

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, 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 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 anyone 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 at the end of the trial, I will instruct you on the law that you must follow in deciding your verdict.

Because 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 to a question, 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 I declare that I will take judicial notice of some fact or event, you must, unless otherwise instructed, accept that 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 me, and any evidence ordered stricken by me, 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. 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.

It is important that you discharge your duties without discrimination, meaning that bias regarding the race, color, religious beliefs, national origin, sexual orientation, gender identity, or gender of any party, defendant, witness or lawyer should play no part in the exercise of your judgment throughout the trial.

The Sixth Amendment of our Constitution guarantees a trial by an impartial jury. This means that, as jurors, you must decide this case based solely on the evidence and law presented to you here in this courtroom. Until all the evidence and arguments have been presented and you

begin to deliberate, you may not discuss this case with anyone, even your fellow jurors. After you start to deliberate, you may discuss the case, the evidence, and the law as it has been presented, but only with your fellow jurors. You cannot discuss it with anyone else until you have returned a verdict and the case has come to an end. I'll now walk through some specific examples of what this means. First, this means that, during the trial, you must not conduct any independent research about this case, or the matters, legal issues, individuals, or other entities involved in this case. Just as you must not search or review any traditional sources of information about this case (such as dictionaries, reference materials, or television news or entertainment programs), you also must not search the internet or any other electronic resources for information about this case or the witnesses or parties involved in it. The bottom line for the important work you will be doing is that you must base your verdict only on the evidence presented in this courtroom, along with instructions on the law that I will provide. Second, this means that you must not communicate about the case with anyone, including your family and friends, until deliberations, when you will discuss the case with only other jurors. During deliberations, you must continue not to communicate about the case with anyone else. Most of us use smartphones, tablets, or computers in our daily lives to access the internet, for information, and to participate in social media platforms. To remain impartial jurors, however, you must not communicate with anyone about this case, whether in person, in writing, or through email, text messaging, blogs, or social media websites and apps (like Twitter, Facebook, Instagram, LinkedIn, YouTube, WhatsApp, and Snapchat). Please note that these restrictions are about all kinds of communications about this case, even those that are not directed at any particular person or group. Communications like blog posts or tweets can be shared to an ever-expanding circle of

people and can have an unexpected impact on this trial. For example, a post you make to your social media account might be viewable by a witness who is not supposed to know what has happened in this courtroom before he or she has testified. For these reasons, you must inform me immediately if you learn about or share any information about the case outside of this courtroom, even if by accident, or if you discover that another juror has done so. Finally, a word about an even newer challenge for trials such as this one—persons, entities, and even foreign governments may seek to manipulate your opinions, or your impartiality during deliberations, using the communications I’ve already discussed or using fake social media accounts. But these misinformation efforts might also be undertaken through targeted advertising online or in social media. Many of the tools you use to access email, social media, and the internet display third-party notifications, pop-ups, or ads while you are using them. These communications may be intended to persuade you or your community on an issue, and could influence you in your service as a juror in this case. For example, while accessing your email, social media, or the internet, through no fault of your own, you might see popups containing information about this case or the matters, legal principles, individuals or other entities involved in this case. Please be aware of this possibility, ignore any pop-ups or ads that might be relevant to what we are doing here, and certainly do not click through to learn more if these notifications or ads appear. If this happens, you must let me know. Because it is so important to the parties’ rights that you decide this case based solely on the evidence and my instructions on the law, at the beginning of each day, I may ask you whether you have learned about or shared any information outside of this courtroom.

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.