

## **50 PRELIMINARY INSTRUCTION: JURORS'**

### **CONDUCT**

Before the trial begins, there are certain instructions you should have to better understand your functions as a juror and how you should conduct yourself during the trial.

Your duty is to decide the case based only on the evidence presented and the law given to you by the court. Do not let any personal feelings of bias or prejudice about such things as race, religion, national origin, sex, or age affect your deliberations.

Do not begin your deliberations and discussion of the case until all the evidence is presented and I have instructed you on the law. Do not discuss this case among yourselves or with anyone else until your final deliberations in the jury room.

We will stop, or "recess," from time to time during the trial. You may be excused from the courtroom when it is necessary for me to hear legal arguments from the lawyers. If you come in contact with the parties, lawyers, or witnesses do not speak with them. For their part, the parties, lawyers, and witnesses will not contact or speak with the jurors.

Do not listen to any conversation about this case. Do not read any newspaper reports or listen to any news reports on radio or television about this trial. Do not investigate this case on your own or visit the scene. Do not engage in any experimentation or research relating to any issues, facts, or persons involved in this case. Do not consult dictionaries, computers, web sites or other reference materials for additional information.

Anything you may see or hear outside the courtroom is not evidence. You are to decide the case solely on the evidence offered and received at trial.

## **55 NOTETAKING PERMITTED**

You are not required to but you may take notes during this trial, except during the opening statements and closing arguments. The court will provide you with materials.

In taking notes, you must be careful that it does not distract you from carefully listening to and observing the witnesses.

You may rely on your notes to refresh your memory during your deliberations. Otherwise, keep them confidential. After the trial, the notes will be collected and destroyed.

**58    TRANSCRIPTS        NOT        AVAILABLE        FOR  
DELIBERATIONS; READING BACK TESTIMONY**

You will not have a copy of the written transcript of the trial testimony available for use during your deliberations. You should pay careful attention to all the testimony because you must rely primarily on your memory of the evidence and testimony introduced during the trial.

## 100 OPENING INSTRUCTIONS

Members of the jury:

The court will now instruct you upon the principles of law which you are to follow in considering the evidence and in reaching your verdict.

It is your duty to follow all of these instructions. Regardless of any opinion you may have about what the law is or ought to be, you must base your verdict on the law I give you in these instructions. Apply that law to the facts in the case which have been properly proven by the evidence. Consider only the evidence received during this trial and the law as given to you by these instructions and from these alone, guided by your soundest reason and best judgment, reach your verdict.

If any member of the jury has an impression of my opinion as to whether the defendant is guilty or not guilty, disregard that impression entirely and decide the issues of fact solely as you view the evidence. You, the jury, are the sole judges of the facts, and the court is the judge of the law only.

## USE OF AN INTERPRETER FOR A JUROR

One of the jurors requires help from an interpreter. The role of the interpreter is to provide communications assistance, so that the juror can hear the evidence and participate effectively in jury deliberations. An interpreter must interpret truly, accurately, completely, and impartially, in accordance with the standards prescribed by law and the code of ethics for court interpreters. An interpreter may not offer any opinion on the proceedings, or ask any questions, or participate in the jury's deliberations. An interpreter may not disclose or comment upon anything that happens in jury deliberations unless ordered to do so by the court. During the deliberations, address the juror directly and speak as freely as if an interpreter was not there. Please do not engage the interpreter in conversation, except to speak with the juror.

## 103 EVIDENCE DEFINED

**Evidence is:**

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

**Second, the exhibits the court has received into the trial record.**

**Third, any facts to which the lawyers have agreed or stipulated or which the court has directed you to find.**

**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 at trial.**

## 140 BURDEN OF PROOF AND PRESUMPTION OF INNOCENCE

In reaching your verdict, examine the evidence with care and caution. Act with judgment, reason, and prudence.

### **Presumption of Innocence**

Defendants are not required to prove their innocence. The law presumes every person charged with the commission of an offense to be innocent. This presumption requires a finding of not guilty unless in your deliberations, you find it is overcome by evidence which satisfies you beyond a reasonable doubt that the defendant is guilty.

### **State's Burden of Proof**

The burden of establishing every fact necessary to constitute guilt is upon the State. Before you can return a verdict of guilty, the evidence must satisfy you beyond a reasonable doubt that the defendant is guilty.

### **Reasonable Hypothesis**

If you can reconcile the evidence upon any reasonable hypothesis consistent with the defendant's innocence, you should do so and return a verdict of not guilty.

### **Meaning of Reasonable Doubt**

The term "reasonable doubt" means a doubt based upon reason and common sense. It is a doubt for which a reason can be given, arising from a fair and



rational consideration of the evidence or lack of evidence. It means such a doubt as would cause a person of ordinary prudence to pause or hesitate when called upon to act in the most important affairs of life.

A reasonable doubt is not a doubt which is based on mere guesswork or speculation. A doubt which arises merely from sympathy or from fear to return a verdict of guilt is not a reasonable doubt. A reasonable doubt is not a doubt such as may be used to escape the responsibility of a decision.

While it is your duty to give the defendant the benefit of every reasonable doubt, you are not to search for doubt. You are to search for the truth.

## **145 INFORMATION NOT EVIDENCE**

An information is nothing more than a written, formal accusation against a defendant charging the commission of one or more criminal acts. You are not to consider it as evidence against the defendant in any way. It does not raise any inference of guilt.

The State must prove beyond a reasonable doubt each element of the offense charged. On the other hand, the defendant is not required to prove his innocence.

## 147 IMPROPER QUESTIONS

**Disregard entirely any question that the court did not allow to be answered. Do not guess what the witness' answer to such question might have been. If the question implied that certain facts were true, disregard any such implication, and draw no inference from the question.**

## **148 OBJECTIONS OF COUNSEL; EVIDENCE RECEIVED OVER OBJECTION**

Attorneys for each side have the right and the duty to object to what they consider are improper questions asked of witnesses and to the admission of other evidence which they believe is not properly admissible. You should not draw any conclusions from the fact an objection was made.

By allowing testimony or other evidence to be received over the objection of counsel, the court is not indicating any opinion about the evidence. You jurors are the judges of the credibility of the witnesses and the weight of the evidence.

155 EXHIBITS

An exhibit becomes evidence only when received by the court. An exhibit marked for identification and not received is not evidence. An exhibit received is evidence whether or not it goes to the jury room.

**157 REMARKS OF COUNSEL**

**Remarks of the attorneys are not evidence. If the remarks implied the existence of certain facts not in evidence, disregard any such implication and draw no inference from the remarks.**

## 160 ARGUMENTS OF COUNSEL

**Consider carefully the closing arguments of the attorneys but their arguments and conclusions and opinions are not evidence. Draw your own conclusions and your own inferences from the evidence, and decide upon your verdict according to the evidence, under the instructions given you by the court.**



## 190 WEIGHT OF EVIDENCE

The weight of evidence is not to be decided merely according to the number of witnesses on each side. You may find that the testimony of one witness is entitled to greater weight than that of another witness, or even of several other witnesses, and you may give it such weight in considering your verdict.

**195 JUROR'S KNOWLEDGE**

**In weighing the evidence, you may take into account matters of your common knowledge and your observations and experience in the affairs of life.**

### 300 CREDIBILITY OF WITNESSES

It is the duty of the jury to scrutinize and to weigh the testimony of witnesses and to determine the effect of the evidence as a whole. You are the sole judges of the credibility, that is, the believability, of the witnesses and of the weight to be given to their testimony.

In determining the credibility of each witness and the weight you give to the testimony of each witness, consider these factors:

- whether the witness has an interest or lack of interest in the result of this trial;
- the witness' conduct, appearance, and demeanor on the witness stand;
- the clearness or lack of clearness of the witness' recollections;
- the opportunity the witness had for observing and for knowing the matters the witness testified about;

- the reasonableness of the witness' testimony;
- the apparent intelligence of the witness;
- bias or prejudice, if any has been shown;
- possible motives for falsifying testimony; and
- all other facts and circumstances during the trial which tend either to support or to discredit the testimony.

Then give to the testimony of each witness the weight you believe it should receive.

There is no magic way for you to evaluate the testimony; instead, you should use your common sense and experience. In everyday life, you determine for yourselves the reliability of things people say to you. You should do the same thing here.

A Defendant in a criminal case has the absolute constitutional right not to testify. The defendant's decision not to testify must not be considered by you in any way and must not influence your verdict in any manner.