

1 Members of the jury, now that you have heard all of the evidence, it is my duty to
2 instruct you on the law that applies to this case. A copy of these instructions will be sent
3 to the jury room for you to consult during your deliberations.

4 It is your duty to find the facts from all the evidence in the case. To those facts you
5 will apply the law as I give it to you. You must follow the law as I give it to you whether
6 you agree with it or not. And you must not be influenced by any personal likes or dislikes,
7 sympathy, fear, public opinion, prejudices, or biases, including unconscious bias.
8 Unconscious biases are stereotypes, attitudes, or preferences that people may
9 consciously reject but may be expressed without conscious awareness, control, or
10 intention. Like conscious bias, unconscious bias, too, can affect how we evaluate
11 information and make decisions. That means that you must decide the case solely on the
12 evidence before you. You will recall that you took an oath to do so.

13 Please do not read into these instructions, or anything that I may say or do, or have
14 said or done, that I have an opinion regarding the evidence or what your verdict should
15 be.

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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.

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

4 1. Arguments and statements by lawyers are not evidence. The lawyers are
5 not witnesses. What they have said in their opening statements, closing arguments, and
6 at other times is intended to help you interpret the evidence, but it is not evidence. If the
7 facts as you remember them differ from the way the lawyers have stated them, your
8 memory of them controls.

9 2. Questions and objections by lawyers are not evidence. Attorneys have a
10 duty to their clients to object when they believe a question is improper under the rules of
11 evidence. You should not be influenced by the objection or by the court's ruling on it.

12 3. Testimony that is excluded or stricken, or that you have been instructed to
13 disregard, is not evidence and must not be considered. [In addition, some evidence was
14 received only for a limited purpose; when I have instructed you to consider certain
15 evidence only for a limited purpose, you must do so and you may not consider that
16 evidence for any other purpose.]

17 4. Anything you may have seen or heard when the court was not in session is
18 not evidence. You are to decide the case solely on the evidence received at the trial.

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

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1 As you know, this is a civil case. The plaintiffs have the burden of proving their
2 case by what is called the preponderance of the evidence. That means the plaintiffs had
3 to produce evidence which, considered in light of all the facts, leads you to believe that
4 what the plaintiffs claim is more probably true than not true. To put it differently, if you
5 were to put the plaintiffs' and the defendants' evidence on the opposite sides of the scales,
6 the plaintiffs would have to make the scales tip somewhat towards their side. If the
7 plaintiffs fail to meet this burden, the verdict must be for the defendant.

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

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

- 5 1. the opportunity and ability of the witness to see or hear or know the things
6 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;
13 and
- 14 8. any other factors that bear on believability.

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

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

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

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1 Because you must base your verdict only on the evidence received in the case
2 and on these instructions, I remind you that you must not be exposed to any other
3 information about the case or the issues it involves.

4 Throughout your deliberations, you may discuss with each other the evidence
5 and the law that has been presented in this case, but you must not communicate with
6 anyone else by any means about the case. This includes discussing the case in person,
7 in writing, by phone, or electronic means. This means you may not use any electronic
8 device or media (such as a phone, computer, or tablet), the internet, any text or instant
9 messaging service, or any social media apps to research or communicate about what
10 you've seen and heard in this courtroom. You also cannot learn from outside sources
11 about the case, the matters in the case, the legal issues in the case, or individuals or
12 other entities involved in the case.

13 This restriction also applies to communicating with your family members, your
14 employer, the media or press, and the people involved in the trial. If you are asked or
15 approached in any way about your jury service or anything about this case, you must
16 respond that you have been ordered not to discuss the matter and to report the contact
17 to the court. Do not read, watch, or listen to any news or media accounts or commentary
18 about the case or anything to do with it; do not do any research, such as consulting
19 dictionaries, searching the internet or using other reference materials; and do not make
20 any investigation or in any other way try to learn about the case on your own.

21 These restrictions continue during your deliberations because it is essential,
22 under our Constitution, that you decide this case based solely on the evidence and law
23 presented in this courtroom. Information you find on the internet or through social media
24 might be incomplete, misleading, or inaccurate. And even using your smartphones,
25 tablets, and computers—and the news and social media apps on those devices—may
26 inadvertently expose you to certain notices, such as pop-ups or advertisements, that
27 could influence your consideration of the matters you've heard about in this courtroom.

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1 You are permitted to discuss the case with only your fellow jurors during
2 deliberations because they have seen and heard the same evidence and instructions on
3 the law that you have, and it is important that you decide this case solely on the evidence
4 presented during the trial, without undue influence by anything or anyone outside of the
5 courtroom. The law requires these restrictions to ensure the parties have a fair trial based
6 on the same evidence that each party has had an opportunity to address.

7 If any juror is exposed to any outside information, please notify the court
8 immediately.

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1 Some of you have taken notes during the trial. Whether or not you take notes, you
2 should rely on your own memory of the evidence. Notes are only to assist your memory.
3 You should not be overly influenced by your notes or those of other jurors.

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1 If it becomes necessary during your deliberations to communicate with me, you
2 may send a note through the bailiff, signed by your presiding juror or by one or more
3 members of the jury. No member of the jury should ever attempt to communicate with me
4 except by a signed writing; I will communicate with any member of the jury on anything
5 concerning the case only in writing, or here in open court. If you send out a question, I
6 will consult with the parties before answering it, which may take some time. You may
7 continue your deliberations while waiting for the answer to any question. Remember that
8 you are not to tell anyone—including me—how the jury stands, numerically or otherwise,
9 until after you have reached a unanimous verdict or have been discharged. Do not
10 disclose any vote count in any note to the court.

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1 Before you begin your deliberations, elect one member of the jury as your
2 foreperson. The foreperson will preside over the deliberations and serve as the
3 spokesperson for the jury in court.

4 You must diligently strive to reach agreement with all of the other jurors if you can
5 do so. Your verdict must be unanimous.

6 Each of you must decide the case for yourself, but you should do so only after you
7 have considered all of the evidence, discussed it fully with the other jurors, and listened
8 to their views.

9 It is important that you attempt to reach a unanimous verdict but, of course, only if
10 each of you can do so after having made your own conscientious decision. Do not be
11 unwilling to change your opinion if the discussion persuades you that you should. But do
12 not come to a decision simply because other jurors think it is right, or change an honest
13 belief about the weight and effect of the evidence simply to reach a verdict.

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