

STANDARD CIVIL

PRELIMINARY INSTRUCTIONS TO JURY  
PRIOR TO BEGINNING OF TRIAL

Judge James P. Jones

### **Introduction**

1           Members of the jury, before we begin the trial, I want to give you some preliminary  
2 instructions to help you understand what will happen during the trial and also to guide your conduct.  
3 I will give you detailed instructions near the end of the trial but what I say now is to explain to you  
4 your role here, as well as the role of the court and the role of others here.

### **Burden of Proof**

5           This is a civil case. In a civil case, the party who brings the lawsuit is called a plaintiff. In  
6 this case, the plaintiff is \_\_\_\_\_. The party against whom the suit is brought is  
7 called the defendant. In this case, the defendant is \_\_\_\_\_. The case  
8 involves a claim by the plaintiff as follows: [Describe] [The defendant has filed a counterclaim as  
9 follows.]

10           In a civil case, the plaintiff has the burden of proving his case by what is called the  
11 preponderance of evidence. That means the plaintiff has to produce evidence which, considered in  
12 the light of all the facts, leads you to believe that what the plaintiff claims is more likely true than  
13 not. To put it differently, if you were to put plaintiff's and defendant's evidence on opposite sides  
14 of the scales, the plaintiff would have to make the scales tip somewhat on his side. If the plaintiff  
15 fails to meet this burden, the verdict must be for the defendant.

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

### **Duty of the Jury**

1           It is your role to decide disputed questions of fact. You and you alone, are the judges of the  
2 facts. Nothing I say or do during this trial should make you feel one way or another about the facts.  
3 You will hear the evidence, decide what the facts are, and then apply those facts to the law which  
4 I will give to you. Even if you personally disagree with the law, you are bound to accept it and  
5 follow it as I give it to you. I will decide all questions of law that arise during the trial.

6           You must keep an open mind to both sides during this entire trial until it is time for you to  
7 retire and deliberate. You must not decide this case near the beginning, halfway through or near the  
8 end. You must wait to decide until you have heard all the evidence, and I have given you the  
9 instructions as to the law before you render your decision.

### **Conduct of the Jurors**

10           Let me tell you some things about your responsibilities here. I instruct you that until you start  
11 your deliberations at the end of the case, you are not to discuss the case with anyone, including your  
12 fellow jurors. You must not talk with each other about the case until you have heard all of the  
13 evidence, listened to the final arguments, and heard my final instructions to you.

14           I know that many of you use cell phones, Blackberries, the Internet, and other tools of  
15 technology. You must not use any of these tools to communicate with anyone about the case.

16           Do not read, listen, or watch anything about this case on the television, radio, newspapers,  
17 or the Internet.

18           Do not do any research or make any investigation on your own about any matter involved in  
19 this case. By way of examples, this means you must not read from a dictionary or a text book or an

10 encyclopedia or go on the Internet to look for information about some issue in the case.

11 The reason for these rules, as I 'm sure you will understand, is that to be fair, you must learn  
12 about this case only from the proper evidence and information you receive here in the courtroom.

13 Finally, do not make up your mind about the issues in this case during the trial until after you  
14 have heard all of the evidence and my final instructions to you, and you and your fellow jurors have  
15 gone to the jury room to decide the case and have fully discussed it.

### **Rulings**

1 No statement, ruling, remark, or comment which I may make during the course of this trial  
2 is intended to indicate to you how you should decide this case, nor is it intended to influence your  
3 decision.

4 During the course of the trial, I may ask questions of a witness. Please do not assume that  
5 I hold any opinion on the matters to which my questions may have related. I am simply trying to  
6 bring out the facts for your consideration.

### **Evidence**

7 You will decide this case based on the evidence. The evidence from which you will find the  
8 facts will consist of the sworn testimony of witnesses, documents, and other things received into the  
9 record as exhibits.

10 Statements and arguments by lawyers are not evidence in the case, unless made as an  
11 admission or stipulation of fact. When the attorneys on both sides stipulate or agree to the existence  
12 of a fact, you must, unless otherwise instructed, accept the stipulation as evidence, and regard that  
13 fact as proved to you.

14 Objections to questions are not evidence. Lawyers have an obligation to their client to make

7 an objection when they believe evidence being offered is improper under the rules of evidence. You  
8 should not be influenced by the objection or by my ruling on it.

9 Any evidence as to which an objection is sustained by the court, and any evidence ordered  
10 stricken by the court, must be entirely disregarded. If an objection is overruled, treat the answer like  
11 any other. You should not concern yourself with why an objection is made or why the court has  
12 decided one way or another.

1 Anything you may have seen or heard outside the courtroom is not evidence, and must be  
2 entirely disregarded.

3 When I say that something is “admitted or received into evidence” that means that exhibit  
4 is now part of the evidence and part of what you may consider in your decision in this case. Some  
5 evidence is admitted for a limited purpose only. When I instruct you that an item of evidence has  
6 been admitted for a limited purpose, you must consider it only for that limited purpose and for no  
7 other.

8 I urge you to pay close attention to the testimony as it is given.

### **Juror Notes**

9 You will notice that we have a court reporter making a record of the trial. However, we will  
10 not have typewritten transcripts of this record available for use in reaching your decision in this case.

11 If you want to take notes during the course of the trial you may do so. However, it is difficult  
12 to take detailed notes and pay attention to what the witnesses are saying at the same time. If you do  
13 take notes, be sure that your note taking does not interfere with listening to and considering all the  
14 evidence. Also, if you take notes, remember that they are for your own individual benefit and not  
15 the use of other jurors.

9            Do not take the notes home with you at the end of the day. Be sure to leave them in the jury  
10 room.

11            Whether or not you choose to take notes, remember it is your own individual responsibility  
12 to listen carefully to the evidence. You cannot give this responsibility to someone who is taking  
13 notes. We depend on the judgment of all members of the jury.

## **Outline of Trial**

1           The next steps of the trial will now begin. First, each side may make an opening statement,  
2 but is not required to. An opening statement is not evidence. It is simply an outline to help you  
3 understand what that party expects the evidence will show.

4           The plaintiff will then present evidence, and the lawyer for the defendant may cross-examine.  
5 Then the defendant may present evidence, and the lawyer for the plaintiff may cross-examine.

6           After the evidence has been presented, I will instruct you on the law that applies to the case  
7 and the attorneys will make closing arguments.

8           You will then go to the jury room to deliberate on your verdict.