

**Damages - Introductory**

I will now turn to the question of damages. In discussing damages, I do not, in any way, mean to suggest an opinion that any of the Defendants are legally responsible or liable for the damages being claimed. That is a matter for you to decide.

Since I do not know how you are going to decide the case, I am instructing you about damages only so that if you find that a Defendant is liable, you will know what principles govern an award of damages.

You are instructed on damages in order that you may reach a sound and proper determination of the amount you will award as damages, if any, in the event that you find a Defendant is liable. You need consider the question of damages only if you find that a Defendant is liable. If you do not find liability, no award of damages can be made.

Since damages are an element of his claim, damages must be proven. The burden of proof as to the existence and extent of damages is on the party claiming to have suffered those damages and is the same as to the other elements of his claim - a fair preponderance of the evidence. In other words, you may make an award for damages only to the extent that you find damages have been proven by the evidence. You may not base an award of damages or the amount of any such award on speculation or

guesswork. You must base any award of damages on the evidence presented and on what you consider to be fair and adequate compensation for such damages as you find have been proven.