

FINAL JURY INSTRUCTIONS

DELIBERATION AND VERDICT

The evidence is completed. Earlier I instructed you on the law. You have now heard the last from the lawyers. What is next is for me to instruct you on how to conduct your deliberations.

When you go to the jury room, your first function will be to select a Foreperson to preside over your deliberations. The Foreperson does not have any greater power than any other juror, and his or her vote does not have any more importance than other votes.

The Foreperson serves to help you conduct your deliberations in an orderly manner and give each of you the opportunity to express your opinion. The Foreperson is also responsible for ensuring that you conduct your deliberations in accordance with the Court's instructions.

As a reminder, during your deliberations, you must not provide any information to anyone about this case. You may not use any electronic device or service to communicate to anyone any information about this case or to conduct any research about this case. You can only discuss the case in the jury room with your fellow jurors during deliberations.

With regard to note taking, as I instructed you at the start of the trial, the decision to take notes was purely your own, based upon your own assessment whether notes would assist you in following the evidence. Some of you took extensive notes; others took few notes. This is not significant. What must be stressed is any notes taken by a juror, extensive or few, are not a literal record of the points covered, nor anything close to a literal record. Moreover, you must bear in mind during your deliberations that the memory of a note-taking juror is in no way more or less reliable than the memory of a juror who chose not to take notes. It is your individual recollection of the testimony that must control, and not the existence of any notes.

During your deliberations, you are, of course, permitted to take breaks. However, you may not discuss the case unless **all** members of the jury are present. Thus, if you separate briefly to smoke or snack, you must not discuss the case. Please make sure our Clerk knows your whereabouts if you leave the jury room. Also, our Clerk will collect your cell phones during your deliberations. You are to use the phone in the jury room only to call our staff. When you have reached and signed the verdict form, you will call us and we will then gather the parties and lawyers back to the courtroom to announce your verdict.

Until your verdict is announced in open court, no juror is permitted to disclose to anyone the status of your deliberations or the nature of your verdict.

The Court cannot include all the law in any single part of the instructions. In considering one portion, you must consider it in the light of, and in harmony with, all the instructions. Whether certain instructions are applicable may depend upon the conclusions you reach on the facts. If during your deliberations you are in doubt about a portion of these instructions, the Foreperson should put your question in writing, and call the Clerk, who will pick up your written question. I will then discuss the question with the lawyers and send back a written response.

If you have an impression that the Court has indicated how any disputed fact should be decided, you must put aside such an impression because that decision must be made by you, based solely upon the facts presented to you in this courtroom. And if during the course of the trial I have said or done anything that you consider an indication of my view on this case, you are instructed to disregard it.

Circumstances in the case may arouse sympathy for one party or the other. Sympathy is a common, human emotion. The law does not expect you to be free of such normal reactions. However, the law, and your oath as jurors, require you to disregard sympathy and not permit it to influence your verdict.

It is your duty to weigh the evidence, decide the disputed questions of fact, apply the instructions of law to your findings, and render your unanimous verdict accordingly. Your duty as jurors is to arrive at a fair and just verdict.

Your initial conduct upon commencing deliberations is a matter of importance. It is not wise to immediately express a determination or to insist upon a certain verdict. Having so expressed yourself, your sense of pride may be aroused, and you may hesitate to give up your position even if shown that it is not correct.

Consult with one another in the jury room, and deliberate with a view to reaching an agreement if you can do so without disturbing your individual judgment. Each of you must decide the case for yourself. You should do so, however, only after a discussion of the case with the other jurors. Do not hesitate to change an opinion if convinced that it is wrong. However, you should not surrender your considered opinion in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

[Excuse alternate jurors.]

You may now retire to the jury room.