

Your Duty

- To decide whether the Plaintiff has proved by **a preponderance of the evidence** the facts necessary to find the Defendant on the claims asserted
- To base your verdict solely upon the evidence, without prejudice or sympathy
- To follow all of the rules of law
- To apply the law, regardless of whether you like the law or its consequences

Evidence and Inferences

- Testimony of the witnesses
- Exhibits
- Any facts stipulated to by the parties
- Reasonable “inferences”
- “Direct evidence”
- “Circumstantial evidence”

Credibility

You must decide whether you believe a witness.

Ask yourself a few questions:

- Did the witness impress you as one who was telling the truth?
- Did the witness have any particular reason not to tell the truth?
- Did the witness have a personal interest in the outcome of this case?

- Did the witness have the opportunity and ability to observe accurately?
- Did the witness appear to understand the questions clearly and answer them directly?
- Did the witness's testimony differ from other testimony or other evidence?

Mistake

A simple mistake by a witness does not necessarily mean that the witness was not telling the truth as he or she remembers it.

Earlier Statements

- To give comparison to witness's testimony at trial
- If made under oath, may be considered as evidence
- You decide whether consistent or inconsistent.

Deposition Testimony

A deposition is the –

- Sworn testimony of a witness taken before trial
- Entitled to the same consideration and to be judged in the same way as if the witness had been present to testify

Expert Witnesses

- A person having special training or experience in that technical field is permitted to state an opinion concerning those technical matters.
- You do not have to accept that opinion.

- Expert witnesses have expressed opinions based upon assumed facts.
- The weight is dependent entirely upon the truth of the assumed facts.
- Examine carefully all the assumed facts and be reasonably satisfied that they are true.

Burden of Proof

“Preponderance of the Evidence” – more likely true than not true

Specific Counts

Damages

- If you are not reasonably satisfied of the truthfulness of the Plaintiff's claim, your verdict should be for the Defendant.
- If you are reasonably satisfied of the truthfulness of the Plaintiff's claim, your verdict should be for the Plaintiff.
- Only if you find the Defendant liable do you consider damages.

Damages

You should consider the following elements of damage, to the extent you find them proved by a preponderance of the evidence, and no others:

1. Compensatory Damages

- a. Physical pain and suffering;
- b. Demonstrated mental and emotion distress, impairment of reputaion, and personal humiliation;

- c. Permanent injury;
- d. Loss of income;
- e. Past and future medical costs.

2. Nominal Damages – alternative to compensatory damages

3. Punitive Damages – to punish Defendants and deter others if Defendants acted with malice or reckless indifference

Compensatory Damages

- To fairly and reasonably compensate the injured party for the loss or injury sustained
- Elements of damages
 - Physical pain and suffering
 - Demonstrated mental and emotion distress, impairment of reputation, and personal humiliation;
 - Permanent injury;
 - Loss of income
 - Past and future medical costs
- No fixed monetary standard

Notes

- Only as an aid to your memory
- No greater weight than your independent recollection
- Do not be unduly influenced by the notes of other jurors
- No greater weight than the memory or impression as to what the testimony may have been

Deliberations

Any verdict you reach in the jury room must be unanimous.

Your deliberations will be secret.

Verdict Form

