

## OPENING INSTRUCTIONS

Members of the jury, you have now been sworn and we are about to begin the trial of the case about which you have heard some details during the process of jury selection. Before the trial begins, however, there are certain instructions you should have in order to understand what will be presented before you and how you should conduct yourself during the trial.

The party who brings a lawsuit is called the plaintiff. In this action, the plaintiff is \_\_\_\_\_. The party against whom the suit is brought is called the defendant, and in this action, the defendant is \_\_\_\_\_. In this action, the plaintiff seeks recovery for damages on account of personal injuries which he/she claims were incurred by \_\_\_\_\_.

As jurors, you will be the sole judges of the facts of this case. It is important that you listen carefully and apply yourselves diligently to the determination of the facts. Under Louisiana law, I am not permitted to comment on, or express any opinion about, the evidence presented to you. Accordingly, if I appear to express any opinion on the facts during the course of this trial or in my final instructions to you at the close of the trial, you should disregard that opinion. It is not evidence.

Similarly, the arguments which will be addressed to you by the lawyers in this case are not evidence. Your determination of the facts must be based upon all the

testimony that you hear and the other evidence that is submitted. You are the exclusive judges of the facts, and in that field neither I nor anyone else may interfere. On the other hand, and with equal emphasis, I instruct you that you are bound to accept the rules of law that I give you at the close of the trial whether you agree with them or not.

During the course of the trial, you will undoubtedly hear objections to evidence. It is the duty of the lawyers on each side of a case to object when the other side offers testimony or other evidence which the attorney believes is not properly admissible. You should not draw any inference against, or show any prejudice against, a lawyer or his client because of the making of any objection. If I should decide to allow the evidence to be admitted, this is not an expression of opinion on my part as to the weight of the evidence which you hear.

If I should sustain an objection to a question addressed to a witness, you must disregard the question entirely and draw no inference from the wording of it, or speculate as to what the witness might have said if permitted to answer the question.

At other times during the trial, I may direct that certain evidence be stricken from the record, and I will instruct you to disregard this evidence. You will then not consider such evidence, since your verdict must be based solely on legally admissible evidence.

I should also point out to you that anything you may have seen or heard outside the courtroom is not evidence and should be disregarded. You should decide this case solely on the evidence presented here in the courtroom. That also means that you should not conduct any research on these matters yourselves, such as reading books

that might help you understand this case. Since not all of the jurors would have access to the same materials, this independent effort on your part would not be fair to the parties to this litigation.

In the course of the trial, you are going to hear the testimony of witnesses, and you will have to make judgments about the credibility of the testimony. I ask you to be patient, and listen carefully to the testimony of all the witnesses, and keep it all in mind until you hear the entire case. As you listen to the witnesses and judge their credibility, you should be aware of such matters as their interest or lack of interest in the outcome of the case; their ability and their opportunity to know and remember and tell the facts; their manner; their experience; their frankness and sincerity or the lack thereof; the reasonableness of the witness's testimony in light of all the other evidence in the case; and any other factors that bear on the question of credibility and weight.

It is also the duty of the Court to admonish an attorney who, out of zeal for this representation of his client, does something which is not in keeping with the rules of evidence or procedure. You should draw no inference against the party to whom an admonition of the Court may be addressed during the trial of this case.

During the trial, it may be necessary for me to talk to the lawyers out of your hearing about questions of law or procedure that require consideration by the court alone. Occasionally, you may be excused from the courtroom for the same reason. I will try to limit these interruptions as much as possible, but you should remember the

importance of the matter you are here to determine and should be patient even though the case may seem to go slowly.

Louisiana law does not permit jurors to ask questions of witnesses or lawyers. Therefore, please do not interrupt the lawyers during their examination of witnesses or otherwise. If, however, you are unable to hear a witness or a lawyer, please raise your hand and I will see that the situation is corrected. Also, if you need to go to the restroom, please raise your hand and I will call a recess.

As the trial progresses, you may take notes if you wish. You are not required to do so. The court staff will provide you with a pen and notebook for this purpose. Each time that we take a recess, the court staff will collect these notebooks from you and then return each person's notebook to him or her as you return to the jury box. This procedure is necessary to assure confidentiality of the notes that you make take. At the end of the trial, as you retire to consider your verdict, you will be permitted to take these notebooks to the jury room with you. For your information, after your verdict is returned, your notes will be destroyed by the court staff and will not be a part of the record for any appeal in this case.

Finally, let me say that you will not be required to remain together while the court is in recess. But it is important that you obey the following instructions with reference to periodic breaks that we may take:

- (1)** Do not discuss the case either among yourselves or with anyone else during the course of the trial. In fairness to the parties of this lawsuit, you should

keep an open mind throughout the trial, reaching your conclusion only during your final deliberations after all the evidence is in and you have heard the lawyers' closing arguments and my instructions to you on the law, and then only after an interchange of views with other members of the jury.

**(2)** Do not permit any person to discuss the case in your presence, and if anyone does so despite your telling him not to, report that fact to the court as soon as you can. You should not, however, discuss with your fellow jurors either that fact or any other fact you feel necessary to bring to the attention of the court.

**(3)** You may come into contact with the lawyers, parties, and witnesses in the hallway or in the elevator. Though it is a normal human tendency to talk to people with whom one comes into contact, please do not, during the time you serve on this jury, talk, whether in or out of the courtroom, to any of the parties or their attorneys or any witnesses. By this I mean not only do not talk to them about the case, but do not talk at all, even to pass the time of day. They are not permitted to talk to you about anything, even if it does not concern the case. Please don't feel offended if they don't exchange the pleasantries of saying hello or discussing the weather with you. It is the only way that all parties can be assured of the absolute impartiality they are entitled to expect from you as jurors.

(4) You may not communicate with anyone about the case on your cell phone, through email, Blackberry, iPhone, text messaging or on Twitter, through any blog or website, through any Internet chat room, or by way of any other social networking websites, including Facebook, MySpace, LinkedIn, and YouTube.

The order of the trial's proceedings will be as follows. In just a moment, the lawyers for each of the parties will be permitted to make what we call their "opening statements". The plaintiff will then go forward with the calling of witnesses and presentation of evidence during what we call the plaintiff's "case in chief". When the plaintiff finishes, the defendant[s] will proceed with witnesses and evidence, after which, within certain limitations, the plaintiff may be permitted to again call witnesses or present evidence during what we call the "rebuttal" phase of the trial. The plaintiff proceeds first, and may rebut at the end, because the law places the burden of proof upon the plaintiff (as I will further explain to you as part of my final instructions). When the evidence portion of the trial is completed, the lawyers are then permitted to make their closing arguments, after which I will instruct you on the applicable law and you will then retire to deliberate upon your verdict.

Now, we will begin with the opening statements first by the lawyer for the plaintiff.