISCOMFORT, INCONVENIENCE, AND DISTRESS YOU FIND HE WILL ENDURE IN THE FUTURE AS A RESULT OF MR. SANSOM'S INJURIES.

SECOND, THE PLAINTIFF, MR. SANSOM, MUST HAVE EXPERIENCED EMBARRASSMENT AND HUMILIATION IN ORDER TO CLAIM DAMAGES FOR THAT TYPE OF NONECONOMIC LOSS. HE IS ENTITLED TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR SUCH EMBARRASSMENT AND HUMILIATION AS YOU BELIEVE MR. SANSOM HAS ENDURED AND WILL CONTINUE TO ENDURE IN THE FUTURE AS A RESULT OF HIS INJURIES.

THIRD, THE PLAINTIFF, MR. SANSOM, MUST SUFFER LOSS OF ENJOYMENT OF LIFE IN ORDER TO CLAIM DAMAGES FOR THAT TYPE OF LOSS. MR. SANSOM IS ENTITLED TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR THE LOSS OF HIS ABILITY TO ENJOY ANY OF THE PLEASURES OF LIFE AS A RESULT OF THE INJURIES FROM THE TIME OF THE INJURIES UNTIL TODAY AND TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR THE LOSS OF HIS ABILITY TO ENJOY ANY OF THE

PLEASURES OF LIFE IN THE FUTURE AS A RESULT OF HIS INJURIES.

FOURTH, THE DISFIGUREMENT THAT MR. SANSOM HAS SUSTAINED IS A SEPARATE ITEM OF DAMAGES RECOGNIZED BY THE LAW. THEREFORE, IN ADDITION TO ANY SUMS YOU MAY AWARD FOR PAIN AND SUFFERING, FOR EMBARRASSMENT AND HUMILIATION, AND FOR LOSS OF ENJOYMENT OF LIFE, HE IS ENTITLED TO BE FAIRLY AND ADEQUATELY COMPENSATED FOR ANY DISFIGUREMENT MR. SANSOM HAS SUFFERED FROM THE TIME OF THE INJURY TO THE PRESENT AND THAT HE WILL CONTINUE TO SUFFER DURING THE FUTURE DURATION OF HIS LIFE.

IN CONSIDERING MR. SANSOM'S CLAIMS FOR A DAMAGE AWARD FOR PAST AND FUTURE NONECONOMIC LOSS, YOU WILL CONSIDER THE FOLLOWING FACTORS: (1) THE AGE OF MR. SANSOM; (2) THE SEVERITY OF THE INJURIES; (3) WHETHER THE INJURIES ARE TEMPORARY OR PERMANENT; (4) THE EXTENT TO WHICH THE INJURIES AFFECT THE ABILITY OF MR. SANSOM TO PERFORM BASIC ACTIVITIES OF DAILY LIVING AND OTHER ACTIVITIES IN WHICH MR. SANSOM PREVIOUSLY ENGAGED; (5) THE DURATION AND NATURE OF MEDICAL TREATMENT; (6) THE DURATION AND EXTENT OF THE

PHYSICAL PAIN AND MENTAL ANGUISH THAT MR. SANSOM HAS EXPERIENCED IN THE PAST AND WILL EXPERIENCE IN THE FUTURE; (7) THE HEALTH AND PHYSICAL CONDITION OF MR. SANSOM PRIOR TO THE INJURIES; AND (8) IN THE CASE OF DISFIGUREMENT, THE NATURE OF THE DISFIGUREMENT AND THE CONSEQUENCES FOR MR. SANSOM.

T. DAMAGE INSTRUCTIONS GENERALLY

(1) I REMIND YOU OF THE SAME POINT THAT I MADE AT THE START OF THE TRIAL, THAT IS JUST BECAUSE I AM INSTRUCTING YOU ON HOW TO AWARD DAMAGES DOES NOT MEAN THAT I HAVE ANY OPINION ON WHETHER OR NOT CROWN EQUIPMENT CORPORATION SHOULD BE HELD LIABLE AND DAMAGES AWARDED. INSTRUCTIONS ON DAMAGES ARE GIVEN FOR YOUR GUIDANCE, IN THE EVENT THAT YOU DO FIND IN FAVOR OF PLAINTIFFS IN ACCORDANCE WITH THE OTHER INSTRUCTIONS PREVIOUSLY GIVEN TO YOU.

(2) THE MERE FACT THAT THE COURT TAKES UP THE QUESTION OF DAMAGES SHOULD NOT BE TAKEN BY YOU AS AN INDICATION THAT YOU SHOULD AWARD DAMAGES TO THE PLAINTIFFS. THE COURT DOES NOT KNOW HOW YOU WILL FIND WITH RESPECT TO THE LIABILITY

ISSUES AND MUST THEREFORE INSTRUCT YOU AT THIS TIME AS TO THE LAW APPLICABLE TO DAMAGES.

(3) IN MAKING YOUR DECISION AS TO WHETHER OR NOT THE DEFENDANTS ARE LIABLE TO THE PLAINTIFFS, YOU MAY NOT PERMIT SYMPATHY FOR ANY PARTY IN THIS CASE TO INFLUENCE YOUR DECISION, EVEN IN THE SLIGHTEST DEGREE. IN DETERMINING THE AMOUNT OF DAMAGES, THERE SHOULD BE NO ATTEMPT BY YOU TO PUNISH OR REWARD ANY PARTY AND YOUR VERDICT SHOULD NOT BE INFLUENCED BY SYMPATHY OR PREJUDICE FOR OR AGAINST ANY PARTY.

(4) THE MERE FACT THAT AN ACCIDENT HAS OCCURRED OR THAT THE PLAINTIFF SUSTAINED DAMAGES DOES NOT PROVE OR GIVE RISE TO ANY INFERENCE THAT THE DEFENDANTS ARE RESPONSIBLE FOR THOSE DAMAGES.

(5) IN DETERMINING THE AMOUNT OF ANY DAMAGES THAT YOU DECIDE TO AWARD, YOU SHOULD BE GUIDED BY COMMON SENSE. YOU MUST USE SOUND JUDGMENT IN FIXING AN AWARD OF DAMAGES, DRAWING REASONABLE INFERENCES FROM THE FACTS IN EVIDENCE. YOU MAY NOT AWARD DAMAGES BASED ON SYMPATHY,

SPECULATION, OR GUESSWORK.

FINAL INSTRUCTIONS: WHEN YOU RETIRE TO THE JURY ROOM TO DELIBERATE, YOU MAY TAKE WITH YOU THESE INSTRUCTIONS, YOUR NOTES, AND THE EXHIBITS THAT THE COURT HAS ADMITTED INTO EVIDENCE. YOU SHOULD SELECT ONE MEMBER OF THE JURY AS YOUR FOREPERSON. THAT PERSON WILL PRESIDE OVER THE DELIBERATIONS AND SPEAK FOR YOU HERE IN OPEN COURT.

YOU HAVE TWO MAIN DUTIES AS JURORS. THE FIRST ONE IS TO DECIDE WHAT THE FACTS ARE FROM THE EVIDENCE THAT YOU SAW AND HEARD HERE IN COURT. DECIDING WHAT THE FACTS ARE IS YOUR JOB, NOT MINE, AND NOTHING THAT I HAVE SAID OR DONE DURING THIS TRIAL WAS MEANT TO INFLUENCE YOUR DECISION ABOUT THE FACTS IN ANY WAY.

YOUR SECOND DUTY IS TO TAKE THE LAW THAT I GIVE YOU, APPLY IT TO THE FACTS, AND DECIDE WHETHER, UNDER THE APPROPRIATE BURDEN OF PROOF, THE PARTIES HAVE ESTABLISHED THEIR CLAIMS OR DEFENSES. IT IS MY JOB TO INSTRUCT YOU ABOUT THE LAW, AND YOU ARE BOUND BY THE OATH THAT YOU TOOK AT THE BEGINNING OF THE TRIAL TO FOLLOW THE INSTRUCTIONS THAT I GIVE

YOU, EVEN IF YOU PERSONALLY DISAGREE WITH THEM. THIS INCLUDES THE INSTRUCTIONS THAT I GAVE YOU BEFORE AND DURING THE TRIAL, AND THESE INSTRUCTIONS. ALL THE INSTRUCTIONS ARE IMPORTANT, AND YOU SHOULD CONSIDER THEM TOGETHER AS A WHOLE.

PERFORM THESE DUTIES FAIRLY. DO NOT LET ANY BIAS, SYMPATHY OR PREJUDICE THAT YOU MAY FEEL TOWARD ONE SIDE OR THE OTHER INFLUENCE YOUR DECISION IN ANY WAY.

AS JURORS, YOU HAVE A DUTY TO CONSULT WITH EACH OTHER AND TO DELIBERATE WITH THE INTENTION OF REACHING A VERDICT. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT ONLY AFTER A FULL AND IMPARTIAL CONSIDERATION OF ALL OF THE EVIDENCE WITH YOUR FELLOW JURORS. LISTEN TO EACH OTHER CAREFULLY. IN THE COURSE OF YOUR DELIBERATIONS, YOU SHOULD FEEL FREE TO RE-EXAMINE YOUR OWN VIEWS AND TO CHANGE YOUR OPINION BASED UPON THE EVIDENCE. BUT YOU SHOULD NOT GIVE UP YOUR HONEST CONVICTIONS ABOUT THE EVIDENCE JUST BECAUSE OF THE OPINIONS OF YOUR FELLOW JURORS. NOR SHOULD YOU CHANGE YOUR MIND JUST FOR THE PURPOSE OF OBTAINING ENOUGH

VOTES FOR A VERDICT.

WHEN YOU START DELIBERATING, DO NOT TALK TO THE JURY OFFICER (MR. BABIK), TO ME OR TO ANYONE BUT EACH OTHER ABOUT THE CASE. IF YOU HAVE ANY QUESTIONS OR MESSAGES FOR ME, YOU MUST WRITE THEM DOWN ON A PIECE OF PAPER, HAVE THE FOREPERSON SIGN THEM, AND GIVE THEM TO MR. BABIK. HE WILL GIVE THEM TO ME, AND I WILL RESPOND AS SOON AS I CAN. I MAY HAVE TO TALK TO THE LAWYERS ABOUT WHAT YOU HAVE ASKED, SO IT MAY TAKE SOME TIME TO GET BACK TO YOU. YOU SHOULD CONTINUE YOUR DELIBERATIONS IN THE MEANTIME.

ONE MORE THING ABOUT MESSAGES. NEVER WRITE DOWN OR TELL ANYONE ANYTHING WHICH COULD REVEAL HOW YOU STAND ON YOUR VOTES. FOR EXAMPLE, DO NOT WRITE DOWN OR TELL ANYONE THAT A CERTAIN NUMBER IS VOTING ONE WAY OR ANOTHER. YOUR INDIVIDUAL VOTES SHOULD STAY SECRET.

YOUR VERDICT MUST REPRESENT THE CONSIDERED JUDGMENT OF EACH JUROR. IN ORDER FOR YOU AS A JURY TO RETURN A VERDICT, EACH JUROR MUST AGREE TO THE VERDICT. YOUR VERDICT MUST BE UNANIMOUS.

YOUR VERDICT IN THIS CASE WILL CONSIST OF ANSWERS TO WRITTEN QUESTIONS WHICH I WILL PROVIDE TO YOU. THIS METHOD IS COMMON IN CIVIL CASES SUCH AS THE ONE WE HAVE BEEN TRYING HERE, AND I HAVE DETERMINED THAT IS APPROPRIATE FOR THIS CASE AND THE QUESTIONS ARE DESIGNED TO AID YOU IN YOUR DELIBERATIONS.

EACH ANSWER ON THE VERDICT FORM MUST BE UNANIMOUS.

THE QUESTIONS YOU ARE TO ANSWER ARE AS FOLLOWS:

(JUDGE READ VERDICT SLIP)

YOU WILL TAKE THIS VERDICT FORM TO THE JURY ROOM AND WHEN YOU HAVE REACHED UNANIMOUS AGREEMENT AS TO YOUR VERDICT, THAT MEANS THAT YOU HAVE ANSWERED EACH QUESTION UNANIMOUSLY, YOU WILL FILL IT IN, DATE IT, AND YOU MUST ALL SIGN THE FORM. YOU WILL THEN SUMMON MR. BABIK. UNLESS I DIRECT YOU OTHERWISE, DO NOT REVEAL YOUR ANSWERS UNTIL YOU ARE DISCHARGED. AFTER YOU HAVE REACHED A VERDICT, YOU ARE NOT REQUIRED TO TALK WITH ANYONE ABOUT THE CASE UNLESS I ORDER YOU TO DO SO.

ONCE AGAIN, I WANT TO REMIND YOU THAT NOTHING ABOUT MY INSTRUCTIONS AND NOTHING ABOUT THE VERDICT FORM IS INTENDED TO SUGGEST OR CONVEY IN ANY WAY OR MANNER WHAT I THINK YOUR VERDICT SHOULD BE. IT IS YOUR SOLE AND EXCLUSIVE DUTY AND RESPONSIBILITY TO DETERMINE THE VERDICT.

IF YOU HAVE NOT REACHED A VERDICT BY 4:30 P.M. TODAY (AND IT IS POSSIBLE THAT YOU WILL NOT), YOU MAY CONTINUE TO DELIBERATE LATER, BUT ONLY IF ALL OF YOU UNANIMOUSLY AGREE AND YOUR FOREPERSON SO ADVISES ME IN WRITING.

IF YOU DO NOT UNANIMOUSLY AGREE TO CONTINUE DELIBERATIONS PAST THAT TIME TODAY, THEN YOU MAY LEAVE AT 4:30 P.M. AND REPORT MONDAY MORNING AT 9:00 A.M. TO THE JURY ROOM. DURING YOUR DELIBERATIONS, YOU MUST NOT COMMUNICATE WITH OR PROVIDE ANY INFORMATION TO ANYONE BY ANY MEANS ABOUT THIS CASE. YOU MAY NOT USE ANY ELECTRONIC DEVICE OR MEDIA, SUCH AS THE TELEPHONE, A CELL PHONE, SMART PHONE, iPHONE , BLACKBERRY OR COMPUTER, THE INTERNET, ANY INTERNET SERVICE, ANY TEXT OR INSTANT MESSAGING SERVICE, ANY INTERNET CHAT ROOM, BLOG OR WEBSITE SUCH AS FACEBOOK, MySPACE,

LINKED-IN, YOU-TUBE, OR TWITTER, TO COMMUNICATE TO ANYONE ANY INFORMATION ABOUT THIS CASE OR TO CONDUCT ANY RESEARCH ABOUT THIS CASE UNTIL I ACCEPT YOUR VERDICT. IN OTHER WORDS, YOU CANNOT TALK TO ANYONE ON THE PHONE, CORRESPOND WITH ANYONE, OR ELECTRONICALLY COMMUNICATE WITH ANYONE ABOUT THIS CASE. YOU CAN ONLY DISCUSS THE CASE IN THE JURY ROOM WITH YOUR FELLOW JURORS DURING DELIBERATIONS. I EXPECT YOU WILL INFORM ME AS SOON AS YOU BECOME AWARE OF YOUR OR ANOTHER JUROR'S VIOLATION OF THESE INSTRUCTIONS. YOU MAY NOT HAVE ANY SUCH DEVICE WITH YOU DURING DELIBERATIONS. MR. BABIK WILL KEEP THEM SECURE WHILE YOU ARE DELIBERATING.

YOU MAY NOT USE THESE ELECTRONIC MEANS TO INVESTIGATE OR COMMUNICATE ABOUT THE CASE BECAUSE IT IS IMPORTANT THAT YOU DECIDE THE CASE BASED SOLELY ON THE EVIDENCE PRESENTED IN THIS COURTROOM. INFORMATION ON THE INTERNET OR AVAILABLE THROUGH SOCIAL MEDIA MIGHT BE WRONG, INCOMPLETE, OR INACCURATE. YOU ARE ONLY PERMITTED TO DISCUSS THE CASE WITH YOUR FELLOW JURORS DURING DELIBERATIONS BECAUSE THEY HAVE

SEEN AND HEARD THE SAME EVIDENCE YOU HAVE. IN OUR JUDICIAL SYSTEM, IT IS IMPORTANT THAT YOU ARE NOT INFLUENCED BY ANYTHING OR ANYONE OUTSIDE OF THIS COURTROOM. OTHERWISE, YOUR DECISION MAY BE BASED ON INFORMATION KNOWN ONLY BY YOU AND NOT YOUR FELLOW JURORS OR THE PARTIES IN THE CASE. THIS WOULD UNFAIRLY AND ADVERSELY IMPACT THE JUDICIAL PROCESS.

PLEASE REMEMBER MY INSTRUCTION TO NOT READ ABOUT THE CASE SHOULD THERE BE ANY ARTICLES IN THE NEWSPAPER AND DO NOT LISTEN TO ANY RADIO BROADCASTS OR TELEVISION BROADCASTS SHOULD THERE BE ANY CONCERNING THIS CASE.

YOU WILL NOTE FROM THE OATH ABOUT TO BE TAKEN BY MY COURTROOM DEPUTY, MR. BABIK, AND OTHER MEMBERS OF MY STAFF THAT THEY TOO, AS WELL AS ALL OTHERS, ARE FORBIDDEN TO COMMUNICATE IN ANY WAY OR MANNER WITH ANY MEMBER OF THE JURY ON ANY SUBJECT TOUCHING THE MERITS OF THE CASE.

AT THIS TIME, YOU MAY RETIRE TO THE JURY ROOM TO DELIBERATE.