

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

[PLAINTIFF],

Plaintiff,

vs.

No. CIV **[NUMBER]**

[DEFENDANT],

Defendant.

**[JUDGE C. LEROY HANSEN'S
STOCK CIVIL] JURY INSTRUCTIONS**

JURY INSTRUCTION NO. 1

MEMBERS OF THE JURY:

IN ANY JURY TRIAL THERE ARE, IN EFFECT, TWO JUDGES. I AM ONE OF THE JUDGES; THE OTHER IS THE JURY. IT IS MY DUTY TO PRESIDE OVER THE TRIAL AND TO DETERMINE WHAT EVIDENCE IS PROPER FOR YOUR CONSIDERATION. IT IS ALSO MY DUTY AT THE END OF THE TRIAL TO EXPLAIN TO YOU THE RULES OF LAW THAT YOU MUST FOLLOW AND APPLY IN ARRIVING AT YOUR VERDICT.

FIRST, I WILL GIVE YOU SOME GENERAL INSTRUCTIONS WHICH APPLY IN EVERY CASE, FOR EXAMPLE, INSTRUCTIONS ABOUT BURDEN OF PROOF. I WILL THEN GIVE YOU SOME SPECIFIC RULES OF LAW ABOUT THIS PARTICULAR CASE. NEXT, I WILL AGAIN RETURN TO SOME GENERAL INSTRUCTIONS, FOR EXAMPLE, HOW TO JUDGE THE BELIEVABILITY OF WITNESSES. THESE INSTRUCTIONS WILL BE GIVEN TO YOU FOR YOUR USE IN THE JURY ROOM, SO YOU NEED NOT TAKE NOTES.

AFTER THESE INSTRUCTIONS ON THE LAW GOVERNING THE CASE, THE ATTORNEYS MAY MAKE CLOSING ARGUMENTS. THIS ALLOWS THE ATTORNEYS AN OPPORTUNITY TO POINT OUT THOSE THINGS THAT ARE MOST SIGNIFICANT OR MOST HELPFUL TO THEIR SIDE OF THE CASE, AND IN DOING SO TO CALL YOUR ATTENTION TO CERTAIN FACTS OR INFERENCES THAT MIGHT OTHERWISE ESCAPE YOUR NOTICE. REMEMBER THESE STATEMENTS ARE NOT EVIDENCE AND WHAT THE LAWYERS SAY IS NOT BINDING UPON YOU. IT IS YOUR OWN RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS IN THIS CASE.

AFTER CLOSING ARGUMENTS, I WILL EXPLAIN TO YOU THE PROCEDURES

YOU SHOULD FOLLOW IN YOUR DELIBERATIONS.

JURY INSTRUCTION NO. 2

YOU, AS JURORS, ARE THE JUDGES OF THE FACTS. BUT IN DETERMINING WHAT ACTUALLY HAPPENED—THAT IS, IN REACHING YOUR DECISION AS TO THE FACTS—IT IS YOUR SWORN DUTY TO FOLLOW ALL OF THE RULES OF LAW AS I EXPLAIN THEM TO YOU.

YOU HAVE NO RIGHT TO DISREGARD OR GIVE SPECIAL ATTENTION TO ANY ONE INSTRUCTION, OR TO QUESTION THE WISDOM OR CORRECTNESS OF ANY RULE I MAY STATE TO YOU. YOU MUST NOT SUBSTITUTE OR FOLLOW YOUR OWN NOTION OR OPINION AS TO WHAT THE LAW IS OR OUGHT TO BE. IT IS YOUR DUTY TO APPLY THE LAW AS I EXPLAIN IT TO YOU, REGARDLESS OF THE CONSEQUENCES.

IT IS ALSO YOUR DUTY TO BASE YOUR VERDICT SOLELY UPON THE EVIDENCE, WITHOUT PREJUDICE OR SYMPATHY. THAT WAS THE PROMISE YOU MADE AND THE OATH YOU TOOK BEFORE BEING ACCEPTED BY THE PARTIES AS JURORS, AND THEY HAVE THE RIGHT TO EXPECT NOTHING LESS.

JURY INSTRUCTION NO. 3

AS I TOLD YOU EARLIER, IT IS YOUR DUTY TO DETERMINE THE FACTS. IN DOING SO, YOU MUST CONSIDER ONLY THE EVIDENCE PRESENTED DURING THE TRIAL, INCLUDING THE SWORN TESTIMONY OF THE WITNESSES, THE EXHIBITS I HAVE ADMITTED, AND ANY FACTS I HAVE INSTRUCTED YOU TO ACCEPT AS TRUE. REMEMBER THAT ANY STATEMENTS, OBJECTIONS OR ARGUMENTS MADE BY THE LAWYERS ARE NOT EVIDENCE AND ARE NOT BINDING UPON YOU. IN THE FINAL ANALYSIS IT IS YOUR OWN RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS IN THE CASE.

THE PRODUCTION OF EVIDENCE IN COURT IS GOVERNED BY RULES OF LAW. FROM TIME TO TIME IT HAS BEEN MY DUTY, AS JUDGE, TO RULE ON THE EVIDENCE. YOU MUST NOT CONCERN YOURSELVES WITH THE REASONS FOR THESE RULINGS. YOU SHOULD NOT CONSIDER WHAT WOULD OR WOULD NOT HAVE BEEN THE ANSWERS TO THE QUESTIONS WHICH THE COURT RULED COULD NOT BE ANSWERED.

DO NOT ASSUME FROM ANYTHING I MAY HAVE DONE OR SAID DURING THE TRIAL THAT I HAVE ANY OPINION CONCERNING ANY OF THE ISSUES IN THIS CASE. EXCEPT FOR THE INSTRUCTIONS TO YOU ON THE LAW, YOU SHOULD DISREGARD ANYTHING I MAY HAVE SAID DURING THE TRIAL IN ARRIVING AT YOUR OWN FINDINGS AS TO THE FACTS.

5th Cir. Civil Pattern Jury Instructions 1.07 (mod.)

JURY INSTRUCTION NO. 4

IT IS A GENERAL RULE IN CIVIL CASES THAT A PARTY SEEKING A RECOVERY OR A PARTY RELYING ON A DEFENSE HAS THE BURDEN OF PROVING EVERY ESSENTIAL ELEMENT OF ITS CLAIM OR DEFENSE BY A PREPONDERANCE OF THE EVIDENCE.

TO PROVE BY A PREPONDERANCE OF THE EVIDENCE MEANS TO ESTABLISH THAT SOMETHING IS MORE LIKELY TRUE THAN NOT TRUE. WHEN I SAY IN THESE INSTRUCTIONS THAT A PARTY HAS THE BURDEN OF PROOF, I MEAN THAT YOU MUST BE PERSUADED THAT WHAT IS SOUGHT TO BE PROVED IS MORE PROBABLY TRUE THAN NOT TRUE. EVENLY BALANCED EVIDENCE IS NOT SUFFICIENT.

JURY INSTRUCTION NO. 5

[TWO OR MORE PLAINTIFFS/DEFENDANTS]

ALTHOUGH THERE IS MORE THAN ONE PLAINTIFF IN THIS ACTION, IT DOES NOT FOLLOW FROM THAT FACT ALONE THAT IF ONE IS ENTITLED TO RECOVER, ANOTHER IS ENTITLED TO RECOVER. THE RIGHTS OF THE VARIOUS PLAINTIFFS IN THIS LAWSUIT ARE SEPARATE AND DISTINCT, AND YOU SHOULD DECIDE THE ISSUES AS IF EACH PLAINTIFF HAD BROUGHT A SEPARATE LAWSUIT.

IN THIS CONNECTION, YOU WILL NOTE THAT SOME OF THE INSTRUCTIONS APPLY TO ONE PLAINTIFF, WHILE OTHER INSTRUCTIONS APPLY TO ALL PLAINTIFFS.

ALTHOUGH THERE IS MORE THAN ONE DEFENDANT IN THIS ACTION, IT DOES NOT FOLLOW FROM THAT FACT ALONE THAT IF ONE IS LIABLE ANOTHER IS LIABLE. EACH DEFENDANT IS ENTITLED TO A FAIR CONSIDERATION OF HIS OR HER OWN DEFENSE. YOU WILL DECIDE EACH DEFENDANT'S CASE SEPARATELY, AS IF EACH WERE A SEPARATE LAWSUIT.

JURY INSTRUCTION NO. 6

[CORPORATION AS A PARTY]

SOME [ONE] OF THE PARTIES IN THIS CASE ARE [IS A] CORPORATION[S]. A CORPORATION IS ENTITLED TO THE SAME FAIR AND UNPREJUDICED TREATMENT AS AN INDIVIDUAL, AND YOU SHOULD DECIDE THE CASE WITH THE SAME IMPARTIALITY AS YOU WOULD USE IN DECIDING A CASE BETWEEN INDIVIDUALS.

A CORPORATION, HOWEVER, CAN ACT ONLY THROUGH ITS OFFICERS AND EMPLOYEES. ANY ACT OR OMISSION OF AN OFFICER OR AN EMPLOYEE OF A CORPORATION, WITHIN THE SCOPE OR COURSE OF HIS OR HER EMPLOYMENT, IS THE ACT OR OMISSION OF THE CORPORATION.

JURY INSTRUCTION NO. 7

[SUBSTANTIVE INSTRUCTIONS HERE]

JURY INSTRUCTION NO. 8

[STANDARD PROXIMATE CAUSE INSTRUCTION]

A PROXIMATE CAUSE OF DAMAGES IS THAT WHICH IN A NATURAL AND CONTINUOUS SEQUENCE PRODUCES THE DAMAGES, AND WITHOUT WHICH THE DAMAGES WOULD NOT HAVE OCCURRED. IT NEED NOT BE THE ONLY CAUSE, NOR THE LAST NOR NEAREST CAUSE. IT IS SUFFICIENT IF IT OCCURS WITH SOME OTHER CAUSE ACTING AT THE SAME TIME, WHICH IN COMBINATION WITH IT, CAUSES THE DAMAGES.

JURY INSTRUCTION NO. 9

**[ALTERNATIVE PROXIMATE CAUSE INSTRUCTION
WITH INDEPENDENT INTERVENING CAUSE LANGUAGE]**

THE PROXIMATE CAUSE OF ANY INJURY IS THAT WHICH, IN A NATURAL AND CONTINUOUS SEQUENCE UNBROKEN BY ANY INDEPENDENT INTERVENING CAUSE, PRODUCES THE INJURY AND WITHOUT WHICH THE INJURY WOULD NOT HAVE OCCURRED. IT NEED NOT BE THE ONLY CAUSE, NOR THE LAST NOR NEAREST CAUSE. IT IS SUFFICIENT IF IT OCCURS WITH SOME OTHER CAUSE, ACTING AT THE SAME TIME, WHICH, IN COMBINATION WITH IT, CAUSES THE INJURY.

“INDEPENDENT INTERVENING CAUSE” IS THAT WHICH INTERRUPTS THE NATURAL SEQUENCE OF EVENTS WHICH COULD REASONABLY BE EXPECTED TO RESULT FROM THE CONDITION IN WHICH A PRODUCT WAS SOLD OR FROM A FORESEEABLE MANNER OF USE. AN INDEPENDENT INTERVENING CAUSE UNFORESEEABLY TURNS ASIDE THE COURSE OF EVENTS AND PRODUCES A RESULT WHICH COULD NOT REASONABLY HAVE BEEN EXPECTED.

JURY INSTRUCTION NO. 10

YOU ARE NOT TO ENGAGE IN ANY DISCUSSION OF DAMAGES UNLESS YOU HAVE FIRST DETERMINED THAT THERE IS LIABILITY, AS ELSEWHERE COVERED IN THESE INSTRUCTIONS.

THE FACT THAT YOU ARE GIVEN INSTRUCTIONS ON DAMAGES IS NOT TO BE TAKEN AS AN INDICATION AS TO WHETHER THE COURT THINKS DAMAGES SHOULD OR SHOULD NOT BE AWARDED.

JURY INSTRUCTION NO. 11

DAMAGES MUST BE REASONABLE. IF YOU SHOULD FIND THAT THE PLAINTIFF IS ENTITLED TO A VERDICT, YOU MAY AWARD ONLY THOSE DAMAGES WHICH WILL REASONABLY COMPENSATE THE PLAINTIFF FOR THE INJURIES THAT THE PLAINTIFF HAS SUSTAINED AS A PROXIMATE RESULT OF DEFENDANT'S[S'] CONDUCT.

ANY VERDICT YOU AWARD MUST BE BASED UPON PROOF AND NOT UPON SPECULATION, GUESS OR CONJECTURE. YOU ARE NOT TO INCLUDE IN ANY VERDICT COMPENSATION FOR ANY PROSPECTIVE LOSS WHICH, ALTHOUGH POSSIBLE, IS NOT REASONABLY CERTAIN TO OCCUR IN THE FUTURE. FURTHER, SYMPATHY OR PREJUDICE FOR OR AGAINST A PARTY SHOULD NOT AFFECT YOUR VERDICT AND IS NOT A PROPER BASIS FOR DETERMINING DAMAGES.

JURY INSTRUCTION NO. 12

YOU MUST NOT AWARD COMPENSATORY DAMAGES MORE THAN ONCE FOR THE SAME INJURY. FOR EXAMPLE, IF THE PLAINTIFF PREVAILS ON MORE THAN ONE CLAIM AND ESTABLISHES A DOLLAR AMOUNT FOR PLAINTIFF'S INJURIES, YOU MUST NOT AWARD THE PLAINTIFF ANY ADDITIONAL COMPENSATORY DAMAGES ON EACH CLAIM. THE PLAINTIFF IS ONLY ENTITLED TO BE MADE WHOLE ONCE, AND MAY NOT RECOVER MORE THAN PLAINTIFF HAS LOST. OF COURSE, IF DIFFERENT INJURIES ARE ATTRIBUTED TO THE SEPARATE CLAIMS, THEN YOU MUST COMPENSATE THE PLAINTIFF FULLY FOR ALL INJURIES.

JURY INSTRUCTION NO. 13

[FUTURE DAMAGES]

IF YOU HAVE FOUND THAT PLAINTIFF IS ENTITLED TO DAMAGES ARISING IN THE FUTURE, YOU MUST DETERMINE THE AMOUNT OF SUCH DAMAGES.

IF THESE DAMAGES ARE OF A CONTINUING NATURE, YOU MAY CONSIDER HOW LONG THEY WILL CONTINUE.

AS TO LOSS OF FUTURE EARNING ABILITY, YOU MAY CONSIDER THAT SOME PERSONS WORK ALL THEIR LIVES AND OTHERS DO NOT AND THAT A PERSON'S EARNINGS MAY REMAIN THE SAME OR MAY INCREASE OR DECREASE IN THE FUTURE.

JURY INSTRUCTION NO. 14

[FUTURE DAMAGES]

IN FIXING THE AMOUNT YOU MAY AWARD FOR DAMAGES ARISING IN THE FUTURE, YOU MUST REDUCE THE TOTAL OF SUCH DAMAGES BY MAKING ALLOWANCE FOR THE FACT THAT ANY AWARD YOU MIGHT MAKE WOULD, IF PROPERLY INVESTED, EARN INTEREST. YOU SHOULD, THEREFORE, ALLOW A REASONABLE DISCOUNT FOR THE EARNING POWER OF SUCH MONEY AND ARRIVE AT THE PRESENT CASH VALUE OF THE TOTAL FUTURE DAMAGES, IF ANY.

DAMAGES FOR ANY FUTURE PAIN AND SUFFERING ARE NOT TO BE SO REDUCED.

JURY INSTRUCTION NO. 15

IN FIXING THE AMOUNT OF MONEY WHICH WILL REASONABLY AND FAIRLY COMPENSATE THE PLAINTIFF, YOU ARE TO CONSIDER THAT ONE WHO IS DAMAGED MUST EXERCISE ORDINARY CARE TO MINIMIZE EXISTING DAMAGES AND TO PREVENT FURTHER DAMAGES. A PLAINTIFF MAY NOT RECOVER FOR LOSSES WHICH COULD HAVE BEEN PREVENTED BY PLAINTIFF'S REASONABLE EFFORTS.

THE BURDEN OF PROOF WITH RESPECT TO THIS ISSUE IS ON THE DEFENDANTS.

[MORTALITY TABLE]

ACCORDING TO A TABLE OF MORTALITY, THE LIFE EXPECTANCY OF **[NAME]** IS **[NUMBER]** ADDITIONAL YEARS. THIS FIGURE IS NOT CONCLUSIVE. IT IS THE AVERAGE LIFE EXPECTANCY OF PERSONS WHO HAVE REACHED THAT AGE. THIS FIGURE MAY BE CONSIDERED BY YOU IN CONNECTION WITH OTHER EVIDENCE RELATING TO THE PROBABLE LIFE EXPECTANCY OF **[NAME]**, INCLUDING EVIDENCE OF **[HIS/HER]** OCCUPATION, HEALTH, HABITS AND OTHER ACTIVITIES, BEARING IN MIND THAT SOME PERSONS LIVE LONGER AND SOME SHORTER THAN THE AVERAGE.

JURY INSTRUCTION NO. 17

WHILE YOU SHOULD CONSIDER ONLY THE EVIDENCE I HAVE ADMITTED, YOU ARE PERMITTED TO DRAW SUCH REASONABLE INFERENCES FROM THE TESTIMONY AND EXHIBITS AS YOU FEEL ARE JUSTIFIED IN THE LIGHT OF COMMON EXPERIENCE. IN OTHER WORDS, YOU MAY MAKE DEDUCTIONS AND REACH CONCLUSIONS THAT REASON AND COMMON SENSE LEAD YOU TO DRAW FROM THE FACTS WHICH HAVE BEEN ESTABLISHED BY THE EVIDENCE.

YOU SHOULD NOT BE CONCERNED ABOUT WHETHER THE EVIDENCE IS DIRECT OR CIRCUMSTANTIAL. "DIRECT EVIDENCE" IS THE TESTIMONY OF ONE WHO ASSERTS ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYE WITNESS. "CIRCUMSTANTIAL EVIDENCE" IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THAT THE DEFENDANT IS EITHER LIABLE OR NOT LIABLE. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT YOU MAY GIVE TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE.

5th Cir. Civil Pattern Jury Instructions 1.08 (mod.)

[EXPERT WITNESS]

WHEN KNOWLEDGE OF TECHNICAL SUBJECT MATTER MAY BE HELPFUL TO THE JURY, A PERSON WHO HAS SPECIAL TRAINING OR EXPERIENCE IN THAT TECHNICAL FIELD—AN EXPERT WITNESS—IS PERMITTED TO STATE HIS OR HER OPINION ON THOSE TECHNICAL MATTERS. HOWEVER, YOU ARE NOT REQUIRED TO ACCEPT THAT OPINION. AS WITH ANY OTHER WITNESS, IT IS UP TO YOU TO DECIDE WHETHER TO RELY UPON IT.

[EXPERT ASSUMPTIONS]

AN EXPERT WITNESS IS PERMITTED TO STATE AN OPINION BASED UPON A QUESTION WHICH, FOR THE PURPOSES OF TRIAL, ASSUMES AS TRUE CERTAIN FACTS WHICH MAY OR MAY NOT BE TRUE.

IT WILL BE FOR YOU IN YOUR DELIBERATIONS, HOWEVER, TO DETERMINE FROM ALL OF THE EVIDENCE WHETHER OR NOT THE FACTS ASSUMED HAVE BEEN PROVED TO BE TRUE.

JURY INSTRUCTION NO. 19

[CHARTS/SUMMARIES]

CERTAIN CHARTS AND SUMMARIES HAVE BEEN SHOWN TO YOU IN ORDER TO HELP EXPLAIN THE FACTS DISCLOSED BY THE BOOKS, RECORDS, AND OTHER DOCUMENTS WHICH ARE IN EVIDENCE IN THE CASE. SUCH CHARTS OR SUMMARIES ARE USED FOR CONVENIENCE. THEY ARE NOT THEMSELVES EVIDENCE OR PROOF OF ANY FACTS. IF THEY DO NOT CORRECTLY REFLECT THE FACTS OR FIGURES SHOWN BY THE EVIDENCE IN THE CASE, YOU SHOULD DISREGARD THESE CHARTS AND SUMMARIES AND DETERMINE THE FACTS FROM THE UNDERLYING EVIDENCE.

JURY INSTRUCTION NO. 20

[DEPOSITION TESTIMONY]

DEPOSITION TESTIMONY IS TESTIMONY THAT WAS TAKEN UNDER OATH BEFORE TRIAL AND HAS BEEN PRESERVED IN WRITING OR BY VIDEO. THIS TESTIMONY IS ENTITLED TO THE SAME CONSIDERATION THAT YOU GIVE ANY OTHER TESTIMONY AT THIS TRIAL.

JURY INSTRUCTION NO. 21

[INTERROGATORIES]

INTERROGATORIES ARE WRITTEN QUESTIONS ASKED BY ONE PARTY TO ANOTHER BEFORE TRIAL AND ANSWERED UNDER OATH. THE QUESTIONS AND ANSWERS MAY BE READ AT TRIAL AS EVIDENCE. THE ANSWERS READ TO YOU ARE TESTIMONY UNDER OATH AND ARE ENTITLED TO THE SAME CONSIDERATION THAT YOU GIVE ANY OTHER TESTIMONY.

JURY INSTRUCTION NO. 22

[PRE-TRIAL INTERVIEWS]

AN ATTORNEY HAS THE RIGHT TO INTERVIEW A WITNESS FOR THE PURPOSE OF LEARNING WHAT TESTIMONY THE WITNESS WILL GIVE. THE FACT THAT THE WITNESS HAS TALKED TO AN ATTORNEY DOES NOT REFLECT ADVERSELY ON THE TRUTH OF SUCH TESTIMONY.

JURY INSTRUCTION NO. 23

NOW, I HAVE SAID THAT YOU MUST CONSIDER ALL OF THE EVIDENCE. THIS DOES NOT MEAN, HOWEVER, THAT YOU MUST ACCEPT ALL OF THE EVIDENCE AS TRUE OR ACCURATE.

YOU ARE THE SOLE JUDGES OF THE CREDIBILITY OR "BELIEVABILITY" OF EACH WITNESS AND THE WEIGHT TO BE GIVEN TO THE WITNESS'S TESTIMONY. IN WEIGHING THE TESTIMONY OF A WITNESS YOU SHOULD CONSIDER THE WITNESS'S RELATIONSHIP TO THE PLAINTIFF OR TO THE DEFENDANT; THE WITNESS'S INTEREST, IF ANY, IN THE OUTCOME OF THE CASE; MANNER OF TESTIFYING; OPPORTUNITY TO OBSERVE OR ACQUIRE KNOWLEDGE CONCERNING THE FACTS ABOUT WHICH THE WITNESS TESTIFIED; CANDOR, FAIRNESS AND INTELLIGENCE; AND THE EXTENT TO WHICH THE WITNESS HAS BEEN SUPPORTED OR CONTRADICTED BY OTHER CREDIBLE EVIDENCE OR PREVIOUS STATEMENTS INCONSISTENT WITH THE WITNESS'S PRESENT TESTIMONY. YOU MAY, IN SHORT, ACCEPT OR REJECT THE TESTIMONY OF ANY WITNESS IN WHOLE OR IN PART.

ALSO, THE WEIGHT OF THE EVIDENCE IS NOT NECESSARILY DETERMINED BY THE NUMBER OF WITNESSES TESTIFYING AS TO THE EXISTENCE OR NON-EXISTENCE OF ANY FACT. YOU MAY FIND THAT THE TESTIMONY OF A SMALLER NUMBER OF WITNESSES AS TO ANY FACT IS MORE CREDIBLE THAN THE TESTIMONY OF A LARGER NUMBER OF WITNESSES TO THE CONTRARY.

[IMPEACHMENT OF WITNESSES]

THE TESTIMONY OF A WITNESS MAY BE DISCREDITED BY SHOWING THAT THE WITNESS TESTIFIED FALSELY CONCERNING A MATERIAL MATTER, OR BY EVIDENCE THAT AT SOME OTHER TIME THE WITNESS SAID OR DID SOMETHING, OR FAILED TO SAY OR DO SOMETHING, WHICH IS INCONSISTENT WITH THE TESTIMONY THE WITNESS GAVE AT THIS TRIAL.

EARLIER STATEMENTS OF A WITNESS WERE NOT ADMITTED IN EVIDENCE TO PROVE THAT THE CONTENTS OF THOSE STATEMENTS ARE TRUE. YOU MAY CONSIDER THE EARLIER STATEMENTS ONLY TO DETERMINE WHETHER YOU THINK THEY ARE CONSISTENT OR INCONSISTENT WITH THE TRIAL TESTIMONY OF THE WITNESS AND THEREFORE WHETHER THEY AFFECT THE CREDIBILITY OF THAT WITNESS.

IF YOU BELIEVE THAT A WITNESS HAS BEEN DISCREDITED IN THIS MANNER, IT IS YOUR EXCLUSIVE RIGHT TO GIVE THE TESTIMONY OF THAT WITNESS WHATEVER WEIGHT YOU THINK IT DESERVES.

JURY INSTRUCTION NO. 25

NOW THAT YOU HAVE HEARD THE ATTORNEYS' CLOSING ARGUMENTS, I WILL GIVE YOU SOME FINAL INSTRUCTIONS.

THE JURY ACTS AS A BODY. TO REACH A VERDICT, ALL OF YOU MUST AGREE. YOUR VERDICT MUST BE UNANIMOUS. YOUR DELIBERATIONS WILL BE SECRET AND YOU WILL NEVER HAVE TO EXPLAIN YOUR VERDICT TO ANYONE.

IT IS YOUR DUTY TO CONSULT WITH ONE ANOTHER AND TO DELIBERATE IN AN EFFORT TO REACH AGREEMENT IF YOU CAN DO SO. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT ONLY AFTER AN IMPARTIAL CONSIDERATION OF ALL OF THE EVIDENCE WITH YOUR FELLOW JURORS. DURING YOUR DELIBERATIONS, DO NOT HESITATE TO REEXAMINE YOUR OWN OPINIONS AND CHANGE YOUR MIND IF CONVINCED THAT YOU WERE WRONG. BUT DO NOT GIVE UP YOUR HONEST BELIEFS AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE OF THE OPINION OF YOUR FELLOW JURORS, OR FOR THE MERE PURPOSE OF RETURNING A VERDICT.

REMEMBER AT ALL TIMES, YOU ARE JUDGES—JUDGES OF THE FACTS. YOUR SOLE INTEREST IS TO SEEK THE TRUTH FROM THE EVIDENCE IN THE CASE.

UPON RETIRING TO THE JURY ROOM, YOU SHOULD FIRST SELECT ONE OF YOUR NUMBER TO ACT AS YOUR FOREPERSON WHO WILL PRESIDE OVER YOUR DELIBERATIONS AND WILL BE YOUR SPOKESPERSON HERE IN COURT. IN THIS CASE, A FORM OF VERDICT HAS BEEN PREPARED FOR YOUR CONVENIENCE.

[READ THE VERDICT FORM]

THE COURT'S INSTRUCTIONS, THE VERDICT FORM, AND THE ADMITTED EXHIBITS WILL BE BROUGHT TO THE JURY ROOM AFTER YOU RETIRE. WHEN ALL OF YOU HAVE REACHED AGREEMENT ON THE VERDICT, YOUR FOREPERSON WILL WRITE THE UNANIMOUS ANSWER OF THE JURY IN THE SPACE PROVIDED IN THE VERDICT FORM. AT THE CONCLUSION OF YOUR DELIBERATIONS, THE FOREPERSON MUST SIGN AND DATE THE VERDICT FORM AND NOTIFY THE COURT THAT YOU HAVE REACHED YOUR VERDICT.

IF, DURING YOUR DELIBERATIONS, YOU SHOULD DESIRE TO COMMUNICATE WITH THE COURT, THE FOREPERSON SHOULD WRITE THE MESSAGE ON THE STATIONERY PROVIDED TO YOU IN THE JURY ROOM AND PASS THE FOLDED NOTE TO THE MARSHAL, WHO WILL BRING IT TO MY ATTENTION. I WILL RESPOND AS PROMPTLY AS POSSIBLE, EITHER IN WRITING OR BY HAVING YOU RETURNED TO THE COURTROOM SO THAT I CAN ADDRESS YOU ORALLY. I CAUTION YOU, HOWEVER, WITH REGARD TO ANY MESSAGE OR QUESTION YOU MIGHT SEND, THAT YOU SHOULD NEVER REVEAL HOW THE JURY STANDS, NUMERICALLY OR OTHERWISE, AT THE TIME. AS IT IS YOUR RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS, YOU WILL NOT BE GIVEN A COPY OF THE COURT REPORTERS STENOGRAPHIC NOTES.

FAITHFUL PERFORMANCE BY YOU OF YOUR DUTIES IS VITAL TO THE ADMINISTRATION OF JUSTICE.

5th Cir. Civil Pattern Jury Instructions 1.25 (mod.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

[PLAINTIFF],

Plaintiff,

vs.

No. CIV **[NUMBER]**

[DEFENDANT],

Defendant.

VERDICT

WE, THE JURY, find

DATED this _____ day of _____, 19**XX**.

FOREPERSON