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

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| 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 PROPOSED**
**PRELIMINARY JURY INSTRUCTIONS**

TO COUNSEL: **ARE YOU SATISFIED WITH THE JURY AS SEATED?**

TO COURTROOM DEPUTY: **PLEASE SWEAR IN THE JURY.**

YOU HAVE NOW BEEN SWORN AS THE JURY TO SIT IN DETERMINATION OF THIS CIVIL CASE IN WHICH PLAINTIFFS, CHRISTOPHER SANSOM AND MARIA SANSOM, HIS WIFE, HAVE SUED THE DEFENDANT, CROWN EQUIPMENT CORPORATION ("CROWN"), FOR MONETARY DAMAGES CLAIMING THAT THE DESIGN OF A STOCKPICKER MANUFACTURED BY CROWN WAS THE CAUSE OF INJURIES SUFFERED WHEN MR. SANSOM FELL FROM THAT DEVICE.

THIS WILL BE A TRIAL LASTING APPROXIMATELY FIVE (5) TO SEVEN (7) TRIAL DAYS - TODAY THROUGH FRIDAY OF THIS WEEK OR POSSIBLY TUESDAY OF NEXT WEEK. WE WILL START TRIAL EACH DAY AT 9:00 A.M. AND WILL TAKE A LUNCHEON RECESS BETWEEN 12:00 -12:30 P.M. FOR AN HOUR OR SO. WE WILL ADJOURN FOR THE DAY AT APPROXIMATELY 4:30 P.M. WE WILL TAKE A 10-15 MINUTE RECESS DURING EACH OF THE MORNING AND AFTERNOON SESSIONS OF COURT.

IT IS IMPORTANT, LADIES AND GENTLEMEN, THAT EACH OF YOU BE HERE ABSOLUTELY NO LATER THAN 8:45 EACH MORNING, BECAUSE ALL JURORS MUST HEAR ALL OF THE EVIDENCE IN THE CASE. IF ANY ONE PERSON IS LATE, THE OTHER JURORS, THE PARTIES, THE LAWYERS, THE WITNESSES AND THE COURT MUST WAIT UNTIL ALL JURORS ARE HERE TO START THE DAY'S TRIAL SESSION. THEREFORE, YOU ARE REQUIRED TO BE HERE PROMPTLY ON TIME FOR EACH MORNING AND AFTERNOON SESSION.

THERE MAY BE TIMES WHEN WE MAY NOT BE ABLE TO START AT 9:00 AM SHARP BECAUSE OF SOMETHING I MUST DISCUSS WITH THE ATTORNEYS OUTSIDE OF YOUR HEARING, OR BECAUSE OF AN EMERGENCY IN ANOTHER CASE

UNRELATED TO THIS ONE WHICH MAY REQUIRE MY IMMEDIATE ATTENTION. YOU MAY HAVE TO WAIT IN THE JURY ROOM FOR A SHORT WHILE BEFORE WE GET UNDERWAY. PLEASE UNDERSTAND, HOWEVER, THAT THIS TRIAL IS NOW MY NUMBER ONE PRIORITY FROM THIS MOMENT FORWARD. I WILL TRY TO KEEP ANY INTERRUPTIONS TO A MINIMUM, AND AS BRIEF AS I POSSIBLY CAN TO MAINTAIN OUR DAILY TIME SCHEDULE.

BEFORE WE BEGIN, I WANT TO TELL YOU HOW THE TRIAL WILL BE CONDUCTED AND EXPLAIN WHAT WE EACH WILL BE DOING - - YOU (THE JURORS), THE LAWYERS FOR THE PARTIES, AND ME AS THE JUDGE. AT THE END OF THE TRIAL, I WILL GIVE YOU MORE DETAILED GUIDANCE ON THE LAW AND HOW YOU ARE TO GO ABOUT REACHING YOUR DECISION. BUT NOW I SIMPLY WANT TO EXPLAIN TO YOU HOW THE TRIAL WILL PROCEED.

THE PLAINTIFFS, CHRISTOPHER SANSOM AND MARIA SANSOM, ARE THE PARTIES WHO HAVE BROUGHT THE LAWSUIT. THE DEFENDANT, CROWN EQUIPMENT CORPORATION, IS THE PARTY WHO RESISTS THE LAWSUIT AND DEFENDS AGAINST THE PLAINTIFFS' CLAIM.

DURING JURY SELECTION YOU WERE INTRODUCED TO THE LAWYERS WHO REPRESENT THE PLAINTIFFS AND DEFENDANT, AND YOU WILL BE HEARING FROM THEM SOON.

THE FIRST STEP IN THE TRIAL WILL BE THE OPENING STATEMENTS. THE PLAINTIFFS' ATTORNEY WILL SOON ADDRESS YOU WITH AN OPENING STATEMENT TO OUTLINE THE CLAIMS IN THIS CASE. THE ATTORNEY FOR THE DEFENDANT WILL THEN MAKE AN OPENING STATEMENT IMMEDIATELY AFTER THE PLAINTIFFS' OPENING STATEMENT.

BE ADVISED THAT THE OPENING STATEMENTS OF THE LAWYERS ARE NOT EVIDENCE; THEIR PURPOSE IS TO DESCRIBE THEIR CLIENTS' POSITION AND HELP YOU UNDERSTAND WHAT THE EVIDENCE WILL BE AND WHAT THE PARTIES WILL TRY TO DEMONSTRATE TO YOU.

NEXT, THE PLAINTIFFS THROUGH THEIR ATTORNEY WILL OFFER EVIDENCE IN AN ATTEMPT TO PROVE THEIR CASE. THE PLAINTIFFS' EVIDENCE WILL CONSIST OF TESTIMONY FROM WITNESSES, AS WELL AS EXHIBITS SUCH AS DOCUMENTS, PHOTOGRAPHS, AND THE LIKE.

AFTER THE PLAINTIFFS' EVIDENCE HAS BEEN PRESENTED, THE DEFENDANTS ATTORNEY WILL LIKEWISE

PRESENT TESTIMONY AND EVIDENCE ON BEHALF OF HIS CLIENT.

THE DIRECT EXAMINATION OF EACH WITNESS IS CONDUCTED BY THE ATTORNEY WHO CALLED THE WITNESS TO THE WITNESS STAND AND EACH WITNESS MAY ALSO BE CROSS-EXAMINED BY OPPOSING COUNSEL. I MAY ASK QUESTIONS OF A WITNESS IN ORDER TO OBTAIN INFORMATION OR BRING OUT SOME FACTS NOT FULLY DEVELOPED BY THE TESTIMONY. YOU, HOWEVER, ARE NOT PERMITTED TO ASK QUESTIONS OF WITNESSES OR TO SPEAK TO THE WITNESSES AT ANY TIME.

YOU WILL HEAR WHAT IS CALLED "DIRECT EVIDENCE" IN THIS CASE, AS WELL AS WHAT IS KNOWN AS "CIRCUMSTANTIAL EVIDENCE." DIRECT EVIDENCE IS DIRECT PROOF OF A FACT, SUCH AS TESTIMONY FROM A WITNESS ABOUT WHAT THE WITNESS ACTUALLY KNOWS, SAID OR HEARD OR SAW OR DID. CIRCUMSTANTIAL EVIDENCE OR INDIRECT EVIDENCE IS SIMPLY PROOF OF ONE OR MORE FACTS FROM WHICH YOU COULD FIND ANOTHER FACT. FOR EXAMPLE, 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 FOR ONE TO CONCLUDE FROM THAT CIRCUMSTANTIAL EVIDENCE THAT IT HAD BEEN RAINING OUTSIDE.

YOU MAY ALSO HEAR FROM ONE OR MORE WITNESSES WHO WILL GIVE 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 EVDIENCE IN THE CASE.

THE EVIDENCE IN THIS CASE WILL CONSIST NOT ONLY OF TESTIMONY FROM THE WITNESSES AND DOCUMENTS WHICH WILL BE SHOWN TO YOU, BUT EVIDENCE ALSO INCLUDES SUCH FAIR AND REASONABLE INFERENCES AS MAY PROPERLY FLOW FROM FACTS WHICH ARE NOT DISPUTED OR WHICH YOU BELIEVE TO BE TRUE. YOU SHOULD CONSIDER

BOTH KINDS OF EVIDENCE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. YOU ARE TO DECIDE HOW MUCH WEIGHT TO GIVE ANY EVIDENCE. IN OTHER WORDS, YOU, LADIES AND GENTLEMEN OF THE JURY, MAY DRAW UPON YOUR OWN EXPERIENCES IN LIFE AND YOUR OWN COMMON SENSE IN INTERPRETING THE FACTS WHICH WILL BE PRESENTED TO YOU BY THE PARTIES IN THIS CASE.

AFTER ALL THE TESTIMONY AND EVIDENCE ON BOTH SIDES HAS BEEN PRESENTED, THE ATTORNEYS WILL MAKE THEIR CLOSING ARGUMENTS TO YOU. IN THESE ARGUMENTS, THE ATTORNEYS WILL GIVE YOU THEIR VIEWS OF WHAT THE EVIDENCE PROVES ON THE QUESTIONS THAT YOU HAVE TO DECIDE AND THESE ARGUMENTS SHOULD BE GIVEN DUE CONSIDERATION, BUT THE ARGUMENTS THEMSELVES AGAIN ARE NOT EVIDENCE. ONLY THE EVIDENCE WHICH HAS BEEN ADMITTED DURING THE TRIAL CAN BE CONSIDERED BY YOU IN DETERMINING THE OPERATIVE FACTS OF THIS MATTER.

IN THE FINAL PHASE OF THE TRIAL I WILL INSTRUCT YOU ABOUT THE RULES OF LAW WHICH ARE TO GUIDE YOU IN REACHING YOUR VERDICT. AFTER HEARING MY

INSTRUCTIONS, YOU WILL LEAVE THE COURTROOM AND RETIRE TOGETHER TO MAKE YOUR DECISION. YOUR DELIBERATIONS WILL BE SECRET. YOU WILL NEVER HAVE TO EXPLAIN YOUR VERDICT TO ANYONE.

NOW THAT I HAVE DESCRIBED THE TRIAL IN GENERAL, LET ME EXPLAIN THE JOBS THAT WE EACH ARE TO PERFORM DURING THE TRIAL. I WILL DECIDE WHICH RULES OF LAW APPLY TO THIS CASE. I WILL DECIDE THIS IN RESPONSE TO QUESTIONS RAISED BY THE ATTORNEYS AS WE GO ALONG AND ALSO IN THE FINAL INSTRUCTIONS WHICH I WILL GIVE TO YOU AFTER THE EVIDENCE AND ATTORNEY ARGUMENTS ARE COMPLETED.

THE ADMISSION OF EVIDENCE IN COURT IS GOVERNED BY RULES OF LAW. DURING THE TRIAL, THE ATTORNEYS MAY DEEM IT NECESSARY TO MAKE OBJECTIONS TO CERTAIN TESTIMONY OR EVIDENCE AND IT THEN BECOMES MY DUTY TO RULE ON THOSE OBJECTIONS AND TO DECIDE WHETHER CERTAIN TESTIMONY OR OTHER EVIDENCE CAN BE PERMITTED FOR YOUR CONSIDERATION. YOU MUST NOT CONCERN YOURSELF WITH THE ATTORNEYS' OBJECTIONS OR THE REASONS FOR MY RULINGS. YOU MUST NOT CONSIDER

TESTIMONY OR EXHIBITS TO WHICH I HAVE SUSTAINED AN OBJECTION, OR WHICH I HAVE ORDERED STRICKEN FROM THE RECORD. NONE OF MY RULINGS SHOULD BE REGARDED BY YOU AS AN INDICATION OF MY OPINION AS TO WHAT YOUR FINDINGS SHOULD BE.

YOU ARE NOT TO CONSIDER THE FACT THAT AN ATTORNEY OBJECTS TO CERTAIN EVIDENCE AS BEING AN ATTEMPT BY THAT ATTORNEY OR HIS CLIENT TO WITHHOLD ANY EVIDENCE FROM YOU WHICH YOU NEED TO PROPERLY DETERMINE THE CASE. THE ONLY WAY THAT I CAN RULE ON THE LEGAL EFFECT OF CERTAIN EVIDENCE IS IF THE ATTORNEY RAISES AN OBJECTION. IF THE ATTORNEY DOES NOT RAISE AN OBJECTION AT THE APPROPRIATE TIME, THE ATTORNEY IS NOT FULFILLING HIS OR HER DUTY TO THE CLIENT OR TO THE COURT. THEREFORE, YOU SHOULD NOT HOLD IT AGAINST AN ATTORNEY OR THE ATTORNEY'S CLIENT IF OBJECTIONS TO EVIDENCE ARE MADE.

ALSO, FROM TIME TO TIME, THERE MAY BE CONFERENCES ON OBJECTIONS AT WHAT WE CALL "SIDE BAR." THE ATTORNEYS AND I WILL MEET AT THE FAR END OF THE BENCH TO DISCUSS LEGAL POINTS WHICH MAY BE

INVOLVED IN THE EVIDENCE. I WILL TRIGGER A “WHITE NOSIE” DEVICE DURING THOSE CONFERENCES. AGAIN, THIS IS NOT AN ATTEMPT TO WITHHOLD INFORMATION FROM YOU WHICH YOU SHOULD HAVE, BUT RATHER, IT IS A MEANS OF INSURING THAT THE TRIAL INCLUDES ONLY THE LEGALLY ADMISSIBLE EVIDENCE UPON WHICH YOU ARE TO BASE YOUR DECISION.

I MAY NOT ALWAYS GRANT AN ATTORNEY’S REQUEST FOR A CONFERENCE. DO NOT CONSIDER MY GRANTING OR DENYING A REQUEST FOR A CONFERENCE AS ANY INDICATION OF MY OPINION OF THE CASE OR OF WHAT YOUR VERDICT SHOULD BE.

IT WILL BE YOUR JOB AS JURORS TO FIND AND DETERMINE THE FACTS OF THIS MATTER. IF AT ANY TIME I SHOULD MAKE ANY COMMENT REGARDING THE FACTS, YOU ARE AT LIBERTY TO DISREGARD IT. MOREOVER, YOU SHOULD NOT TAKE ANY QUESTIONS THAT I MAY ASK WITNESSES AS AN INDICATION OF MY OPINION AS TO HOW YOU SHOULD DETERMINE THE ISSUES OF FACT. ANY OPINION WHICH YOU THINK I MAY HAVE AS TO THE FACTS WOULD NOT BE AT ALL IMPORTANT, <u>YOU AND YOU ALONE</u>, ARE THE SOLE JUDGES OF THE FACTS.

THE EVIDENCE FROM WHICH YOU ARE TO FIND THE FACTS CONSISTS OF THE FOLLOWINGS:

1. THE TESTIMONY OF THE WITNESS;
2. DOCUMENTS AND OTHER THINGS RECEIVED AS EXHIBITS;
3. ANY FACTS THAT ARE STIPULATED—THAT IS, FORMALLY AGREED TO BY THE PARTIES; AND
4. ANY FACTS THAT ARE JUDICALLY NOTICED—THAT IS, FACTS I SAY YOU MUST ACCEPT AS TRUE EVEN WITHOUT OTHER EVIDENCE.

THE FOLLOWING THINGS ARE NOT EVIDENCE:

1. STATEMENTS, ARGUMENTS, AND QUESTIONS OF THE LAWYERS FOR THE PARTIES IN THIS CASE;
2. OBJECTIONS BY LAWYERS;
3. ANY TESTIMONY I TELL YOU TO DISREGARD; AND
4. ANYTHING YOU MAY SEE OR HEAR ABOUT THIS CASE OUTSIDE THE COURTROOM.

YOU MUST MAKE YOUR DECISION BASED ONLY ON THE EVIDENCE THAT YOU SEE AND HEAR IN COURT. DO NOT LET RUMORS, SUSPICIONS, OR ANYTHING ELSE THAT YOU MAY

SEE OR HEAR OUTSIDE OF COURT INFLUENCE YOUR DECISION IN ANY WAY.

YOU SHOULD USE YOUR COMMON SENSE IN WEIGHING THE EVIDENCE. CONSIDER IT IN LIGHT OF YOUR EVERYDAY EXPERIENCE WITH PEOPLE AND EVENTS, AND GIVE IT WHATEVER WEIGHT YOU BELIEVE IT DESERVES. IF YOUR EXPERIENCE TELLS YOU THAT CERTAIN EVIDENCE REASONABLY LEADS TO A CONCLUSION, YOU ARE FREE TO REACH THAT CONCLUSION.

ALSO, CERTAIN TESTIMONY OR OTHER EVIDENCE MAY BE ORDERED STRUCK FROM THE RECORD AND YOU WILL BE INSTRUCTED TO DISREGARD THIS EVIDENCE. DO NOT CONSIDER ANY TESTIMONY OR OTHER EVDIENCE THAT GETS STRUCK OR EXCLUDED. DO NOT SPECULATE ABOUT WHAT A WITNESS MIGHT HAVE SAID OR WHAT AN EXHIBIT MIGHT HAVE SHOWN.

IT IS ESPECIALLY IMPORTANT THAT YOU PERFORM YOUR DUTY OF DETERMINING THE FACTS DILIGENTLY AND CONSCIENTIOUSLY, FOR ORDINARILY THERE IS NO MEANS OF CORRECTING AN ERRONEOUS DETERMINATION OF THE FACTS BY A JURY. YOU MUST BASE YOUR DECISION ON THE

EVIDENCE IN THE CASE AND MY INSTRUCTIONS ABOUT THE LAW.

YOU WILL HAVE TO DECIDE WHAT TESTIMONY YOU BELIEVE AND WHAT TESTIMONY YOU DON'T BELIEVE, THAT'S KNOWN AS CREDIBILITY OR BELIEVABILITY. YOU SHOULD DECIDE WHETHER YOU BELIEVE WHAT EACH WITNESS HAS TO SAY, AND HOW IMPORTANT THAT TESTIMONY IS. IN MAKING THAT DECISION I SUGGEST THAT YOU ASK YOURSELF A FEW QUESTIONS: DID THE WITNESS IMPRESS YOU AS HONEST? DID THE WITNESS HAVE ANY PARTICULAR REASON NOT TO TELL THE TRUTH? DID THE WITNESS HAVE A PERSONAL INTEREST IN THE OUTCOME OF THE CASE? DID THE WITNESS SEEM TO HAVE A GOOD MEMORY? DID THE WITNESS HAVE THE OPPORTUNITY AND ABILITY TO OBSERVE ACCURATELY THE THINGS THE WITNESS TESTIFIED ABOUT? DID THE WITNESS APPEAR TO UNDERSTAND THE QUESTIONS CLEARLY AND ANSWER THEM DIRECTLY? DID THE WITNESS'S TESTIMONY DIFFER FROM THE TESTIMONY OF OTHER WITNESSES? THESE ARE A FEW OF THE CONSIDERATIONS THAT WILL HELP YOU DETERMINE THE ACCURACY OF WHAT EACH WITNESS WILL SAY.

ALSO, YOU DON'T HAVE TO BELIEVE SOMETHING IS TRUE SIMPLY BECAUSE MORE WITNESSES SAID IT IS TRUE THAN SAID IT ISN'T TRUE. YOU MAY FIND THAT THE TESTIMONY OF A SMALLER NUMBER OF WITNESSES ABOUT AN EVENT IS MORE BELIEVABLE THAN THE TESTIMONY OF A LARGER NUMBER OF WITNESSES.

DURING THIS TRIAL, YOU WILL LIKELY HEAR 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 THE LAWSUIT. THE TRANSCRIPT (OR IN SOME CASES VIDEO RECORD) OF THAT TESTIMONY MAY BE PRESENTED IN THIS TRIAL IF THE 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 TO OTHERWISE AFFECT THE WITNESS’ CREDIBILITY, OR BELIEVABILITY, OF THE WITNESS.

DURING THE TRIAL, YOU MAY BE TOLD THAT THE PARTIES AGREE, OR STIPULATE, TO CERTAIN FACTS. YOU

GENERALLY SHOULD ACCEPT THAT FACT AS TRUE EVEN THOUGH NOTHING MORE IS SAID ABOUT IT. LIKEWISE, YOU MAY BE TOLD THAT THE PARTIES AGREE OR STIPULATE TO WHAT A WITNESS'S TESTIMONY WOULD BE IF THE WITNESS WERE CALLED AT TRIAL. YOU WILL CONSIDER THAT STIPULATION TO BE THE TESTIMONY OF THAT WITNESS AS IF THE WITNESS WERE TESTIFYING. HOWEVER, YOU ARE NOT DUTY BOUND TO ACCEPT ANY STIPULATION AS YOU ARE THE SOLE DETERMINERS OF THE FACTS OF THIS MATTER.

NO TRANSCRIPT OF WITNESS TESTIMONY WILL BE FURNISHED TO YOU AT THE TIME YOU BEGIN YOUR DELIBERATIONS. YOU ARE REQUIRED TO REMEMBER THE EVIDENCE AS YOU HEARD IT FROM THE WITNESSES. YOU CAN SEE, THEREFORE, THAT IT IS IMPORTANT THAT YOU NOT ONLY HEAR BUT ALSO LISTEN TO ALL OF THE EVIDENCE. IF ANY WITNESS DOES NOT SPEAK LOUDLY OR CLEARLY ENOUGH TO BE HEARD BY YOU OR YOU DO NOT HEAR THE QUESTION OF COUNSEL, PLEASE LET ME KNOW BY SIMPLY RAISING YOUR HAND AND WE WILL SEE TO IT THAT THE WITNESS OR ATTORNEY REPEATS THE MATERIAL THAT YOU DID NOT HEAR.

YOU MAY TAKE NOTES DURING THE TRIAL. OF COURSE IF YOU PREFER NOT TO TAKE NOTES, YOU DO NOT HAVE TO TAKE ANY. THE DECISION ABOUT WHETHER OR NOT TO TAKE NOTES IS A MATTER FOR EACH OF YOU INDIVIDUALLY TO DECIDE. IF YOU DO DECIDE TO TAKE NOTES, BE CAREFUL NOT TO GET SO INVOLVED IN NOTE TAKING THAT YOU BECOME DISTRACTED FROM THE ONGOING PROCEEDINGS. ADDITIONALLY, I CAUTION YOU THAT THERE MAY BE A TENDENCY TO ATTACH UNDUE IMPORTANCE TO MATTERS THAT ONE HAS WRITTEN DOWN. TESTIMONY THAT IS CONSIDERED UNIMPORTANT AT THE TIME PRESENTED, HOWEVER, AND THUS NOT WRITTEN DOWN, MAY TAKE ON GREATER IMPORTANCE LATER IN THE TRIAL IN LIGHT OF ALL THE EVIDENCE PRESENTED. THEREFORE, YOU ARE INSTRUCTED THAT YOUR NOTES ARE ONLY A TOOL TO AID YOUR OWN INDIVIDUAL MEMORY AND YOU SHOULD NOT COMPARE YOUR NOTES WITH OTHER JURORS' NOTES IN DETERMINING THE CONTENT OF ANY TESTIMONY OR IN EVALUATING THE IMPORTANCE OF ANY EVIDENCE.

YOUR NOTES ARE NOT EVIDENCE, AND WILL BY NO MEANS BE A COMPLETE OUTLINE OF THE PROCEEDING OR A

COMPREHENSIVE LIST OF THE 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. YOU MAY NOT TAKE YOUR NOTES BEYOND THE COURTROOM AND JURY ROOM VICINITY. BEFORE YOU LEAVE THIS AREA FOR ANY REASON, YOUR NOTES MUST BE LEFT IN THE JURY ROOM. 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 COLLECTED AND DESTROYED. NO ONE, NOT THE LAWYERS, MY STAFF, NEWSPAPER REPORTERS, NOR I WILL BE PERMITTED TO READ YOUR NOTES. THEY ARE AND WILL REMAIN PERMANENTLY PRIVATE.

NEXT, I WILL EXPLAIN THE BURDENS OF PROOF PLACED ON THE PARTIES IN THIS CASE. THE PLAINTIFFS HAVE THE BURDEN OF ESTABLISHING, OR PROVING, THEIR CLAIMS PRESENTED IN THE CASE BY A PREPONDERANCE OF THE CREDIBLE EVIDENCE. PREPONDERANCE OF THE EVIDENCE MEANS EVIDENCE WHICH, WHEN WEIGHED AGAINST THAT WHICH IS OPPOSED TO IT, HAS MORE CONVINCING FORCE, SO THAT THE GREATER PROBABILITY OF TRUTH LIES WITHIN IT.

IF YOU WILL CONSIDER THE BURDEN OF PROOF IN THE LIGHT OF THE SCALES OF JUSTICE THAT YOU COMMONLY SEE DEPICTED, RIGHT NOW THE SCALES ARE EVENLY BALANCED BECAUSE NO EVIDENCE AT ALL HAS BEEN INTRODUCED INTO THE CASE. IF, AT THE CONCLUSION OF ALL THE EVIDENCE IN THE CASE, YOU FIND THAT THE SCALES HAVE TIPPED IN FAVOR OF THE PLAINTIFFS EVEN THOUGH SLIGHTLY, THEN THE PLAINTIFFS WILL HAVE MET THEIR BURDEN OF PROOF AND SHOULD PREVAIL. IF, HOWEVER, AT THE CONCLUSION OF ALL THE EVIDENCE, YOU FIND THAT THE SCALES HAVE NOT TILTED IN FAVOR OF THE PLAINTIFFS THEN THE PLAINTIFFS HAVE FAILED TO MEET THEIR BURDEN OF PROOF. IF, AT THE CONCLUSION OF ALL THE EVIDENCE, YOU FIND THAT THE SCALES ARE EVENLY BALANCED, AS THEY ARE AT THE PRESENT TIME, THEN, AGAIN, THE PLAINTIFFS WILL HAVE FAILED TO MEET THEIR BURDEN OF PROOF.

SIMILARLY, THE DEFENDANT HAS THE BURDEN OF ESTABLISHING OR PROVING CERTAIN AFFIRMATIVE DEFENSES BY THE FAIR WEIGHT OR PREPONDERANCE OF THE EVIDENCE. YOU WILL DETERMINE WHETHER THE DEFENDANT HAS CARRIED THIS BURDEN IN THE SAME

MANNER AS I HAVE JUST INSTRUCTED YOU.

AS PREVIOUSLY STATED, I WILL GIVE YOU DETAILED INSTRUCTIONS AS TO THE LAW WHICH YOU ARE TO APPLY TO THIS CASE AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED. AT THIS TIME, HOWEVER, I WILL GIVE YOU SEVERAL BRIEF INSTRUCTIONS CONCERNING THE ISSUES INVOLVED IN THIS CASE, WHICH SHOULD ASSIST YOU IN FOLLOWING, AND MORE FULLY UNDERSTANDING, THE EVIDENCE THAT IS PRESENTED.

AS YOU PREVIOUSLY HAVE HEARD, THIS IS A CASE IN WHICH PLAINTIFFS ALLEGE THAT THE STOCKPICKER MANUFACTURED BY CROWN WAS DEFECTIVE AND THAT BECAUSE IT WAS DEFECTIVE, PLAINTIFFS SUFFERED INJURIES. THE DEFENDANT IN SUBSTANCE CONTENDS THAT ITS PRODUCT WAS NOT DEFECTIVE, AND THAT IN ANY EVENT, CERTAIN ACTIONS TAKEN OR NOT TAKEN BY MR. SANSOM WERE THE CAUSE OF THE INJURIES CLAIMED BY PLAINTIFFS.

THIS CASE SHOULD BE CONSIDERED AND DECIDED BY YOU AS AN ACTION BETWEEN PARTIES OF EQUAL STANDING IN THE COMMUNITY. A CORPORATION IS ENTITLED TO THE SAME FAIR TRIAL AT YOUR HANDS AS A PRIVATE INDIVIDUAL,

AND VICE VERSA. ALL PERSONS, INCLUDING CORPORATIONS AND INDIVIDUALS, STAND EQUAL BEFORE THE LAW AND ARE TO BE DEALT WITH AS EQUALS IN A COURT OF JUSTICE.

FINALLY, IF YOU FIND THAT THE PLAINTIFFS HAVE PROVED THEIR CLAIM, THEN YOU WILL HAVE TO DECIDE ISSUES REGARDING MONETARY DAMAGES TO DECIDE. IF, AFTER CONSIDERATION OF THE EVIDENCE, YOU FIND THAT THE CROWN STOCKPICKER IN QUESTION WAS DEFECTIVE, AND THAT SUCH DEFECTIVE PRODUCT WAS THE CAUSE OF INJURIES TO PLAINTIFFS, THEN YOU MUST DETERMINE WHAT AMOUNT OF MONETARY DAMAGES TO BE AWARDED TO COMPENSATE THE PLAINTIFFS. THE FACT THAT I WILL INSTRUCT YOU AS TO THE PROPER MEASURE OF DAMAGES SHOULD NOT BE CONSIDERED AS A SUGGESTION THAT YOU SHOULD FIND IN FAVOR OF THE PLAINTIFFS OR AWARD DAMAGES. FURTHER, IF YOU FIND IN FAVOR OF CROWN, YOU WILL NOT NEED TO CONSIDER MONETARY DAMAGES, AS NONE WILL BE DUE. INSTRUCTIONS AS TO DAMAGES ARE GIVEN FOR YOUR GUIDANCE IN THE EVENT THAT YOU FIND IN FAVOR OF PLAINTIFFS FROM A PREPONDERANCE OF THE EVIDENCE IN ACCORDANCE WITH THE OTHER INSTRUCTIONS

TO BE GIVEN TO YOU.

I CAUTION YOU TO USE THESE PRELIMINARY INSTRUCTIONS AND COMMENTS ONLY FOR THE PURPOSE OF UNDERSTANDING THE EVIDENCE AND NOT TO MAKE A DETERMINATION OF THE OUTCOME OF THIS CASE BEFORE ALL OF THE EVIDENCE IS PRESENTED TO YOU. THE INSTRUCTIONS GIVEN TO YOU AT THE CONCLUSION OF ALL OF THE EVIDENCE WILL FURTHER DETAIL THE LAW AND CLARIFY HOW YOU SHOULD APPLY THE LAW TO THE FACTS OF THIS CASE

YOU SHOULD NOT SEEK INFORMATION REGARDING ANY ASPECTS OF THIS TRIAL FROM ANY SOURCE OUTSIDE OF THE COURTROOM. IT WOULD BE IMPROPER FOR YOU TO DISCUSS ANY OF THE ISSUES OF THIS CASE WITH ANY PERSON, INCLUDING MEMBERS OF YOUR FAMILY, UNTIL AFTER THE TRIAL IS CONCLUDED.

YOU, AS JURORS, MUST DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE PRESENTED HERE WITHIN THE FOUR WALLS OF THIS COURTROOM. THIS MEANS THAT DURING TRIAL YOU MUST NOT CONDUCT ANY INDEPENDENT RESEARCH ABOUT THIS CASE. IN OTHER WORDS, YOU

SHOULD NOT CONSULT DICTIONARIES OR 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. PLEASE DO NOT TRY TO FIND OUT INFORMATION FROM ANY SOURCE OUTSIDE THIS COURTROOM. NO GOOGLING!

UNTIL YOU RETIRE TO DELIBERATE, YOU MAY NOT DISCUSS THIS CASE WITH ANYONE, 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, THE CASE IS AT AN END AND I HAVE FINALLY EXCUSED YOU.

I KNOW THAT MANY OF YOU USE CELL PHONES, BLACKBERRIES, THE INTERNET AND OTHER TOOLS OF TECHNOLOGY. YOU MUST ALSO NOT TALK TO ANYONE AT ANY TIME ABOUT THIS CASE OR USE THESE TOOLS TO COMMUNICATE ELECTRONICALLY WITH ANYONE ABOUT THE CASE. THIS INCLUDES YOUR FAMILY AND FRIENDS. YOU MAY NOT COMMUNICATE WITH ANYONE ABOUT THE CASE ON

YOUR CELL PHONE, THROUGH EMAIL, BLACKBERRY, iPHONE , TEXT MESSAGING, OR ON TWITTER, THROUGH ANY BLOG OR WEBSITE, INCLUDING FACEBOOK, GOOGLE+, MY SPACE, LINKED IN, OR YOU-TUBE. YOU MAY NOT USE ANY SIMILAR TECHNOLOGY OF SOCIAL MEDIA, EVEN IF I HAVE NOT SPECIFICALLY MENTIONED IT HERE. I EXPECT YOU WILL INFORM ME AS SOON AS YOU BECOME AWARE OF YOUR (OR ANOTHER JUROR'S) VIOLATION OF THESE INSTRUCTIONS, EVEN IF IT IS INADVERTENT.

THE ATTORNEYS AND THEIR CLIENTS ARE NOT PERMITTED TO DISCUSS THE CASE WITH YOU OTHER THAN IN THIS COURTROOM IN THE COURSE OF THE TRIAL, THEY ARE NOT EVEN PERMITTED TO BE SOCIABLE WITH YOU OUTSIDE OF THE COURTROOM. SO IF YOU SEE THEM IN THE CORRIDORS OR ELEVATORS AND THEY DON'T SPEAK TO YOU, DON'T THINK THEY ARE TRYING TO SLIGHT OR SNUB YOU. THEY ARE SIMPLY OBSERVING THE RESTRICTIONS WHICH THE COURT PLACES ON THEM NOT TO TALK TO YOU UNLESS IT IS IN THIS COURTROOM.

FROM THIS POINT ON, DO NOT DISCUSS THIS CASE WITH ANYONE. ALSO, PLEASE DO NOT DISCUSS THIS CASE AMONG

YOURSELVES UNTIL SUCH TIME AS YOU HAVE HEARD ALL OF THE EVIDENCE, THE CLOSING ARGUMENTS OF COUNSEL AND THE FINAL CHARGE ON THE LAW AS I WILL GIVE IT TO YOU AT THE CONCLUSION OF THE CASE.

I PREVIOUSLY INTRODUCED MY COURTROOM STAFF TO YOU. PLEASE DO NOT ASK THE COURT STAFF ANY QUESTIONS ABOUT THE CASE DURING THE TRIAL, EXCEPT YOU MAY ASK MR. BABIK (OR ANOTHER COURT STAFF MEMBER) ABOUT PERSONAL MATTERS RELATING DIRECTLY TO YOUR SERVICE AS A JUROR, SUCH AS TRANSPORTATION ISSUES OR THE NEED FOR SUPPLIES IN THE JURY ROOM AND THE LIKE. MR. BABIK WILL PROVIDE YOU WITH CONTACT INFORMATION TO USE IF YOU HAVE AN EMERGENCY, AND FOR YOU TO USE TO OBTAIN INFORMATION IN THE EVENT OF BAD WEATHER. WE WILL ALSO HAVE YOUR CONTACT INFORMATION IN THE EVENT WE NEED TO CONTACT THE JURY AFTER HOURS DUE TO A CHANGE IN SCHEDULE OR OTHER UNFORESEEN CIRCUMSTANCES.

FINALLY, THERE IS ONE QUESTION THAT WOULD BE ON MY MIND IF I WERE A JUROR; THAT IS, WHAT IF I HAVE A NEED FOR AN IMMEDIATE COMFORT BREAK? NO PROBLEM – PLEASE

SIMPLY MAKE THIS “BREAK” SIGN (DEMONSTRATE), AND I WILL CALL A BREAK AS SOON AS IS POSSIBLE. IF IT IS AN EMERGENCY, PLEASE JUST RAISE YOUR HAND. IF THIS HAPPENS, PLEASE DO NOT BE SELF-CONSCIOUS, AS WE HAVE ALL BEEN THERE.

I WILL NOW READ YOU SEVERAL STIPULATIONS THAT THE PARTIES HAVE AGREED THAT YOU MAY CONCLUDE AS BEING ESTABLISHED WITHOUT ANY FURTHER EVIDENCE.

**JOINT STIPULATION OF FACTS**

1. THE PLAINTIFF IN THIS CASE, CHRISTOPHER SANSOM, WAS SERIOUSLY INJURED IN AN ACCIDENT WHICH OCCURRED ON NOVEMBER 28, 2007 AT THE FACILITIES OF GREAT LAKES COLD STORAGE LOCATED IN CRANBERRY TOWNSHIP, PENNSYLVANIA.

2. AT THE TIME OF THE ACCIDENT, MR. SANSOM WAS USING A PIECE OF EQUIPMENT COMMONLY REFERRED TO AS A STOCKPICKER (CROWN LIFT TRUCK MODEL 36-SP-48TT-360) WHICH HAD BEEN MANUFACTURED BY DEFENDANT, CROWN EQUIPMENT CORPORATION, AT ITS FACILITIES IN NEW BREMEN, OHIO ON MAY 5, 1997.

3. THE STOCKPICKER INVOLVED IN THIS CASE HAS AN OPERATOR PLATFORM ON WHICH THE OPERATOR STANDS WHICH IS TWENTY-SEVEN (27) INCHES DEEP AND FORTY-EIGHT (48) INCHES WIDE WHICH CAN BE ELEVATED TO HEIGHTS AS HIGH AS THIRTY (30) FEET ABOVE GROUND.

4. ON BOTH SIDES OF THE OPERATOR AS HE STANDS ON THE OPERATOR PLATFORM FACING A SET OF CONTROLS ARE TWO GATES WHICH EXTEND TO A HEIGHT OF THIRTY-SIX (36) INCHES ABOVE THE OPERATOR PLATFORM.

5. THE PREDOMINANT USE OF THE STOCKPICKER IN WAREHOUSE OR STORAGE FACILITIES IS TO ALLOW GOODS TO BE REMOVED FROM A PALLET TO BE PLACED IN STORAGE RACKS OR TO ALLOW GOODS TO BE "PICKED" FROM STOCK IN ORDER TO FILL AN ORDER.

6. IN 1997, THE PREDECESSOR COMPANY TO GREAT LAKES COLD STORAGE LEASED FROM CROWN CREDIT CERTAIN TRUCKS, INCLUDING TWO CROWN STOCKPICKERS, ONE OF WHICH WAS INVOLVED IN MR. SANSOM'S ACCIDENT ON NOVEMBER 28, 2007.

7. AT THE TIME THE STOCKPICKER WAS MANUFACTURED AND SOLD BY CROWN IN 1997, CROWN, AS A

MEANS OF FALL PROTECTION, SOLD THE STOCKPICKER WITH A MEDIUM SIZE SAFETY BELT (ADJUSTABLE BETWEEN THIRTY-SIX (36) INCHES AND FORTY-FOUR (44) INCHES) AND AN EIGHT (8) FOOT NON-RETRACTABLE LANYARD WHICH COULD BE ATTACHED TO THE STOCKPICKER FRAMEWORK.

8. THE ACCIDENT IN THIS OCCURRED WHEN, AFTER MR. SANSOM HAD ELEVATED THE STOCKPICKER PLATFORM SOME FIFTEEN (15) FEET ABOVE GROUND, THE STOCKPICKER WAS STRUCK BY ANOTHER PIECE OF EQUIPMENT KNOWN AS A REACH TRUCK BEING OPERATED BY A CO-WORKER.

9. THE FORCE OF THE COLLISION CAUSED MR. SANSOM TO FALL TO THE GROUND.

10. AT THE TIME OF THE ACCIDENT, MR. SANSOM WAS NOT WEARING A SAFETY BELT OR OTHERWISE CONNECTED TO THE STOCKPICKER FOR REASONS WHICH ARE IN DISPUTE IN THIS LAWSUIT.

11. CROWN HAD BEEN MANUFACTURING THE SP SERIES OF STOCKPICKERS OF THE TYPE INVOLVED IN THIS CASE FOR SOME THIRTY (30) YEARS BEFORE IT MANUFACTURED THE STOCKPICKER IN MAY 1997 THAT MR. SANSOM WAS USING ON THE DATE OF THE ACCIDENT.

12. THE APPLICABLE STANDARD OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (KNOWN AS “ANSI”) FOR STOCKPICKERS SOLD IN THE UNITED STATES GIVES THE LIFT TRUCK MANUFACTURER THE CHOICE OF WHETHER TO USE BELTS, GATES OR OTHER DEVICES AS A MEANS OF FALL PROTECTION. THE STANDARD DOES NOT PREVENT THE USE OF MORE THAN ONE SUCH SYSTEM.

13. IN THE UNITED STATES, CROWN HAS USED A STANDARD ACCIDENT REPORT FOR MORE THAN TWENTY (20) YEARS TO OBTAIN INFORMATION ABOUT ACCIDENTS INVOLVING CROWN PRODUCTS INCLUDING STOCKPICKERS.

14. IN THE UNITED STATES, THE CROWN ACCIDENT REPORT FORMS ARE SENT TO CROWN'S PRODUCT SAFETY COORDINATOR AT ITS NEW BREMEN, OHIO FACILITY AND ARE THEN CIRCULATED TO OTHER PEOPLE WITHIN THE CROWN ORGANIZATION AND THOSE RESPONSIBLE FOR THE DESIGN OF LIFT TRUCKS WHICH INCLUDE STOCKPICKERS.

I HOPE THAT FOR ALL OF YOU THIS CASE IS INTERESTING AND NOTEWORTHY. NOW WE WILL BEGIN BY AFFORDING COUNSEL FOR THE PLAINTIFFS AN OPPORTUNITY TO MAKE AN

OPENING STATEMENT, AND I ASK THAT YOU GIVE HIM YOUR CLOSEST ATTENTION.