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3 **UNITED STATES DISTRICT COURT**
4 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**
5

6
7 , Case No. _____
8

9 Plaintiff(s),

JURY INSTRUCTIONS

10 vs.

11 ,
12 Defendant(s).
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16 **INSTRUCTIONS**

- 17 • Start by using this template, including the instructions below (which the Court
18 typically gives in civil cases).
- 19 • Divide the instructions into two parts: Preliminary Instructions and Final
20 Instructions (as noted below). The jury will receive a copy of the Final
21 Instructions, not the Preliminary Instructions. The Court does not repeat any of
22 the Preliminary Instructions during Final Instructions, other than the burden of
23 proof, absent a party’s request.
- 24 • Use automatic numbering that starts at “1” for the Preliminary Instructions and
25 starts at “1” for the Final Instructions (as noted below). Use of the automatic
26 numbering feature is *mandatory*.
- 27 • Use “Plaintiff” and “Defendant” instead of a party’s name throughout the
28 instructions. Use a party’s name only when necessary for clarification.
- Do not leave in blanks or bracketed information.

1 **PRELIMINARY INSTRUCTIONS**

2 **1. DUTY OF JURY**

3 Members of the jury, you are now the jury in this case. It is my duty to
4 instruct you on the law.

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

11 At the end of the trial I will give you final instructions. It is the final
12 instructions that will govern your duties.

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

15 **2. CLAIMS AND DEFENSES**

16 To help you follow the evidence, I will give you a brief summary of the
17 positions of the parties:

18 Plaintiff claims _____.

19 Defendant _____.

20 **3. BURDEN OF PROOF—PREPONDERANCE OF THE EVIDENCE**

21 When a party has the burden of proof on any claim or affirmative defense by
22 a preponderance of the evidence, it means you must be persuaded by the evidence
23 that the claim or affirmative defense is more probably true than not true.

24 You should base your decision on all of the evidence, regardless of which
25 party presented it.

1 **4. WHAT IS EVIDENCE**

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

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

7 **5. WHAT IS NOT EVIDENCE**

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

- 11 (1) Arguments and statements by lawyers are not evidence. The lawyers
12 are not witnesses. What they may say in their opening statements,
13 closing arguments and at other times is intended to help you interpret
14 the evidence, but it is not evidence. If the facts as you remember them
15 differ from the way the lawyers have stated them, your memory of
16 them controls.
- 17 (2) Questions and objections by lawyers are not evidence. Attorneys have
18 a duty to their clients to object when they believe a question is
19 improper under the rules of evidence. You should not be influenced
20 by the objection or by the court's ruling on it.
- 21 (3) Testimony that is excluded or stricken, or that you are instructed to
22 disregard, is not evidence and must not be considered. In addition
23 some evidence may be received only for a limited purpose; when I
24 instruct you to consider certain evidence only for a limited purpose,
25 you must do so and you may not consider that evidence for any other
26 purpose.
- 27 (4) Anything you may see or hear when the court was not in session is not
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1 evidence. You are to decide the case solely on the evidence received
2 at the trial.

3 **6. DIRECT AND CIRCUMSTANTIAL EVIDENCE**

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

10 **7. RULING ON OBJECTIONS**

11 There are rules of evidence that control what can be received into evidence.
12 When a lawyer asks a question or offers an exhibit into evidence and a lawyer on the
13 other side thinks that it is not permitted by the rules of evidence, that lawyer may
14 object. If I overrule the objection, the question may be answered or the exhibit
15 received. If I sustain the objection, the question cannot be answered, and the exhibit
16 cannot be received. Whenever I sustain an objection to a question, you must ignore
17 the question and must not guess what the answer might have been.

18 Sometimes I may order that evidence be stricken from the record and that you
19 disregard or ignore the evidence. That means that when you are deciding the case,
20 you must not consider the evidence that I told you to disregard.

21 **8. CREDIBILITY OF WITNESSES**

22 In deciding the facts in this case, you may have to decide which testimony to
23 believe and which testimony not to believe. You may believe everything a witness
24 says, or part of it, or none of it. Proof of a fact does not necessarily depend on the
25 number of witnesses who testify about it.

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

11 The weight of the evidence as to a fact does not necessarily depend on the
12 number of witnesses who testify about it.

13 **9. CONDUCT OF THE JURY**

14 I will now say a few words about your conduct as jurors.

15 First, keep an open mind throughout the trial, and do not decide what the
16 verdict should be until you and your fellow jurors have completed your deliberations
17 at the end of the case.

18 Second, because you must decide this case based only on the evidence
19 received in the case and on my instructions as to the law that applies, you must not be
20 exposed to any other information about the case or to the issues it involves during the
21 course of your jury duty. Thus, until the end of the case or unless I tell you otherwise:

22 Do not communicate with anyone in any way and do not let anyone else
23 communicate with you in any way about the merits of the case or anything to do with
24 it. This includes discussing the case in person, in writing, by phone or electronic
25 means, via e-mail, text messaging, or any Internet chat room, blog, Web site or other
26 feature. This applies to communicating with your fellow jurors until I give you the
27 case for deliberation, and it applies to communicating with everyone else including

1 your family members, your employer, the media or press, and the people involved in
2 the trial, although you may notify your family and your employer that you have been
3 seated as a juror in the case. But, if you are asked or approached in any way about
4 your jury service or anything about this case, you must respond that you have been
5 ordered not to discuss the matter and to report the contact to the court.

6 Because you will receive all the evidence and legal instruction you properly
7 may consider to return a verdict: do not read, watch, or listen to any news or media
8 accounts or commentary about the case or anything to do with it; do not do any
9 research, such as consulting dictionaries, searching the Internet or using other
10 reference materials; and do not make any investigation or in any other way try to
11 learn about the case on your own.

12 The law requires these restrictions to ensure the parties have a fair trial based
13 on the same evidence that each party has had an opportunity to address. A juror who
14 violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial
15 could result that would require the entire trial process to start over. If any juror is
16 exposed to any outside information, please notify the court immediately.

17 **10. NO TRANSCRIPT AVAILABLE TO JURY**

18 During deliberations, you will have to make your decision based on what you
19 recall of the evidence. You will not have a transcript of the trial. I urge you to pay
20 close attention to the testimony as it is given.

21 If at any time you cannot hear or see the testimony, evidence, questions or
22 arguments, let me know so that I can correct the problem.

23 **11. TAKING NOTES**

24 If you wish, you may take notes to help you remember the evidence. If you do
25 take notes, please keep them to yourself until you and your fellow jurors go to the
26 jury room to decide the case. Do not let note-taking distract you. When you leave,
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1 your notes should be left in the courtroom. No one will read your notes. They will
2 be destroyed at the conclusion of the case.

3 Whether or not you take notes, you should rely on your own memory of the
4 evidence. Notes are only to assist your memory. You should not be overly influenced
5 by your notes or those of your fellow jurors.

6 **12. BENCH CONFERENCES AND RECESSES**

7 From time to time during the trial, it may become necessary for me to talk with
8 the attorneys out of the hearing of the jury, either by having a conference at the bench
9 when the jury is present in the courtroom, or by calling a recess. Please understand
10 that while you are waiting, we are working. The purpose of these conferences is not
11 to keep relevant information from you, but to decide how certain evidence is to be
12 treated under the rules of evidence and to avoid confusion and error.

13 Of course, we will do what we can to keep the number and length of these
14 conferences to a minimum. I may not always grant an attorney's request for a
15 conference. Do not consider my granting or denying a request for a conference as
16 any indication of my opinion of the case or of what your verdict should be.

17 **13. OUTLINE OF TRIAL**

18 Trials proceed in the following way: First, each side may make an opening
19 statement. An opening statement is not evidence. It is simply an outline to help you
20 understand what that party expects the evidence will show. A party is not required to
21 make an opening statement.

22 The plaintiff will then present evidence, and counsel for the defendant may
23 cross-examine. Then the defendant may present evidence, and counsel for the
24 plaintiff may cross-examine.

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

27 After that, you will go to the jury room to deliberate on your verdict.

1 **14. STIPULATIONS OF FACT**

2 The parties have agreed to certain facts that will be read to you. You must
3 therefore treat these facts as having been proved: [Add if applicable].
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5 **FINAL INSTRUCTIONS**

6 **1. DUTY OF JURY**

7 Members of the Jury: Now that you have heard all of the evidence and the
8 arguments of the attorneys, it is my duty to instruct you on the law that applies to
9 this case. It is your duty to find the facts from all the evidence in the case. To
10 those facts you will apply the law as I give it to you. You must follow the law as I
11 give it to you whether you agree with it or not. And you must not be influenced by
12 any personal likes or dislikes, opinions, prejudices, or sympathy. That means that
13 you must decide the case solely on the evidence before you. You will recall that
14 you took an oath to do so. Please do not read into these instructions or anything
15 that I may say or do or have said or done that I have an opinion regarding the
16 evidence or what your verdict should be.

17 **2. BURDEN OF PROOF—PREPONDERANCE OF THE EVIDENCE**

18 When a party has the burden of proof on any claim or affirmative defense by
19 a preponderance of the evidence, it means you must be persuaded by the evidence
20 that the claim or affirmative defense is more probably true than not true.

21 You should base your decision on all of the evidence, regardless of which
22 party presented it.

23 **3. DUTY TO DELIBERATE**

24 Before you begin your deliberations, elect one member of the jury as your
25 presiding juror. The presiding juror will preside over the deliberations and serve as
26 the spokesperson for the jury in court.
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1 Do not read, watch, or listen to any news or media accounts or commentary
2 about the case or anything to do with it[, although I have no information that
3 there will be news reports about this case]; do not do any research, such as
4 consulting dictionaries, searching the Internet, or using other reference
5 materials; and do not make any investigation or in any other way try to learn
6 about the case on your own. Do not visit or view any place discussed in this
7 case, and do not use Internet programs or other devices to search for or view
8 any place discussed during the trial. Also, do not do any research about this
9 case, the law, or the people involved—including the parties, the witnesses or
10 the lawyers—until you have been excused as jurors. If you happen to read or
11 hear anything touching on this case in the media, turn away and report it to me
12 as soon as possible.

13 These rules protect each party’s right to have this case decided only on
14 evidence that has been presented here in court. Witnesses here in court take an oath
15 to tell the truth, and the accuracy of their testimony is tested through the trial
16 process. If you do any research or investigation outside the courtroom, or gain any
17 information through improper communications, then your verdict may be
18 influenced by inaccurate, incomplete or misleading information that has not been
19 tested by the trial process. Each of the parties is entitled to a fair trial by an
20 impartial jury, and if you decide the case based on information not presented in
21 court, you will have denied the parties a fair trial. Remember, you have taken an
22 oath to follow the rules, and it is very important that you follow these rules.

23 A juror who violates these restrictions jeopardizes the fairness of these
24 proceedings, and a mistrial could result that would require the entire trial process
25 to start over. If any juror is exposed to any outside information, please notify the
26 court immediately.

27 **5. COMMUNICATION WITH COURT**

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

12 **6. RETURN OF VERDICT**

13 A verdict form has been prepared for you. After you have reached
14 unanimous agreement on a verdict, your presiding juror should complete the
15 verdict form according to your deliberations, sign and date it, and advise the bailiff
16 that you are ready to return to the courtroom.

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