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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

,
Plaintiff,
v.
,
Defendant.

Case No.:

JURY INSTRUCTIONS

DUTY OF JURY

Members of the Jury: Now that you have heard all of the evidence, it is my duty to instruct you on the law that applies to this case.

A copy of these instructions will be sent to the jury room for you to consult during your deliberations.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

Please do not read into these instructions or anything that I may say or do or have said or done that I have an opinion regarding the evidence or what your verdict should be. I have not expressed, nor intended to express or intimate, any opinion as to which witnesses are or are not worthy of belief, what facts are or are not established, or what inferences should be drawn from the evidence. If any expression of mine has seemed to indicate an opinion relating to any of these matters, I instruct you to disregard it.

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WHAT IS EVIDENCE

The evidence you are to consider in deciding what the facts are consists of:

1. the sworn testimony of any witness;
2. the exhibits that are admitted into evidence;
3. any facts to which the lawyers have agreed; and
4. any facts that I have instructed you to accept as proved.

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WHAT IS NOT EVIDENCE

In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence, and you may not consider them in deciding what the facts are. I will list them for you:

- (1) Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.
- (2) Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it.
- (3) Testimony that is excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered.
- (4) Anything you may have seen or heard when the court was not in session is not evidence.

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DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

1 CREDIBILITY OF WITNESSES

2 In deciding the facts in this case, you may have to decide which testimony to believe and
3 which testimony not to believe. You may believe everything a witness says, or part of it, or none
4 of it.

5 In considering the testimony of any witness, you may take into account:

- 6 (1) the opportunity and ability of the witness to see or hear or know the things testified to;
7 (2) the witness's memory;
8 (3) the witness's manner while testifying;
9 (4) the witness's interest in the outcome of the case, if any;
10 (5) the witness's bias or prejudice, if any;
11 (6) whether other evidence contradicted the witness's testimony;
12 (7) the reasonableness of the witness's testimony in light of all the evidence; and
13 (8) any other factors that bear on believability.

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15 Sometimes a witness may say something that is not consistent with something else he or
16 she said. Sometimes different witnesses will give different versions of what happened. People
17 often forget things or make mistakes in what they remember. Also, two people may see the same
18 event but remember it differently. You may consider these differences, but do not decide that
19 testimony is untrue just because it differs from other testimony.

20 However, if you decide that a witness has deliberately testified untruthfully about something
21 important, you may choose not to believe anything that witness said. On the other hand, if you
22 think the witness testified untruthfully about some things but told the truth about others, you may
23 accept the part you think is true and ignore the rest.

24 The weight of the evidence as to a fact does not necessarily depend on the number of
25 witnesses who testify. What is important is how believable the witnesses were, and how much
26 weight you think their testimony deserves.

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BURDEN OF PROOF—PREPONDERANCE OF THE EVIDENCE

When a party has the burden of proof on any claim by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim is more probably true than not true. You should base your decision on all of the evidence, regardless of which party presented it.

1 **INSERT CASE-SPECIFIC INSTRUCTIONS**

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6 **CLOSING INSTRUCTIONS**

7 When you begin your deliberations, elect one member of the jury as your foreperson.
8 Your foreperson will preside over the deliberations and speak for you here in court.

9 You will then discuss the case with your fellow jurors to reach an agreement, if you can.
10 Your verdict must be unanimous.

11 Each of you must decide the case for yourself, but you should do so only after you have
12 considered all the evidence, and discussed it fully with your fellow jurors, listening to their views.

13 Do not be afraid to change your opinion if the discussion persuades you that you should.
14 But do not come to a decision simply because other jurors think it is right.

15 It is important that you attempt to reach a unanimous verdict, but only if each of you can
16 do so after making your own conscientious decision. Do not change an honest belief about the
17 weight and effect of the evidence simply to reach a unanimous verdict.

18 Some of you have taken notes during the trial. Whether or not you took notes, you should
19 rely on your own memory of what was said. Notes are only to assist your memory. You should
20 not be overly influenced by your notes or those of your fellow jurors.

21 A verdict form has been prepared for you. After you have reached unanimous agreement
22 on a verdict, your foreperson should complete the verdict form according to your deliberations,
23 sign and date it, and advise the bailiff that you are ready to return to the courtroom.

24 If during your deliberations you need to communicate with me, you may send a note
25 through the bailiff, signed by any one or more of you. No member of the jury should ever attempt
26 to communicate with me except by a signed writing. I will respond to the jury concerning the
27 case only in writing or here in open court. If you send me a question, I will consult with the
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1 lawyers before answering it, which may take some time. You should continue your deliberations
2 while waiting for the answer to any question.

3 Remember that you are not to tell anyone—including me—how the jury stands,
4 numerically or otherwise, on any question submitted to you until after you have reached a
5 unanimous verdict or have been discharged.

6 Dated: January ____, 2018.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE