**UNITED STATES DISTRICT COURT**

**MIDDLE DISTRICT OF LOUISIANA**

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| **JANE DOE**  **VERSUS**  **JOHN SMITH** | **CIVIL ACTION**  **NO. 16-123-JWD-** |

**JURY INSTRUCTIONS AND**

**JURY VERDICT FORM**

**Members of the jury**:

Now that the evidence in this case has been presented, the time has come for me to instruct you on the law. My instructions will be in three parts: first, some instructions on general rules that define and control the jury's duties; second, the instructions that state the rules of law you must apply; i.e., what the Plaintiff must prove to make her case; and third, some rules and guidelines for your deliberations.

**Duties of the Jury**

In defining the duties of the jury, let me first give you a few general rules:

You have been chosen from the community to make a collective determination of the facts in this case. What the community expects of you, and what I expect of you, is the same thing that you would expect if you were a party to this suit: An impartial deliberation and conclusion based upon all the evidence presented in this case and on nothing else.

This means you must deliberate on this case without regard to sympathy, prejudice, or passion for or against any party to this suit. This means the case should be considered and decided as an action between persons of equal standing in the community. All persons stand equally before the law and are to be dealt with as equals in a court of justice.

Above all, the Community wants you to achieve justice, and your success in that endeavor depends upon the willingness of each of you to seek the truth as to the facts from the same evidence presented to all of you and to arrive at a verdict by applying the same rules of law as I give them to you.

If I have given you the impression during the trial that I favor either party, you must disregard that impression. If I have given you the impression during the trial that I have an opinion about the facts of this case, you must disregard that impression. You are the sole judges of the facts of this case. Other than my instructions to you on the law, you should disregard anything I may have said or done during the trial in arriving at your verdict.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. You should consider all of the instructions about the law as a whole and regard each instruction in light of the others, without isolating a particular statement or paragraph.

You are required by the law to decide the case in a fair, impartial, and unbiased manner, based entirely on the law and on the evidence presented to you in the courtroom. You may not be influenced by passion, prejudice, or sympathy you might have for the Plaintiff or the Defendant, in arriving at your verdict.

**Burden of Proof**

In a civil action such as this, each party asserting a claim has the burden of proving every essential element of his claim by a "preponderance of the evidence." A preponderance of the evidence means such evidence as, when considered and compared with that opposed to it, has more convincing force and produces in your minds a belief that what is sought to be proved is more likely true than not true. In other words, to establish a claim by a "preponderance of the evidence" merely means to prove that the claim is more likely so than not so. In determining any fact in issue you may consider the testimony of all the witnesses, regardless of who may have called them, and all the exhibits received in evidence, regardless of who may have produced them.

If a party asserting a claim has proven each element of his case by a preponderance of the evidence, then you must find in favor of that party. However, if a preponderance of the evidence does not support each essential element of a claim, then you, the jury, should find against the party having the burden of proof as to that claim.

**Three Forms of Evidence**

Next I want to discuss with you, generally what we mean by evidence and how you should consider it.

The evidence from which you are to decide what the facts are comes in one of three forms:

First, there is the sworn testimony of witnesses, both on direct and cross-examination, regardless of who called the witness.

Second, there are the exhibits which the court has received into the trial record.

Third, there are any facts, to which all the lawyers have agree or stipulated, or which the court has instructed you to find.

**What Is Not Evidence**

Certain things are not evidence and are to be disregarded in deciding what the facts are:

1. Arguments or statements by lawyers are not evidence. You may, however, consider their arguments in light of the evidence that has been admitted and determine whether the evidence admitted in this trial supports the arguments. It is important for you to distinguish between the arguments and the evidence on which those arguments rest.

2. The questions to the witnesses are not evidence. They can be considered only to give meaning to the witness' answer.

3. Objections to questions and arguments are not evidence. Attorneys have a duty to their client to object when they believe a question is improper under the rules of evidence. You should not be influenced by an objection or by the court's ruling on it. If the objection is sustained, ignore the question; if it is overruled, treat the answer like any other answer.

4. Testimony that has been excluded, stricken or that you have been instructed to disregard is not evidence and must be disregarded. In addition, some testimony and exhibits may have been received only for a limited purpose; where the court has given such a limited instruction, you must follow it.

5. Anything you may have seen or heard outside the courtroom is not evidence. You are to decide the case solely on the evidence offered and received in the trial.

**Direct and Circumstantial Evidence**

I have told you about the three forms in which evidence comes: testimony, exhibits and stipulations. There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as the testimony of an eyewitness. Circumstantial evidence is proof of a chain of circumstances from which you could infer or conclude that a fact exists, even though it has not been proved directly. You are entitled to consider both kinds of evidence.

The word "infer," or the expression, "to draw an inference," means to find that a fact exists, based on proof of another fact. For example, if you see water on the street outside your window, you can infer that it has rained. In other words, the fact of rain is an inference that could be drawn from the presence of water on the street. Other facts may, however, explain the presence of water without rain. Therefore, in deciding whether to draw an inference, you must look at and consider all the facts in the light of reason, common sense and experience. After you have done that, the question whether to draw a particular inference is for the jury to decide.

The fact that a person brought a lawsuit and is in court seeking damages, creates no inference that the person is entitled to a judgment. Anyone may make a claim and file a lawsuit. The act of making a claim in a lawsuit, by itself, does not in any way tend to establish that claim and is not evidence.

**Deciding What Testimony to Believe**

In deciding what the facts are, you must consider all the evidence that has been offered. In doing this, you must decide which testimony to believe and which testimony not to believe.

You alone are to determine the questions of credibility or truthfulness of the witnesses. In weighing the testimony of the witnesses, you may consider the witness's manner and demeanor on the witness stand, any feelings or interest in the case, or any prejudice or bias about the case, that he or she may have, and the consistency or inconsistency of his or her testimony considered in the light of the circumstances. Has the witness been contradicted by other credible evidence? Has he or she made statements at other times and places contrary to those made here on the witness stand? You must give the testimony of each witness the credibility that you think it deserves.

Even though a witness may be a party to the action and therefore interested in its outcome, the testimony may be accepted if it is not contradicted by direct evidence or by any inference that may be drawn from the evidence, if you believe the testimony.

You are not to decide this case by counting the number of witnesses who have testified on the opposing sides. Witness testimony is weighed; witnesses are not counted. The test is not the relative number of witnesses, but the relative convincing force of the evidence. The testimony of a single witness is sufficient to prove any fact, even if a greater number of witnesses testified to the contrary, if after considering all of the other evidence, you believe that witness.

**Impeachment**

If you find that a witness' testimony is contradicted by what that witness has said or done at another time, or by the testimony of other witnesses, you may disbelieve all or any part of that witness' testimony. But in deciding whether or not to believe the witness' testimony, keep this in mind:

1. People sometimes forget things. A contradiction may be an innocent lapse of memory or it may be an intentional falsehood. Consider therefore whether it has to do with an important fact or only a small detail.

2. Different people observing an event may remember it differently and therefore testify about it differently.

Even though a witness may be a party to the action and therefore interested in its outcome, the testimony may be accepted if you believe the testimony.

If you believe that any witness has been so impeached, then it is your exclusive province to give the testimony of that witness such credibility or weight, if any, as you may think it deserves.

**Expert Witnesses**

Generally, witnesses are expected to testify about facts within their knowledge or to opinions rationally based upon the witness’s own perception of things he observed. The Rules of Evidence usually do not permit witnesses to testify as to their opinions or conclusions about those facts. An exception to this rule exists as to those whom we call “expert witnesses.” These are people who, by education and/or experience, have become experts in some field. When knowledge of a technical subject matter may be helpful to the jury, the person who has special training or experience in that technical field is permitted to state his or her opinion on these technical matters. These people are permitted to state their opinions as to relevant matters in the fields in which they are found to be an expert and to give their reasons for those opinions.

You should consider each expert opinion received into evidence and give it such weight as you think it deserves. If you should decide that the opinion of an expert is not based on sufficient education or experience, or on facts not in this case, or if you conclude that the reasons given in support of the opinion are not sound, or if you feel that it is outweighed by other evidence, then you may disregard the opinion entirely. You are not required to accept their opinion. As with any other witness, it is up to you to decide whether to rely on it.

All of these are matters for you to consider in finding the facts.

**LAW OF THE CASE**

**[***To be inserted*]

**Damages**

**[***To be inserted*]

**CLOSING INSTRUCTIONS**

This completes my remarks on the law applicable to the case. Remember, I told you at the beginning of the trial that you were not to discuss the case among yourselves. I now remove that restriction. It is now your duty to deliberate and to consult with one another in an effort to reach a verdict. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to re-examine your own opinions and change your mind if you are convinced that you were wrong. But do not give up on your honest beliefs because the other jurors think differently, or just to finish the case.

Remember at all times, you are the judges of the facts.

Remember that your verdict must be based solely on the evidence in the case, not on anything else.

Remember also that opening statements, closing arguments, or other statements or arguments of counsel are not evidence. If your recollection of the facts differs from the way counsel has stated them, then your recollection controls.

When you go into the jury room to deliberate, the first thing you need to do is elect a Foreperson who will preside over the deliberations and be your spokesperson here in court. After you have reached a unanimous agreement on a verdict, the Foreperson will fill in the jury verdict form, which has been prepared for you, and ensure that each of you has signed and dated the bottom of the jury form. After that, you will return with it to the courtroom.

You are being asked to answer certain questions, from which answers your verdict will be determined.

**[Explain verdict form.]**

**JURY VERDICT FORM**

[*To be inserted*]

Your verdict on each question must be unanimous. After you have reached a unanimous verdict, your jury foreperson must fill out the answers to the written questions on the verdict form. Each of you will sign and date the form. After you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.

If you need to communicate with me or ask me a question during your deliberations, the jury foreperson should write the question or communication and give it to the Court Security Officer. After consulting with the attorneys, I will respond either in writing or by meeting with you in the courtroom in the presence of the parties and their attorneys. Keep in mind, however, that no member of the jury should ever attempt to communicate with the Court except by a signed writing, and the Court will not communicate with any member of the jury on any subject touching the merits of the case other than in writing, or orally here in open Court. Bear in mind that you are not to disclose to anyone--not even the Court--how the jury stands, numerically or otherwise, on the questions you must decide, until after you have reached a unanimous verdict or have been discharged.

Finally, let me remind you again that you represent the community in the determination of this dispute. The community appreciates your service on this jury, and, at the same time, expects you to reach a fair and impartial verdict.

The Court must allow the parties an opportunity to address some procedural matters. This will take only a few minutes. The verdict form and a copy of the jury instructions will be gathered up and brought to you in the jury room. The exhibits that have been introduced into evidence will be made available electronically, and Ms. Causey will instruct you how to access them. When you have reached your verdict, please sign and date the verdict form and have the foreperson notify the Court Security Officer that you have reached a verdict. You may now proceed to the jury room, but do not select a jury foreperson and begin deliberations until the Court Security Officer gives you the OK to begin. The verdict forms and one copy of these instructions will be brought to you. Please ensure that you bring both documents back to the courtroom after you have reached a verdict.